

# **EXHIBIT 13**

U.S. Department of Homeland Security  
500 12<sup>th</sup> St. SW: STOP 5009  
Washington, DC 20546-5009



U.S. Immigration  
and Customs  
Enforcement

May 15, 2015

Seth A. Watkins, Esq.  
Adduci, Mastriani & Schaumberg L.L.P.  
1133 Connecticut Avenue NW  
Washington, DC 20036

VIA E-MAIL AND REGULAR U.S. POSTAL SERVICE

**RE: 2015-ICAP-00323, 2014-ICFO-02072**

Dear Mr. Watkins,

This is in response to your letter, received by the U.S. Immigration and Customs Enforcement (ICE), Freedom of Information Act (FOIA) Office on April 20, 2015, appealing the adverse determination by the ICE FOIA Office in response to your Freedom of Information Act/Privacy Act (FOIA/PA) request. The initial request was seeking the following records:

- (1) ICE's San Antonio and Seattle Areas of Responsibility (AOR) 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);

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(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; and

(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.

In a letter dated February 19, 2015, the ICE FOIA Office advised you that a search of the ICE Enforcement and Removal Operations for records responsive to your request produced 387 pages and 123 Excel spreadsheets. ICE FOIA Office released these pages to you, and applied the following FOIA/PA withholdings to the records: 5 U.S.C. 552 §§(b)(6), (b)(7)(C) and (b)(7)(E).

Upon review of the administrative record and your appeal letter received by ICE FOIA on April 20, 2015, ICE has determined that new search(es) or, modifications to the existing search(es), could be made. ICE is therefore remanding your appeal to the ICE FOIA Office for processing and re-tasking to the appropriate agency/office(s) to obtain any responsive documents.

Furthermore, your appeal letter appears to request a complete list of documents withheld and an explanation, pursuant to *Vaughn v. Rosen*, of withholdings asserted by ICE FOIA Office pursuant to Exemptions (b)(6), (b)(7)(c) and (b)(7)(e) of the FOIA. This request is premature as requestors are not entitled to a complete list of responsive documents and an explanation of withholdings during the administrative process. See *Bangoura v. U.S. Dep't of the Army*, 607 F.Supp.2d 134, 143 n.8 (D.D.C. 2009). The creation of a Vaughn index is generally required in connection with a motion for summary judgment filed by a defendant in a civil action pending in court. See *Schwarz v. U.S. Dep't of Treasury*, 131 F.Supp.2d 142, 147 (D.D.C. 2000). Moreover, ICE FOIA Office provided you with the rationale for each of the asserted exemptions in its final determination letter dated February 19, 2015.

Finally, ICE FOIA will be in direct contact with you regarding the possible re-processing of the pages you identified as unreadable or "garbled," to the extent that they were produced to you in a defective format.

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Should you have any questions regarding this appeal remand, please contact ICE at [ice-foia@dhs.gov](mailto:ice-foia@dhs.gov). In the subject line of the email, please include the word "appeal," your appeal number, which is **2015-ICAP-00323** and the FOIA case number, which is **2014-ICFO-02072**.

Sincerely,

A handwritten signature in black ink, appearing to be "Debbie Seguin", written over a horizontal line.

Debbie Seguin  
Chief  
Government Information Law Division  
Office of the Principal Legal Advisor  
U.S. Immigration and Customs Enforcement  
U.S. Department of Homeland Security