

EXHIBIT 10

Freedom of Information Act Office

U.S. Department of Homeland Security
500 12th St SW, Stop 5009
Washington, DC 20536



U.S. Immigration
and Customs
Enforcement

February 19, 2015

SETH WATKINS
STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, NW
Washington, DC 20036-1795

RE: ICE FOIA Case Number 2014-ICFO-02072

Dear Mr. Watkins:

This letter is the final response to your Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), dated July 01, 2014. You have requested copies of the following records:

ICE's San Antonio and Seattle Areas of Responsibility (AORs) daily, weekly, bi-weekly, and/or monthly Records of the bed space inventory in ICE's San Antonio and Seattle AORs from June 1, 2013 through November 30, 2013, including the number of vacant beds and the detainee population, broken down by gender, individuals subject to mandatory custody, individuals subject to non-mandatory custody, and by the alleged custodial authority; 2. daily, weekly, bi-weekly, and/or monthly Records of bond amounts for detainees in ICE's San Antonio and Seattle AORs from June 1, 2013 through November 30, 2013, including the detainee's gender, whether the individual was subject to mandatory custody, and the alleged custodial authority for each individual; 3. any Records concerning the setting and calculation of bond amounts for detainees in ICE's San Antonio and Seattle AORs from June 1, 2013 to the present, including but not limited to all communications (e.g., transmittals, letters, emails, memoranda, and reports, instructions, and summaries) related thereto; Nationwide ICE-Related Detention (a.k.a. the Detention Bed Quota) 4. any Records dated between January 1, 2009 and the present which set out or reflect approved policies, guidelines, or procedures for maintaining and/or filling (i) a level of not less than 33,400 detention beds and/or (ii) a level of not less than 34,000 detention beds, including all communications (e.g., transmittals, letters, emails, memoranda, and reports, instructions, and summaries) related thereto (such as to, from, or within ICE headquarters, an ICE field office, or an ICE AOR); 5. any Records dated between January 1, 2009 and the present which set out or reflect an assessment of compliance with any statutory requirement for maintaining and/or filling (i) a level of not less than 33,400 detention beds and/or (ii) a level of not less than 34,000 detention beds; 6. any Records from January 1, 2009 through the present which set out or reflect approved policies, guidelines, or procedures for appraising the performance of ICE personnel, Field Offices, or AORs related to maintaining and/or filling beds in detention facilities used to house ICE detainees; 7. Any Records from January 1, 2009 through the present which set out or reflect approved policies, guidelines, or procedures for requesting

and/or setting and/or calculating bond amounts for apprehended and/or detained individuals based on the presence of vacant beds in an ICE detention facility

ICE has considered your request under the FOIA, 5 U.S.C. § 552.

A search of the ICE Enforcement and Removal Operations for records responsive to your request produced 387 pages and 123 excel spreadsheets that are responsive to your request. After review of those documents, I have determined that 247 pages and 123 excel spreadsheets will be released in their entirety. Portions of 247 pages will be withheld pursuant to Exemptions of the FOIA as described below.

ICE has applied FOIA Exemptions 6 and 7(C) to protect from disclosure the names, e-mail addresses, and phone numbers of DHS employees contained within the documents.

FOIA Exemption 6 exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right to privacy. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

FOIA Exemption 7(C) protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. This exemption takes particular note of the strong interests of individuals, whether they are suspects, witnesses, or investigators, in not being unwarrantably associated with alleged criminal activity. That interest extends to persons who are not only the subjects of the investigation, but those who may have their privacy invaded by having their identities and information about them revealed in connection with an investigation. Based upon the traditional recognition of strong privacy interest in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate. As such, I have determined that the privacy interest in the identities of individuals in the records you have requested clearly outweigh any minimal public interest in disclosure of the information. Please note that any private interest you may have in that information does not factor into this determination.

ICE has applied FOIA Exemption 7(E) to protect from disclosure internal agency case numbers contained within the document.

FOIA Exemption 7(E) protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. I have determined that disclosure of certain law enforcement sensitive information contained within the responsive records could reasonably be expected to risk circumvention of the law. Additionally, the techniques and procedures at issue are not well known to the public.

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You have the right to appeal ICE's determination and should you wish to do so, please send your appeal following the procedures outlined in the DHS regulations at 6 Code of Federal Regulations § 5.9 and a copy of this letter to:

U.S. Immigration and Customs Enforcement
Office of Principal Legal Advisor
U.S. Department of Homeland Security
Freedom of Information Act Office
500 12th Street, S.W., Stop 5009
Washington, D.C. 20536-5009

Your appeal must be received within 60 days of the date of this letter. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at www.dhs.gov/foia.

The Office of Government Information Services (OGIS) also mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you wish to contact OGIS, you may email them at ogis@nara.gov or call 1-877-684-6448.

Provisions of the FOIA and Privacy Act allow us to recover part of the cost of complying with your request. In this instance, because the cost is below the \$14 minimum, there is no charge.¹

If you need to contact the FOIA office about this matter, please call (866) 633-1182 and refer to FOIA case number **2014-ICFO-02072**.

Sincerely,

R. Gowins, for

Catrina M. Pavlik-Keenan
FOIA Officer

Enclosure(s): 387 page pdf and 123 excel spreadsheets

¹ 6 CFR § 5.11(d)(4).

