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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

THE UNIVERSITY OF WASHINGTON, a Washington state agency; THE CENTER FOR HUMAN RIGHTS AT THE UNIVERSITY OF WASHINGTON, a research center created by state law; and ANGELINA GODOY, director of the Center for Human Rights at the University of Washington;

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF HOMELAND SECURITY; and UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT;

Defendants.

Case No. 2:22-cv-1329

COMPLAINT FOR DECLARATORY RELIEF FOR VIOLATING FOIA

Plaintiffs, the University of Washington, the Center for Human Rights at the University of Washington, and Doctor Angelina Godoy (collectively “UWCHR” or “Plaintiffs”), allege as follows:

INTRODUCTION

1. Plaintiffs bring this action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 et seq., as amended, to enjoin the Department of Homeland Security (“DHS”) and Immigration and Customs Enforcement (“ICE” and together with DHS, the “DHS Defendants”)

1 from continuing to improperly withhold agency records concerning federal immigration
2 enforcement in Washington State.

3 2. Since 2019, UWCHR has submitted numerous FOIA requests to ICE but has been
4 stonewalled and frustrated at every turn in its attempt to obtain what should be—and is
5 statutorily required to be—publicly available documents and information.

6 3. The documents sought through UWCHR’s FOIA requests are essential to its
7 function and mandate from the Washington State Legislature—to generate research data that
8 enhances public and private policymaking with respect to identifying and addressing human
9 rights abuses around the world, as well as here in Washington State, including those occurring at
10 the hands of our own government.

11 4. These documents—improperly withheld by ICE—would shed light on credible
12 reports and accounts of human rights abuses taking place during the detention and deportation of
13 families and children. For instance, children have been separated from and processed separately
14 from their parents here in Washington, and in other instances reportedly going for extended
15 periods without adequate food, water, or shelter while in ICE’s custody. In other instances,
16 individuals being detained and deported by ICE and its contract partners have been subject to
17 beatings, medical neglect, sexual assault, and other conduct that amounts to torture.

18 5. The documents UWCHR seeks through its FOIA requests would shine a light on
19 all of these accounts of human rights abuses, as well as other information that could reveal trends
20 in ICE’s enforcement and detention practices, to help UWCHR and the public at large become
21 aware of the human rights abuses taking place in our immigration system. UWCHR does not
22 seek disclosure of information revealing current intelligence methods or any other sensitive and
23 properly classified matters. Such information, if it exists, may be segregated or redacted from the
24 documents that UWCHR believes are being unlawfully withheld by ICE.

25 6. But UWCHR has been foiled in its attempts to shine its light. For a large majority
26 of its requests, UWCHR has received conflicting and confusing communications from ICE, and
27 the investigations are summarily closed without explanation. Most often, ICE falsely claims that

1 documents have been delivered in response to a FOIA request when in fact UWCHR has
2 received zero documents of any kind. UWCHR has reached out to ICE regarding these summary
3 closures, but ICE remains silent. For other requests, ICE’s produced documents are so heavily
4 redacted that they are useless as information sources.

5 7. In UWCHR’s informal attempts to cooperate with ICE in information gathering,
6 ICE has told UWCHR that ICE “won’t be able to assist you with your requests for information.”
7 This, combined with ICE’s failure to properly respond—or even respond at all—to UWCHR’s
8 FOIA requests means that UWCHR has no recourse but to seek the Court’s intervention,
9 requiring ICE to fulfill its statutory obligations under FOIA.

10 **JURISDICTION**

11 8. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B)
12 and 28 U.S.C. § 1331.

13 **VENUE**

14 9. Venue in the Western District of Washington is proper under 5 U.S.C.
15 § 552(a)(4)(B). Independently, venue is proper in the Western District of Washington because all
16 Plaintiffs reside in Seattle, Washington.

17 **PARTIES**

18 10. Plaintiff, the University of Washington, is a Washington State agency and the
19 state’s largest public research university. Its primary business offices are in Seattle, Washington.

20 11. Plaintiff, the Center for Human Rights at University of Washington, is an
21 organization within the University of Washington. The Washington Legislature created the
22 Center for Human Rights in 2009 to expand opportunities for Washington residents to receive a
23 world-class education in human rights, generate research data and expert knowledge to enhance
24 public and private policymaking, and to be an academic center for human rights teaching and
25 research. The Center for Human Rights focuses on, among other things, the rights of all persons
26 to security against violence. Its offices are in Seattle, Washington.

1 12. Plaintiff, Angelina Godoy, Ph.D., is the Director of the Center for Human Rights.
2 Dr. Godoy resides in Seattle, Washington.

3 13. Defendant United States Department of Homeland Security is a federal agency
4 within the meaning of 5 U.S.C. §§ 552 and 552a(a)(1).

5 14. Defendant United States Immigration and Customs Enforcement is a federal
6 agency within the meaning of 5 U.S.C. §§ 552 and 552a(a)(1).

7 **FACTS**

8 **UWCHR’S FOIA REQUESTS TO THE DHS DEFENDANTS**

9 15. Since 2019, UWCHR has sent the DHS Defendants numerous FOIA requests
10 seeking documents relevant to the human rights impact of federal immigration enforcement in
11 Washington State. Here, Plaintiffs object to the handling (or mishandling) of sixteen of these
12 requests. In response to these sixteen requests, the DHS Defendants have responded by:

13 (1) acknowledging receipt of the FOIA request but then missing statutory deadlines to produce
14 documents; (2) misapplying FOIA exemptions by improperly redacting information that should
15 not have been redacted; or (3) summarily, and without explanation, closing investigations in
16 response to FOIA requests by failing to acknowledge appeals to past determinations, failing to
17 make any appeal determinations, or denying an appeal without providing any reasoning.

18 **A. DHS Defendants Have Missed Statutory Deadlines to Produce Documents**

19 **1. Enforcement Data: I-213s (FOIA Request ICE0243)**

20 16. On December 6, 2021, Dr. Godoy made, on behalf of UWCHR, a written FOIA
21 request to ICE. The request stated:

22 Seeking digital copies of draft, unsigned I-213 “Record of
23 Deportable/Inadmissible Alien” forms, with corresponding I-247 “Continuation
24 Form”, for all apprehensions in the Seattle Area of Responsibility for the time
25 period from April 1, 2020, through November 30, 2021. We do not object to
redaction of any personally-identifiable information including name, date of birth,
A#, U.S. address, etc.

26 This request to ICE is hereinafter referred to as “ICE0243.”
27

1 17. The I-213 forms and I-247 forms sought through this request would provide the
2 most accurate known representation of ICE and Customs and Border Patrol arrests in
3 Washington State and the Seattle area. Similar FOIA requests covering earlier time periods has
4 been central to UWCHR's research and identification of specific enforcement practices and
5 patterns that may violate applicable law regarding collaboration and information-sharing
6 between ICE and local and state government agencies.

7 18. On December 6, 2021, ICE acknowledged receipt of ICE0243 and provided a
8 tracking number (2022-ICFO-02878).

9 19. DHS's FOIA website,¹ as of September 1, 2022, indicated that the status of
10 ICE0243 is "In Process" and "Estimate Delivery Date" of January 10, 2022.

11 20. As of the filing of this Complaint, ICE has not produced any documents
12 responsive to ICE0243.

13 21. On information and belief, ICE possesses documents responsive to ICE0243.

14 **2. Enforcement Data: Nationwide Individual Detention Histories (FOIA**
15 **Request ICE0248)**

16 22. On March 11, 2022, Dr. Godoy made, on behalf of UWCHR, a written FOIA
17 request to ICE, hereinafter referred to as "ICE0248," which sought detention history records
18 from ICE's Enforcement and Removal Operations - Law Enforcement Systems and Analysis
19 ("ERO-LESA") Statistical Tracking Unit for individuals in immigration detention nationwide
20 from October 1, 2011, to the present, specifying the fields of requested data to reflect the same
21 types of information that had been produced in response to previous FOIA requests.

22 23. This data is essential to UWCHR's efforts to conduct a detailed analysis of ICE's
23 nationwide detention population over time, which forms the backbone of much of its research
24 into ICE's enforcement and detention patterns and trends.

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26
27 ¹ See Department of Homeland Security Freedom of Information Act Public Access Portal, *available at*
<https://foiarequest.dhs.gov/app/CheckStatus.aspx>.

1 24. On March 11, 2022, ICE acknowledged receipt of ICE0248 and provided a
2 tracking number (2022-ICFO-09022).

3 25. DHS's FOIA website, as of September 1, 2022, indicated that the status of
4 ICE0248 is "In Process" and "Estimate Delivery Date" of April 16, 2022.

5 26. As of the filing of this Complaint, ICE has not produced any documents
6 responsive to ICE0248.

7 27. On information and belief, ICE possesses documents responsive to ICE0248.

8 **3. Enforcement Data: Nationwide Enforcement Statistics (FOIA Request**
9 **ICE0249)**

10 28. On March 11, 2022, Dr. Godoy made, on behalf of UWCHR, a written FOIA
11 request to ICE, hereinafter referred to as "ICE0249." The request sought information from the
12 ERO-LESA Statistical Tracking Unit regarding nationwide records of encounters, arrests, and
13 removals from October 1, 2011, to the present, specifying the fields of requested data to reflect
14 the same types of information that had been produced in response to previous FOIA requests.

15 29. This data, like that sought through ICE0248, is essential to UWCHR's efforts to
16 conduct a detailed analysis of ICE's nationwide detention population over time, which forms the
17 backbone of much of its research into ICE's enforcement and detention patterns and trends.

18 30. On March 11, 2022, ICE acknowledged receipt of ICE0249 and provided a
19 tracking number (2022-ICFO-09023).

20 31. DHS's FOIA website, as of September 1, 2022, indicated that the status of
21 ICE0249 is "Assigned or Processing" and "Estimate Delivery Date" of April 16, 2022.

22 32. As of the filing of this Complaint, ICE has not produced any documents
23 responsive to ICE0249.

24 33. On information and belief, ICE possesses documents responsive to ICE0249.
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1 **4. Air Deportations: Contracts for Air Charter Services (FOIA Requests**
2 **ICE0045 and ICE00250)**

3 34. On February 10, 2019, Dr. Godoy made, on behalf of UWCHR, a written FOIA
4 request to ICE. The request stated:

5 I am seeking a copy of all contracts signed between ICE-ERO's ICE Air
6 Operations Division (IAO) and charter companies for daily scheduled large
7 aircraft flights, special high-risk charter missions, and other removal missions,
8 between January 1, 2009 and January 1, 2019

9 This request to ICE is hereinafter referred to as "ICE0045."

10 35. According to a United States Government Accountability Office ("GAO") March
11 2020 report to Congress, "ICE issues agency-wide policies, such as memos and directives, which
12 are to be followed by ICE personnel, but are not applicable to contracted staff unless noted in
13 their contract or agreement."

14 36. Thus, UWCHR submitted ICE0045 to learn what precautions, if any, contractors
15 and contracted staff are required to take to ensure the safety of passengers and crew on
16 deportation flights.

17 37. UWCHR's research has revealed multiple credible reports of egregious violence
18 against individuals while they are on ICE deportation flights operated by private charters under
19 direct contract with DHS. This violence has included beating, kicking, choking, and the bundling
20 of detainees in full-body restraints under conditions that constitute torture.

21 38. On March 3, 2019, ICE acknowledged receipt of ICE0045 and provided a
22 tracking number (2019-ICFO-29524).

23 39. On October 7, 2019, after more than seven months of silence from DHS
24 Defendants, UWCHR checked DHS's FOIA website to find that it indicated an "Estimate
25 Delivery Date" of March 16, 2019. UWCHR sent further email inquiries to ICE asking for a
26 status update on January 22, 2020, and October 7, 2020, but received no response.

27 40. Finally, on January 4, 2021, ICE responded, indicating that it had closed its
 investigation into ICE0045 on September 10, 2019. (ICE's claim that it closed the matter on

1 September 10, 2019, is not consistent with the October 7, 2019, status for this request on DHS's
2 FOIA website, which stated that the estimated delivery date was March 16, 2019.)

3 41. On March 20, 2021, UWCHR filed an administrative appeal of ICE's conclusion
4 that it possessed no responsive records and concurrent closure.

5 42. On March 23, 2021, ICE acknowledged receipt of the appeal and assigned it a
6 tracking number (2021-ICAP-00509).

7 43. DHS's FOIA website, as of September 1, 2022, indicated that the status of this
8 appeal of ICE0045 is "In Process" and "Estimate Delivery Date" of April 24, 2021.

9 44. As of the filing of this Complaint, UWCHR has not been notified of any
10 determination with respect to this appeal, and ICE has not produced any documents responsive to
11 ICE0045.

12 45. On information and belief, ICE possesses documents responsive to ICE0045.

13 46. On May 6, 2022, Dr. Godoy made, on behalf of UWCHR, a written FOIA request
14 to ICE that repeated the request made in ICE0045, but which extended the applicable dates to
15 extend to the present. This updated request to ICE is hereinafter referred to as "ICE0250."

16 47. On May 6, 2022, ICE acknowledged receipt of ICE0250 and provided a tracking
17 number (2022-ICFO-15055).

18 48. DHS's FOIA website, as of September 1, 2022, indicated that the status of
19 ICE0250 is "In Process" and "Estimate Delivery Date" of June 12, 2022.

20 49. As of the filing of this Complaint, ICE has not produced any documents
21 responsive to ICE0250.

22 50. On information and belief, ICE possesses documents responsive to ICE0250.

23 **5. Air Deportations: 2017 Classic Air Charter Contract Modifications (FOIA**
24 **Request ICE0245)**

25 51. On February 1, 2022, Dr. Godoy made, on behalf of UWCHR, a written FOIA
26 request to ICE. The request sought:

1 All documents relating to contract modifications number P00061 and P00062 to
2 contract # GS33F004DA-70CDCR18FR0000002 between Immigration and
3 Customs Enforcement (DHS) and Classic Air Charter. (Date Range for Record
4 Search: From 01/01/2022 To 01/31/2022)

5 This request to ICE is hereinafter referred to as “ICE0245.”

6 52. ICE’s contract with Classic Air Charter (“CAC”) has been modified at least
7 twenty-eight times since April 2020 with the following stated justification: “guaranteed
8 minimum values have been temporarily adjusted to maintain vendor operability during Covid-19
9 pandemic.” The reference to “guaranteed minimum values” suggests ICE’s contract with CAC
10 contains guaranteed minimums, analogous to ICE detention contracts, whereby the contractor
11 received payment for a given minimum quantity of services, regardless of the actual number
12 provided. However, unlike guaranteed minimums in detention contracts, which are explained and
13 justified in DHS’s budget requests to Congress, guaranteed minimums in contracts with
14 chartered air services are not mentioned in any publicly available documents and merit further
15 investigation through FOIA requests such as ICE0245.

16 53. On February 1, 2022, ICE acknowledged receipt of ICE0245 and provided a
17 tracking number (2022-ICFO-06574).

18 54. DHS’s FOIA website, as of September 1, 2022, indicated that the status of
19 ICE0245 is “Assigned or Processing” and “Estimate Delivery Date” of March 8, 2022.

20 55. As of the filing of this Complaint, ICE has not produced any documents
21 responsive to ICE0245.

22 56. On information and belief, ICE possesses documents responsive to ICE0245.

23 **6. Air Deportations: Specific Deportation Flight Incident Investigations (FOIA**
24 **Requests ICE0197, ICE0237, and ICE0238)**

25 57. On October 31, 2021, Dr. Godoy made, on behalf of UWCHR, a written FOIA
26 request to ICE. The request stated:

27 I am seeking copies of all incident investigations and their pertaining
documentation that the contractor Classic Air Charter Inc. and its subcontractors
provided to their ICE Contracting Officer Representative (COR) for services
performed under delivery order GS33F004DA-70CDCR18FR0000002 from

1 October, 2017, to the present, as mandated by ICE Air Operations Division Daily
2 Charter Flight Services Statement of Work. The aforementioned work statement,
3 attached here for your convenience, (on p. 19) mandates that the contractor is
4 responsible for fully cooperating with ICE on all incident investigations as
5 requested of them by sharing limited technical data, statements, timelines, training
6 documents, and photographs. Statements of work for daily charter flights similar
7 to the one provided are available on GovTribe here:
8 [https://govtribe.com/file/government-file/hscecr17q00003-daily-charter-fy2017-
9 21-tosow-sources-sought-draft-10272016-dot-docx](https://govtribe.com/file/government-file/hscecr17q00003-daily-charter-fy2017-21-tosow-sources-sought-draft-10272016-dot-docx). I ask that the names of all
10 personnel and individuals mentioned within the documents be excluded to protect
11 the privacy of their personal and medical information. Please provide these
12 records in electronic form.

13 This request to ICE is hereinafter referred to as “ICE0197.”

14 58. Detailed reporting is required under the terms of the contracts between ICE and
15 the contractors who provide chartered air services for deportation flights. Through ICE0197,
16 UWCHR seeks to investigate whether ICE enforces these reporting requirements to ensure that
17 deportation flights are performed in accordance with ICE’s stated safety standards.

18 59. On October 31, 2022, ICE acknowledged receipt of ICE0197 and provided a
19 tracking number (2022-ICFO-01365).

20 60. DHS’ FOIA website, as of September 1, 2022, indicated that the status of
21 ICE0197 is “In Process” and “Estimate Delivery Date” of December 6, 2021.

22 61. As of the filing of this Complaint, ICE has not produced any documents
23 responsive to ICE0197.

24 62. On information and belief, ICE possesses documents responsive to ICE0197.

25 63. On December 3, 2021, Dr. Godoy made, on behalf of UWCHR, a written FOIA
26 request to ICE, hereinafter referred to as “ICE0237.” The request sought incident reports
27 prepared by ICE deportation flight third-party contractors with respect to incidents of
documented mechanical issues and human rights abuses that took place during ICE Air
Operations (“IAO”) flights with mission numbers 120801, 141717, 160678, 170131, 171129,
180635, 180716, and 180954.

64. The requested reports were referenced in a draft Statement of Work (“SOW”) for
Daily Chartered Flight Services, which was attached to ICE0237 and which is publicly

1 available.² These reports would offer valuable insight into incidents of abuse reported on the
2 specified flight numbers, giving UWCHR and the public at large an opportunity to corroborate
3 independent accounts of abuse with internal reporting.

4 65. On December 3, 2021, ICE acknowledged receipt of ICE0237 and provided a
5 tracking number (2022-ICFO-02736).

6 66. DHS' FOIA website, as of September 1, 2022, indicated that the status of
7 ICE0237 is "In Process" and "Estimate Delivery Date" of January 9, 2022.

8 67. As of the filing of this Complaint, ICE has not produced any documents
9 responsive to ICE0237.

10 68. On information and belief, ICE possesses documents responsive to ICE0237.

11 69. On December 3, 2021, Dr. Godoy made, on behalf of UWCHR, a written FOIA
12 request to ICE, hereinafter referred to as "ICE0238." The request, related to ICE0237, seeks
13 documents related to incident investigations conducted by ICE for same IAO flights, namely,
14 flights with mission numbers 120801, 141717, 160678, 170131, 171129, 180635, 180716, and
15 180954. These investigations are also referenced in the SOW for Daily Chartered Flight
16 Services, which was also attached to ICE0238.

17 70. These ICE-conducted investigations are distinct from reports produced or
18 provided by ICE deportation flight third-party contractors, as requested in ICE0237. Documents
19 responsive to ICE0238 would enable UWCHR to corroborate reports of human rights abuses
20 taking place on ICE deportation flights and to determine whether ICE conducts sufficient
21 investigations after reports of any such abuses provided by its third-party contractors.

22 71. On December 3, 2021, ICE acknowledged receipt of ICE0238 and provided a
23 tracking number (2022-ICFO-02736).

24 72. DHS' FOIA website, as of September 1, 2022, indicated that the status of
25 ICE0238 is "In Process" and "Estimate Delivery Date" of January 9, 2022.

26
27 ² Available at <https://govtribe.com/file/government-file/hscacr17q00003-daily-charter-fy2017-21-tosow-sources-sought-draft-10272016-dot-docx>.

1 73. As of the filing of this Complaint, ICE has not produced any documents
2 responsive to ICE0238.

3 74. On information and belief, ICE possesses documents responsive to ICE0238.

4 **B. DHS Defendants Have Misapplied FOIA Exemptions**

5 **1. Air Deportations: ARTS Flights Database (FOIA Request ICE0093)**

6 75. On April 25, 2020, Dr. Godoy made, on behalf of UWCHR, a written FOIA
7 request to ICE. This request to ICE is hereinafter referred to as “ICE0093.”

8 76. On April 27, 2020, ICE acknowledged receipt of ICE0093 and provided a
9 tracking number (2020-ICFO-35862).

10 77. On May 5, 2020, ICE emailed UWCHR seeking clarification and a reduction in
11 scope of UWCHR’s original request.

12 78. On May 6, 2020, UWCHR emailed ICE to amend ICE0093 by providing more
13 specific and targeted search language, which stated:

14 I am seeking data in its native electronic format from the Alien Repatriation
15 Tracking System (ARTS) Missions and Passengers databases regarding all flights
16 operated by ICE from October 1, 2018 to the present day, including the date of
17 travel; origin or destination airport; mission stops; carrier, flight number, and tail
18 number; gang member; criminality; country of citizenship; mission costs; and
19 status. We are not interested in personally identifiable information such as name
20 or A number of any detainees.

18 79. UWCHR’s May 6 clarification also referenced three previous similar FOIA
19 requests, and ICE’s responses thereto, as exemplary of what UWCHR sought through ICE0093.

20 80. On October 7, 2020, UWCHR visited DHS’s FOIA website to check the status of
21 this request and discovered that it was listed as having been closed on September 18, 2020, even
22 though UWCHR had received no correspondence about its closure. Dr. Godoy emailed ICE
23 asking that if the matter had indeed been closed, then she be informed as to the reason for its
24 closure.

25 81. On November 12, 2020, ICE emailed UWCHR, attaching a response letter (dated
26 September 18, 2020); on November 16, 2020, UWCHR received two heavily redacted
27 spreadsheets in the mail, on a compact disc.

1 82. Information reflecting the mission pick-up, drop-off, start, stop, and end locations,
2 as well as mission tail numbers, was redacted pursuant to the FOIA exemption provided in 5
3 U.S.C. § 552(b)(7)(E), which exempts the disclosure of law enforcement information that would
4 reveal investigation techniques and which would risk circumvention of the law.

5 83. Information reflecting mission costs, general flight costs, and mission total costs,
6 was redacted pursuant to the FOIA exemption provided in 5 U.S.C. § 552(b)(4), which exempts
7 the disclosure of confidential financial information obtained from a person or individual.

8 84. On November 18, 2020, UWCHR submitted an appeal, outlining why ICE's
9 redaction of the information in question under exemptions (b)(7)(E) and (b)(4) was a
10 misapplication of those exemptions. The information redacted pursuant to exemption (b)(7)(E)
11 was improperly redacted because it posed no risk of circumvention of the law. The information
12 redacted pursuant to exemption (b)(4) was improperly redacted because substantially similar
13 information had been released in response to other FOIA requests with respect to other ICE Air
14 missions, so this information should not have been deemed "confidential." *See id.*

15 85. On November 20, 2020, ICE acknowledged receipt of UWCHR's appeal of ICE's
16 determination on ICE0093 and provided a tracking number (2020-ICAP-00182).

17 86. On December 31, 2020, ICE issued a final determination of the appeal, upholding
18 all redactions. This determination did not address UWCHR's argument that the flight
19 information would not pose a risk of circumvention of the law, and it did not explain why the
20 redacted financial information should be treated as "confidential" or how its disclosure would
21 cause "substantial harm" to the competitive position of the person or entity who submitted the
22 information.

1 **C. DHS Defendants Have Summarily “Closed” Investigations Into Numerous FOIA**
2 **Requests and Ignored or Denied Appeals of These Closures Without Explanation.**

3 **1. Appeal Unacknowledged: Significant Incident Reports for ICE’s Seattle**
4 **Field Office (FOIA Request ICE0090)**

5 87. On April 7, 2020, Dr. Godoy made, on behalf of UWCHR, a written FOIA
6 request to ICE. The request stated: “We request copies of all significant incident reports for
7 ICE’s Seattle field office created on or after March 1, 2020.” This request to ICE is hereinafter
8 referred to as “ICE0090.”

9 88. According to DHS Office of Inspector General, Significant Incident Reports
10 (“SIR”) are used to document the narrative of any significant events that occur on duty. UWCHR
11 has submitted past FOIA requests for SIRs to ICE, which have resulted in the production of SIRs
12 that proved extremely fruitful to UWCHR’s research into human rights concerns regarding
13 sexual abuse, hunger strikes, suicide attempts, and deaths of detainees while in ICE custody.

14 89. On April 9, 2020, ICE acknowledged receipt of ICE0090 and provided a tracking
15 number (2020-ICFO-32497). This letter indicated that the request would be handled by the DHS
16 Privacy Office.

17 90. On April 13, 2020, UWCHR received a letter from the DHS privacy office, again
18 acknowledging receipt of ICE0090, and granting a request for expedited treatment. The DHS
19 Privacy office provided a new tracking number (2020-HQFO-00885).

20 91. On August 21, 2020, DHS produced one document in response to ICE0090,
21 which was heavily redacted, citing exemptions b(6) and (b)(7).

22 92. Subsequently, on August 21, 2020, UWCHR submitted an administrative appeal
23 challenging the redaction decision.

24 93. This appeal has not been acknowledged by DHS or ICE, and no tracking number
25 has been provided.

1 **2. Appeal Unacknowledged: Information On Unaccompanied Children and**
2 **Separated Families (FOIA Request ICE0128)**

3 94. On February 10, 2021, Dr. Godoy made, on behalf of UWCHR, a written FOIA
4 request to ICE. The request stated:

5 Please provide the number of unaccompanied children and family units held in
6 ICE custody in the Seattle AOR the location where they were held and the book-
7 in and book-out dates in each location in the Seattle AOR, during FYs 2018,
8 2019, 2020, and 2021 to date. We understand, from the ICE ERO document
9 “Transportation Services for Unaccompanied Children Statement of Work,”
10 released under FOIA, that this information is stored in the Enforcement Alien
11 Booking Manual. We are not interested in any personally-identifiable information
12 about any detainees and ask that their names, A-numbers, or other PII be redacted
13 to protect their privacy.

14 This request to ICE is hereinafter referred to as “ICE0128.”

15 95. UWCHR researchers have identified records relating to family units, including
16 juveniles, which had been separated by ICE during the processing of individuals to be deported.
17 After being divided by ICE, many of these family members were permanently separated through
18 varying immigration statuses and then forced to fight their legal battles separately. Documents
19 reflecting the number of unaccompanied children in ICE custody in the Seattle area is of great
20 public concern and central to UWCHR’s research into the potential for human rights abuses and
21 intolerable circumstances imposed on these individuals and their families.

22 96. In an attempt to obtain information related to that sought through ICE0128,
23 UWCHR reached out to the ICE Community Relations Officer (“CRO”) with questions
24 regarding the manner in which ICE detained family units in the Seattle area. In response, the
25 CRO stated that she would not “be able to assist you with your requests for information” and
26 simply referred UWCHR to FOIA. All further inquiries from UWCHR to the CRO were
27 unavailing.

 97. On February 16, 2021, ICE acknowledged receipt of ICE0128 and provided a
tracking number (2021-ICFO-26512).

1 98. On November 1, 2021, UWCHR received an email from DHS, indicating that
2 ICE0128 had been updated to a status of “Documents Delivered” even though no responsive
3 documents had been delivered. DHS sent a subsequent email indicating that the status of
4 ICE0128 had been updated to “Closed.”

5 99. To date, no responsive documents have been delivered in response to ICE0128.

6 100. On June 15, 2022, ICE sent a letter to UWCHR (dated October 29, 2021),
7 indicating that ICE had conducted a search for records responsive to ICE0128, but that no
8 responsive records were found.

9 101. On June 23, 2022, UWCHR filed an administrative appeal of ICE’s conclusion
10 that it possessed no responsive records and concurrent closure. This appeal explained why the
11 requested documents must be in ICE’s possession, custody, or control, and were subject to
12 FOIA, and requested that ICE either produce the requested documents or provide some
13 explanation of the scope of its search and its determination.

14 102. This appeal has not been acknowledged by DHS or ICE, and no tracking number
15 has been provided.

16 103. As of the filing of this Complaint, UWCHR has not been notified of any
17 determination with respect to this appeal, and ICE has not produced any documents responsive to
18 ICE0128.

19 104. On information and belief, ICE possesses documents responsive to ICE0128.

20 **3. No Appeal Determination: ICEAir-CAC Mission Invoices (FOIA Request**
21 **ICE0078)**

22 105. On September 10, 2019, Dr. Godoy made, on behalf of UWCHR, a written FOIA
23 request to ICE. The request stated:

24 We are seeking a copy of mission invoice numbers 20181222A, submitted by
25 vendor CAC, for ICE Air mission number 190244 in FY2019, and mission
26 invoice number 20181203B, submitted by vendor CAC for ICE Air mission
27 number 190003 in FY 2019. We are interested in all the materials submitted as
part of these invoices, including any accounting of indirect costs.

This request to ICE is hereinafter referred to as “ICE0078.”

1 106. UWCHR submitted this request as a means of better understanding the
2 deportation industry in pursuit of its research into reports and accounts of human rights abuses
3 that have taken place during these specific missions. One of these missions was a failed 2017
4 flight to Somalia, which was waylaid in Dakar, Senegal, where it remained on the tarmac, with
5 its deportee passengers bound and shackled, for almost 23 hours. Passengers on this flight have
6 provided sworn testimony describing physical beatings, the use of straitjackets, verbal abuse and
7 threats, and the denial of access to restrooms, forcing them to soil themselves in their seats. On
8 other missions, passengers from Nepal, Bangladesh, and India reported abuses such as punching
9 and kicking that left some passengers bloodied and crying. Passengers described deportees who
10 resisted boarding the plane being given electric shocks and forcibly placed in body bags, then
11 carried or tossed aboard. Shining a light on these reported abuses and the process of holding
12 responsible parties accountable is the purpose behind UWCHR's FOIA request ICE0078.

13 107. On September 12, 2019, ICE acknowledged receipt of ICE0078 and provided a
14 tracking number (2019-ICFO-58728).

15 108. On January 5, 2022, UWCHR received an email from ICE stating that responsive
16 documents had been delivered and that the matter was closed, but to date no such documents
17 have been delivered to UWCHR.

18 109. On January 12, 2022, and again on February 7, 2022, UWCHR emailed ICE
19 inquiring as to the status of these documents and asking that they be redelivered.

20 110. After months of silence from ICE, UWCHR filed an appeal on April 2, 2022.

21 111. On April 2, 2022, ICE acknowledged receipt of UWCHR's appeal of ICE's
22 inaction with respect to ICE0078, and ICE provided a tracking number (2022-ICAP-00517).

23 112. On August 12, 2022, UWCHR received an email from DHS, indicating that
24 ICE0078 had been updated to a status of "Documents Delivered" even though no responsive
25 documents had been delivered. Inexplicably, later that same day DHS sent a subsequent email
26 indicating that the status of ICE0078 had been updated to "Closed."
27

1 113. DHS' FOIA website, as of September 1, 2022, indicated that the status of the
2 initial FOIA request is "Closed" but that status of the appeal of ICE0078 is "Assigned for
3 Processing" and has an "Estimate Delivery Date" of May 7, 2022.

4 114. As of the filing of this Complaint, ICE has not produced any documents
5 responsive to ICE0078 and has not made any determination with respect to the appeal.

6 115. On information and belief, ICE possesses documents responsive to ICE0078.

7 **4. No Appeal Determination: Northwest Detention Center Contract**
8 **Discrepancy Forms (FOIA Request ICE0120)**

9 116. On August 21, 2020, Dr. Godoy made, on behalf of UWCHR, a written FOIA
10 request to ICE. The request sought (1) Contract Discrepancy Forms ("CDR") created by ICE
11 employees for the Northwest Detention Center ("NWDC") and ICE processing center located in
12 Tacoma, Washington, and operated by third-party contractor GEO; (2) documents relating to
13 investigations undertaken by ICE in response to GEO's deficient performance as reported in
14 CDRs; and (3) documents relating to written recommendations made in light of any such
15 investigations. This request to ICE is hereinafter referred to as "ICE0120."

16 117. The requested documents would shed light on the conditions within the NWDC
17 regarding the sanitation of food and laundry, allegations of medical neglect, the use of solitary
18 confinement, and the reporting of sexual assault and abuse.

19 118. On August 31, 2020, ICE acknowledged receipt of ICE0120 and provided a
20 tracking number (2020-ICFO-81139).

21 119. On November 21, 2020, UWCHR visited DHS's FOIA website to check the
22 status of this request and found it was listed as "on hold."

23 120. On November 23, 2020, ICE emailed UWCHR, stating that they had emailed
24 UWCHR on September 16, 2020, asking that the request be narrowed to cover Fiscal Years 2019
25 and 2020 rather than the broader timeframe UWCHR had originally requested. Contrary to ICE's
26 representation, UWCHR had not received any email from ICE on September 16, 2020.

1 121. On November 23, 2020, UWCHR agreed to narrow the scope of ICE0120 to
2 cover Fiscal Years 2019 and 2020, per ICE's request.

3 122. On August 27, 2021, ICE sent a letter to UWCHR indicating that it was releasing
4 78 pages of responsive material, but only 5 pages were actually delivered to UWCHR.

5 123. On September 9, 2021, UWCHR appealed ICE's failure to provide all responsive
6 documents that ICE claimed to have produced.

7 124. On October 7, 2021, ICE acknowledged receipt of UWCHR's appeal of ICE's
8 inadequate production in response to ICE0120, and indicated that new searches could be
9 conducted, and that information previously withheld may be releasable, and remanded the appeal
10 to the ICE FOIA Office for processing, indicating that the ICE FOIA Office would respond
11 directly to UWCHR. ICE provided a tracking number for the appeal (2021-ICAP-01227).

12 125. As of the filing of this Complaint, there has been no response to UWCHR from
13 the ICE FOIA Office with respect to ICE0120.

14 126. On information and belief, ICE possesses documents responsive to ICE0120 that
15 it has not produced in response to ICE0120.

16 **5. No Appeal Determination: MVM Invoices (ICE0164)**

17 127. On September 16, 2021, Dr. Godoy made, on behalf of UWCHR, a written FOIA
18 request to ICE. The request stated:

19 I am seeking copies of all the invoices (also commonly referred to as Monthly
20 Billing Reports) the contractor MVM, Inc. sent to ICE Enforcement and Removal
21 Operations (ERO) from the fiscal year 2014 to the present. The record keeping of
22 these documents by MVM, Inc. and ICE is mandated by the solicitation
23 (solicitation # HSCEDM-14-R-00010) of Firm Fixed Price Federal Contract:
24 HSCEDM-14-D-00006 and the solicitation (solicitation # 70CDCR20C00000006)
25 of Definitve [sic] Contract: 70CDCR20C00000001. Both solicitations (attached
26 here for your reference) (P. 18 & 31 for HSCEDM and P. 38 & 51 for 70CDCR)
27 mandate that the contractor invoice ERO on a monthly basis for all transports that
were completed the preceding month. Additionally, both solicitations (P. 52 for
HSCEDM and P. 32 for 70CDCR) also mandate that all records kept by the
contractor are subject to review by ICE CORs during the term of the contract and
thereafter. I ask that the names of all personnel and individuals mentioned within
the documents be excluded to protect the privacy of their personal and medical
information. Please provide these records in electronic form.

1 This request to ICE is hereinafter referred to as “ICE0164.”

2 128. Through this request, UWCHR seeks to investigate ICE’s relationship with the
3 private company MVM, Inc., with which ICE has contracted to transport unaccompanied
4 children and family units who have crossed the border from Canada into Washington State.
5 Public sources have revealed that in 2019, MVM failed to provide adequate food, water, clean
6 clothes, and hygienic conditions for these unaccompanied children and family units, and has kept
7 unaccompanied children in these inadequate conditions for periods exceeding 24 hours. Despite
8 ICE’s indicating that it would review its relationship with MVM as a private contractor, in 2019
9 ICE renewed its contractual relationship with MVM for a period of five years.

10 129. Through ICE0164, UWCHR seeks information that will enable it to review the
11 financial relationship between MVM and ICE, which will indicate whether ICE has made any
12 deductions for MVM’s violation of performance standards through continued abuses.

13 130. On September 16, 2021, ICE acknowledged receipt of ICE0164 and provided a
14 tracking number (2021-ICFO-39578).

15 131. On April 22, 2022, ICE responded to ICE0164, indicating that it had located no
16 records responsive to the request.

17 132. On May 4, 2022, UWCHR appealed ICE’s failure to conduct an adequately
18 thorough search in response to ICE0164.

19 133. On May 5, 2022, ICE acknowledged receipt of UWCHR’s appeal of ICE’s
20 inadequate search with respect to ICE0164, and ICE provided a tracking number (2022-ICAP-
21 00624).

22 134. DHS’ FOIA website, as of September 1, 2022, indicated that the status of the
23 appeal of ICE0164 is “Assigned for Processing” and “Estimate Delivery Date” of August 8,
24 2022.

25 135. As of the filing of this Complaint, ICE has not produced any documents
26 responsive to ICE0164 and has not made any determination with respect to the appeal.

27 136. On information and belief, ICE possesses documents responsive to ICE0164.

1 **6. Appeal Improperly Denied: Standard Operating Procedures for ICE Air**
2 **Operations (FOIA Request ICE0058)**

3 137. On March 24, 2019, Dr. Godoy made, on behalf of UWCHR, a written FOIA
4 request to ICE. The request stated:

5 We request a copy of the Standard Operating Procedures (SOPs) for flight
6 schedulers and data management staff working for ICE Air Operations within ICE
7 ERO. In its published response to the Office of the Inspector General’s 2015
8 report criticizing the efficiency of ICE Air operations, ICE Management indicated
9 that SOPs had already been promulgated and were in use at that time (*See*
10 https://www.oversight.gov/sites/default/files/oig-reports/OIG_15-57_Apr15.pdf,
11 p. 19).

12 This request to ICE is hereinafter referred to as “ICE0058.”

13 138. Through this request, UWCHR seeks to investigate ICE’s standard operating
14 procedures for flight management, which would enable UWCHR to better understand why and
15 how ICE makes decisions with regard to which individuals are deported via regular commercial
16 airlines and which are deported via private charter. In response to the 2015 OIG report cited in
17 ICE0058, ICE stated in writing that it had implemented a new set of Standard Operating
18 Procedures. ICE0058 merely seeks these documents to which ICE has referred and which would
19 form a key part of UWCHR’s research into the potential for human rights abuses.

20 139. On April 5, 2019, ICE acknowledged receipt of ICE0058 and provided a tracking
21 number (2019-ICFO-33298).

22 140. DHS’ FOIA website, as of October 4, 2019, indicated that the status of ICE0058
23 was “Documents Added to Review Log” with an estimated delivery date of May 8, 2019.

24 141. DHS’ FOIA website, as of January 22, 2020, indicated that the status of ICE0058
25 was “Closed.” As of that date, though, UWCHR had received no documents responsive to
26 ICE0058 and had not received any form of notification from ICE that the matter had been closed.

27 142. On January 22, 2020, UWCHR emailed ICE to inquire as to the silent closure of
the matter, and on March 2, 2020, ICE responded saying the requested documents had already
been delivered to UWCHR.

1 143. UWCHR immediately responded to ICE, informing ICE that UWCHR had not
2 received any documents in response to ICE0058.

3 144. After hearing no further response from ICE, and with no other recourse, on
4 April 2, 2022, UWCHR filed an appeal, challenging ICE's false claim that ICE had delivered
5 documents in response to ICE0058.

6 145. On April 2, 2022, ICE acknowledged receipt of UWCHR's appeal of ICE's
7 inaction with respect to ICE0058, and ICE provided a tracking number (2022-ICAP-00517).

8 146. DHS' FOIA website, as of April 11, 2022, indicated that the status of the appeal
9 of ICE0058 was "Assigned for Processing" and estimated delivery date of May 7, 2022.

10 147. On May 26, 2022, ICE emailed UWCHR, indicating the status of the appeal was
11 "In Process."

12 148. On July 12, 2022, without explanation or rationale, ICE sent two separate emails
13 to UWCHR, one indicating that the initial request was now "Closed" and the other indicating
14 that the appeal was now "Closed."

15 149. To date, UWCHR has received no documents in response to ICE0058 and no
16 letter explaining what searches had been conducted (if any) in response to this FOIA request or
17 why the appeal was denied.

18 150. On information and belief, ICE possesses documents responsive to ICE0058.

19 * * *

20 151. DHS Defendants are wrongfully withholding records and information sought by
21 the UWCHR. There is a substantial public interest in the disclosure of the documents and
22 information requested. The DHS Defendants' refusal to release these documents and this
23 information, believed to be within its custody and control, constitutes an abuse of the DHS
24 Defendants' discretion and a violation of FOIA.

FIRST CAUSE OF ACTION

**Violation of FOIA by the DHS Defendants for Failure to Make Promptly Available
the Records Sought by the UWCHR's requests.**

152. The UWCHR repeats and realleges the allegations contained in paragraphs 1 through 151 above, inclusive.

153. The UWCHR has a legal right under FOIA to obtain the agency records and information it requested in FOIA requests associated with the following as described herein: (1) ICE0243, (2) ICE0248, (3) ICE0249, (4) ICE0045, (5) ICE0250, (6) ICE0245, (7) ICE0197, (8) ICE0237, (9) ICE0238, (10) ICE0093, (11) ICE0090, (12) ICE0128, (13) ICE0078, (14) ICE0120, (15) ICE0164, and (16) ICE0058.

154. There exists no legal basis for the DHS Defendants' failure to make these records and this information available to the public.

155. The DHS Defendants' failure to make promptly available the records and information sought by the UWCHR's requests violates FOIA, 5 U.S.C. § 552(a)(3)(A) and (a)(6)(A)(ii) and applicable regulations promulgated thereunder.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request the Court award them the following relief:

A. Declare that the DHS Defendants have violated FOIA in its responses to Plaintiffs' FOIA requests as described herein;

B. Order the DHS Defendants to immediately disclose the requested records and information to Plaintiffs and enter an injunction prohibiting the DHS Defendants from continuing to withhold the requested records and information from the public;

C. Award Plaintiffs their reasonable costs and attorneys' fees;

D. Grant such further relief as the Court may deem just and proper.

DATED: September 20, 2022

Respectfully submitted,

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**pro hac vice application forthcoming*