

EXHIBIT 2

STATE OF TENNESSEE

Office of the Attorney General



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ATTORNEY GENERAL AND REPORTER

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May 11, 2023

**Via ICE FOIA Portal to ICE
and via email to DHS Privacy Office**

U.S. Immigration & Customs Enforcement
Attn: FOIA Officer
500 12th Street SW, Stop 5009
Washington, DC 20536-5009

U.S. Department of Homeland Security
Attn: Senior Director of FOIA Operations
The Privacy Office
2707 Martin Luther King Jr. Ave SE, Stop 0655
Washington, DC 20528-065
foia@hq.dhs.gov

To whom it may concern:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"), the Office of the Tennessee Attorney General requests copies of the following records for the period of February 24, 2023, up through the date that this request is received:

1. All records concerning the release of single adult U.S. Immigration & Customs Enforcement ("ICE") detainees in Tennessee, including but not limited to the following information:
 - a. Any records documenting or estimating the number of detainees released in Tennessee;
 - b. Any records containing an explanation or justification for the release of the detainee(s);
 - c. The ICE threat level of the released detainee(s);
 - d. The criminal history of the released detainee(s);
 - e. The ICE detention facility or facilities where the detainee(s) were housed before transported to Tennessee for release; and

- f. Any records explaining the manner by which the detainee(s) were transported to Tennessee for release.
2. All records concerning the planned or scheduled release of single adult ICE detainees in Tennessee, including but not limited to the following information:
 - a. Any records documenting or estimating the number of detainees planned or scheduled to be released in Tennessee;
 - b. Any records containing an explanation or justification for the planned or scheduled release of the detainee(s);
 - c. The ICE threat level of any detainee(s) planned or scheduled for release;
 - d. The criminal history of any detainee(s) planned or scheduled for release;
 - e. The ICE detention facility or facilities where the detainee(s) planned or scheduled for release were or are housed; and
 - f. Any records explaining the manner by which the detainee(s) planned or scheduled for release were or are to be transported to Tennessee for release.
3. All electronic communications between the U.S. Department of Homeland Security and/or ICE and any email address ending with “@nashville.gov”.
4. All electronic communications between the U.S. Department of Homeland Security and/or ICE and any email address ending with “@tnimmigrant.org”.
5. All electronic communications between the U.S. Department of Homeland Security and/or ICE and any email address ending with “@nilc.org”.
6. All electronic communications between the U.S. Department of Homeland Security and/or ICE and any email address ending with “@tirrcvotes.org”.
7. All electronic communications between the U.S. Department of Homeland Security and/or ICE and any email address ending with “@splcenter.org”.
8. All communications, including written and electronic, between Brian Acuna, employed by ICE as Deputy Field Office Director for the New Orleans Field Office, and any of the following individuals:
 - a. Lisa Sherman Luna (also known as “Lisa Sherman-Nikolaus”), who works for the Tennessee Immigrant & Refugee Rights Coalition;
 - b. Benjamin Eagles (also known as “Ben Eagles”), who works for the Mayor of Nashville & Davidson County;
 - c. Mohamed Hassan (also known as “Mohamed-Shukri Hassan”), who works for the Mayor of Nashville & Davidson County;
 - d. Ginger Hausser, who works for the Mayor of Nashville & Davidson County; and
 - e. Tom Jurkovich, who works for the Mayor of Nashville & Davidson County.

9. All communications, including written and electronic, between Joshua Jack, employed by ICE as Community Relations Officer for the New Orleans Field Office, and any of the following individuals:
 - a. Lisa Sherman Luna (also known as “Lisa Sherman-Nikolaus”), who works for the Tennessee Immigrant & Refugee Rights Coalition;
 - b. Benjamin Eagles (also known as “Ben Eagles”), who works for the Mayor of Nashville & Davidson County;
 - c. Mohamed Hassan (also known as “Mohamed-Shukri Hassan”), who works for the Mayor of Nashville & Davidson County;
 - d. Ginger Hausser, who works for the Mayor of Nashville & Davidson County; and
 - e. Tom Jurkovich, who works for the Mayor of Nashville & Davidson County.

10. All communications, including written and electronic, between Catherine Chargualaf, employed by ICE as Assistant Field Office Director in Nashville, and any of the following individuals:
 - a. Lisa Sherman Luna (also known as “Lisa Sherman-Nikolaus”), who works for the Tennessee Immigrant & Refugee Rights Coalition;
 - b. Benjamin Eagles (also known as “Ben Eagles”), who works for the Mayor of Nashville & Davidson County;
 - c. Mohamed Hassan (also known as “Mohamed-Shukri Hassan”), who works for the Mayor of Nashville & Davidson County;
 - d. Ginger Hausser, who works for the Mayor of Nashville & Davidson County; and
 - e. Tom Jurkovich, who works for the Mayor of Nashville & Davidson County.

Fee Waiver Request:

Per 5 U.S.C. § 552(a)(4)(A)(iii), the Office of the Tennessee Attorney General requests a fee waiver. This request is likely to contribute significantly to public understanding of the operations or activities of the federal government, and it is not made primarily in the commercial interest of the requester. The Office of the Tennessee Attorney General notes that ICE’s policy is “not generally [to] collect fees.” U.S. Immigrations & Customs Enforcement, *Freedom of Information Act (FOIA)*, <https://www.ice.gov/foia> (updated Nov. 1, 2022). And ICE already granted the Office of the Tennessee Attorney General a fee waiver on March 8, 2023, in 2023-ICFO-14971, which made nearly identical requests for documents from an earlier time period.

The Tennessee Attorney General is responsible for prosecuting or defending in the federal courts all suits, civil or criminal, in which the State of Tennessee is a party. Tenn. Code Ann. § 8-6-110. Further, the Tennessee Attorney General is responsible for representing the State in state court in all civil litigated matters and in criminal appeals. *Id.* § 8-6-109.

In mid-December 2022, ICE informed the State of Tennessee that ICE was planning to release single adult ICE detainees from Louisiana facilities into Tennessee. The Office of the Tennessee Attorney General has reason to believe that ICE employees had been communicating these plans with private organizations and employees of the Mayor of Nashville & Davidson County before ICE contacted the State of Tennessee and that they have continued to engage in such communications.

The Louisiana facilities from which ICE was planning to release the single adult detainees house hundreds of criminal detainees. Many of those detainees have the most severe threat levels that ICE can assign. The Tennessee public has an interest in learning about the detainees ICE was planning on releasing in Tennessee and in knowing whether ICE still plans on releasing single adult detainees in Tennessee. And the Tennessee Attorney General has an interest in protecting the safety of Tennesseans and in ensuring the U.S. Department of Homeland Security and ICE are complying with federal immigration law.

Per U.S. Department of Homeland Security fee waiver requirements, the Office of the Tennessee Attorney General, upon reviewing the requested information, will make available to the public, using all means available to the Office of the Tennessee Attorney General, the requested information as necessary to inform the Tennessee public and to ensure the safety of Tennesseans.

Explanation of Request for Expedited Processing:

The Office of the Tennessee Attorney General requests expedited processing of this request for records. The request at a minimum involves a matter of widespread and exceptional media interest in which there exist possible questions about the federal government's integrity which affect public confidence. 6 C.F.R. § 5.5(e)(1). Requester the Office of the Tennessee Attorney General certifies as true and correct that its request for records involves a matter of widespread and exceptional media interest in which there exist possible questions about the federal government's integrity which affect public confidence. *Id.* § 5.5(e)(3). By granting Requester a fee waiver in 2023-ICFO-14971, ICE has already agreed that “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government.” 5 U.S.C. § 552(a)(4)(A)(iii).

When ICE informed the State of Tennessee of its plans in December 2022, “numerous articles [were] published” on the subject. *Id.*; *see, e.g.*, Kelly Laco, *Blackburn, Hagerty press ICE director for answers on illegal migrants being bussed to Tennessee*, Fox News (Dec. 20, 2022), <https://www.foxnews.com/politics/blackburn-hagerty-ice-director-answers-illegal-migrants-bussed-tennessee>; Kelly Broderick, *Governor Bill Lee says ICE is planning to release ‘unspecified’ number of detainees into Tennessee*, News Channel 5 Nashville (Dec. 20, 2022), <https://www.newschannel5.com/news/governor-bill-lee-says-ice-is-planning-to-release-unspecified-number-of-detainees-into-tennessee>; Mariah Timms, *Feds plan to transport some migrants to Tennessee as Title 42 ends*, Tennessean (Dec. 20, 2022), <https://www.tennessean.com/story/news/politics/2022/12/20/feds-plan-to-transport-some-migrants-to-tennessee-as-title-42-ends/69744596007/>.

The issue has become even more urgent because today the Department will stop relying on Title 42. Upon information and belief, ICE was planning on releasing single adult ICE detainees from Louisiana into Tennessee after the federal government, in collusion with plaintiffs in *Huisha-Huisha v. Mayorkas*, No. 21-100 (D.D.C. Nov. 15, 2022), attempted to end the Title 42 rules on December 21, 2022. Only after Tennessee and other States attempted to intervene and requested relief from the U.S. Supreme Court did Chief Justice Roberts temporarily stay the district court's order. *Arizona v. Mayorkas*, No. 22A544, 2022 WL 17750015 (Dec. 19, 2022) (Roberts, C.J., order). The full Supreme Court then granted a stay of the district court's order pending review. *Arizona v. Mayorkas*, 143 S. Ct. 478 (2022).

Secretary Mayorkas agrees that the Department has been experiencing a “surge” of aliens anticipating the end of Title 42 and that “[w]hat” the Department is “expecting is indeed a surge” of illegal immigration with “the end of Title 42” today. Department, *Secretary Mayorkas & U.S. Customs & Border Protection Leadership Remarks at a Press Conference at Camp Monument Brownsville, TX* (May 5, 2023), <https://www.dhs.gov/news/2023/05/05/secretary-mayorkas-and-cbp-leadership-remarks-press-conference-camp-monument>. One Department official yesterday told NBC News “[w]e’re already breaking and we haven’t hit the starting line.” Julia Ainsley, *Biden admin to allow for the release of some migrants into the U.S. with no way to track them*, NBC News (May 10, 2023), <https://www.nbcnews.com/politics/biden-admin-plans-order-release-migrants-us-no-way-track-rcna83704>. A Department spokesperson has told the press that the Department’s plans “may include processing migrants for parole,” just as ICE planned to do back in December 2022. *Id.*; *but see Florida v. United States*, No. 3:21-cv-1066-TKW-ZCB, 2023 WL 2399883 (N.D. Fla. Mar. 8, 2023) (vacating Parole+ATD Policy as unlawful).

A copy of this request for expedited processing is being sent today to the Department’s Privacy Office.

Processing and Production:

Processing should occur in compliance with the processing guidance in the U.S. Attorney General’s Memorandum on Freedom of Information Act Guidelines. If necessary to redact exempt personal identifying information, please substitute anonymized unique identifiers. *See ACLU Immigrants’ Rights Project v. ICE*, 58 F.4th 643 (2d Cir. 2023). If you have any questions about our request or believe further discussions regarding search and processing would facilitate a more efficient production of records of interest to the Office of the Tennessee Attorney General, then please contact me at steven.griffin@ag.tn.gov. If the request for a fee waiver is not granted in full, please contact us immediately upon making that determination.

To accelerate your release of responsive records, the Office of the Tennessee Attorney General welcomes production on an agreed rolling basis. If possible, please provide responsive records in an electronic format by email. Alternatively, please provide responsive records in native format or in PDF format on a USB drive to Office of the Tennessee Attorney General, P.O. Box 20207, Nashville, TN 37202-0207.

Thank you in advance for your cooperation.

Sincerely,

/s/ Steven J. Griffin

Steven J. Griffin
Assistant Attorney General
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