



November 13, 2024

VIA SecureRelease Portal

U.S. Immigration and Customs Enforcement
Freedom of Information Act Office
500 12th St., S.W., Mail Stop 5009
Washington, D.C. 20536-5009
<https://www.securerelease.us>

RE: Freedom of Information Act Request

Dear FOIA Officer,

The American Civil Liberties Union of Pennsylvania and the National Immigration Litigation Alliance (Requestors) submit this letter as a request for records under the Freedom of Information Act (FOIA), 5 U.S.C. § 552 *et seq.* In addition, Requestors seek a fee waiver pursuant to 5 U.S.C. § 552(a)(4)(A)(iii).

Records Requested

Requestors seek disclosure of the following records¹ prepared, received, transmitted, collected, and/or maintained by U.S. Immigration and Customs Enforcement (ICE) relating to the period between January 1, 2020, and the present:

- All records, including communications, reports, summaries, and messages, received or sent by ICE personnel in connection with or pursuant to the Inter-Governmental Service Agreement (IGSA) between ICE and Clearfield County, Pennsylvania and the incorporated Quality Assurance Surveillance Plan that relate to incidents, allegations, or investigations of sexual abuse, assault, or harassment by employees, contractors, and/or volunteers at the Moshannon Valley Processing Center. *See Exhibit A (2021 IGSA).*
- All records, including communications, reports, summaries, and messages, received or sent

¹ The term “records” as used herein includes, but is not limited to: communications, correspondence, directives, documents, data, videotapes, audiotapes, e-mails, faxes, files, guidance, guidelines, standards, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, manuals, technical specifications, training materials, and studies, including records kept in written form or electronic format on computers and/or other electronic storage devices, electronic communications, and/or videotapes, as well as any reproductions thereof that differ in any way from any other reproduction, such as copies containing marginal notations.

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by ICE personnel in connection with or pursuant to the Department of Homeland Security's (DHS's) Prison Rape Elimination Act Standards, as incorporated by reference in the IGSA between ICE and Clearfield County, Pennsylvania, related to incidents, allegations, or investigations of sexual abuse, assault, or harassment by employees, contractors, and/or volunteers at the Moshannon Valley Processing Center.

- All records, including communications, reports, summaries, and messages, received or sent by ICE personnel in connection with or pursuant to the Performance-Based National Detention Standards, regarding alleged incidents of sexual abuse, assault, or harassment by employees, contractors, and/or volunteers at the Moshannon Valley Processing Center and/or the investigation of such alleged incidents.
- Any other records, including communications, reports, summaries, or messages, regarding alleged incidents of sexual abuse, assault, or harassment by employees, contractors, and/or volunteers at the Moshannon Valley Processing Center and/or the investigation of such alleged incidents.

This request will remain as an ongoing FOIA request until such time as the agency conducts a lawful and adequate search. Therefore, any records that come within the possession of the agency prior to the final response to this FOIA request are within the scope of this request.

Request for Waiver of Fees

Requestors ask that ICE waive all fees and costs associated with this FOIA request. Such waiver is warranted because disclosure of the information is "likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requestor." 5 U.S.C. § 552(a)(4)(A)(iii).

First, disclosure of the requested records will contribute significantly to the public's understanding of the prevalence of, reporting of, and response to alleged incidents of sexual abuse, assault and harassment in immigration detention facilities. The requested records relate directly to governmental operations and activities. Public access to the requested records is critically important to assist attorneys, detainees, and the general public in understanding the prevalence of and remedial measures taken towards incidents of sexual assault and abuse in the Moshannon Valley Processing Center. In addition, it will allow for procedural oversight to ensure that the Processing Center is reporting to ICE as required by its contract and in accordance with DHS's regulations and other applicable sources of law.

Requestors have the capacity, intent, and demonstrated ability to disseminate the requested information to a broad cross-section of the public. NILA is a non-profit membership organization established to realize systemic change in the immigrant rights' arena by engaging in impact litigation and by building the capacity of social justice attorneys to litigate in federal court through co-counseling individual cases and providing strategic assistance. In addition to litigation, NILA

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disseminates records obtained through FOIA on its public website,² disseminates practice materials,³ and frequently presents on immigration issues. The ACLU of Pennsylvania regularly obtains information about government activity, analyzes that information, and widely publishes and disseminates that information to the press and public. For example, the ACLU regularly publishes ACLU Magazine that reports on and analyzes civil liberties-related current events. The magazine is disseminated to over 950,000 households. The ACLU of Pennsylvania also publishes regular updates and alerts via email to approximately 66,200 people. These updates are additionally broadcast to about 37,000 social media followers (members and non-members). The magazine, email, and social-media alerts often include descriptions and analysis of information obtained through FOIA requests. The ACLU and its affiliates also regularly issue press releases to call attention to documents obtained through FOIA requests, as well as other breaking news, and ACLU attorneys are interviewed frequently for news stories about documents released through ACLU FOIA requests. Similarly, the ACLU regularly publishes and disseminates reports that include a description and analysis of government documents obtained through FOIA requests. This material is broadly circulated to the public.

Second, disclosure of the requested records is not primarily in Requestors' commercial interest. Requestors are not seeking the requested records for commercial gain.

Accordingly, disclosure in this case meets the statutory criteria, and a fee waiver would fulfill Congress' legislative intent in amending FOIA. *See Judicial Watch v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) ("Congress amended FOIA to ensure that it be liberally construed in favor of waivers for noncommercial requesters.") (internal quotation omitted).

* * * * *

We look forward to your response to our request within twenty (20) business days, as required under 5 U.S.C. § 552(a)(6)(A)(i).

If you have any questions regarding this request, please contact the undersigned. Please furnish copies of all applicable information to:

Kristin Macleod-Ball
National Immigration Litigation Alliance
10 Griggs Terrace
Brookline, MA 02446
kristin@immigrationlitigation.org

Thank you for your timely cooperation.

² *See NILA's Transparency Litigation Docket*, NATIONAL IMMIGRATION LITIGATION ALLIANCE, <https://immigrationlitigation.org/transparency-litigation-foia>.

³ *See Practice Advisories*, NATIONAL IMMIGRATION LITIGATION ALLIANCE, <https://immigrationlitigation.org/practice-advisories/>.

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Sincerely,

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