

EXHIBIT B

Mishan Wroe

From: Michael Tan <mtan@aclu.org>
Sent: Wednesday, September 21, 2016 10:04 AM
To: Mishan Wroe
Cc: Lee, Eunice; asalceda@aclunc.org
Subject: Fw: ICE FOIA Request 2016-ICFO-01568

From: ice-foia@dhs.gov <ice-foia@dhs.gov>
Sent: Tuesday, October 13, 2015 10:35 AM
To: Michael Tan
Subject: ICE FOIA Request 2016-ICFO-01568

October 13, 2015

Michael Tan
ACLU Immigrants' Rights Project
125 Broad St , 18th FL.
New York, NY 10004

RE: ICE FOIA Case Number 2016-ICFO-01568

Dear Mr. Tan:

This acknowledges receipt of your Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), dated October 05, 2015, and to your request for expedited treatment and a waiver of all assessable FOIA fees. Your request was received in this office on October 13, 2015. Specifically, you requested the following records prepared, received, transmitted, collected and/or maintained by ICE: 1.) Any internal memoranda, guidelines, worksheets, training materials, reports, or other agency communications on how the following civil enforcement priorities are applied in parole decisions for noncitizens found to have a credible fear of persecution or torture: • Priority 1: "aliens apprehended at the border or ports of entry while attempting to unlawfully enter the United States" • Priority 2: "aliens apprehended anywhere in the United States after unlawfully entering or re-entering the United States and who AMERICAN CIVIL LIBERTIES cannot establish to the satisfaction of an immigration officer that UNION FOUNDATION they have been physically present in the United States continuously since January 1,2014" Memorandum from Jeh Johnson, Sec'y of Homeland Security re: Policies for the Apprehension, Detention and Removal of Undocumented Immigrants, at 3-4 (Nov. 20, 2014) (hereinafter, "Priorities Memo"). (2) Any internal memoranda, guidelines, worksheets, training materials, reports, or other agency communications on how the following directive in the Priorities Memo is applied in parole decisions for noncitizens found to have a credible fear of persecution or torture: "absent extraordinary circumstances or the requirement of mandatory detention, field office directors should not expend detention resources on aliens ... whose detention is ... not in the public interest." Id. at 5. (3) Any internal memoranda, guidelines, worksheets, training materials, reports, or other agency communications regarding the effect of the Priorities Memo on parole decisions made pursuant to ICE Directive 11002.1, Parole of Arriving Aliens Found to Have a Credible Fear of Persecution or Torture (Dec. 8, 2009).

Your request for expedited treatment is hereby denied.

Under the DHS FOIA regulations, expedited processing of a FOIA request is warranted if the request involves "circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual," 6 C.F.R. § 5.5(d)(1)(i), or "an urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information," 6 C.F.R. § 5.5(d)(1)(ii). Requesters seeking expedited processing must submit a statement explaining in detail the basis for the request, and that statement must be certified by the requester to be true and correct. 6 C.F.R. § 5.5(d)(3).

Your request for expedited processing is denied because you do not qualify for either category under 6 C.F.R. § 5.5(d)(1). You failed to demonstrate a particular urgency to inform the public about the government activity involved in the request beyond the public's right to know about government activity generally. Your letter was conclusory in nature and did not present any facts to justify a grant of expedited processing under the applicable standards.

Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Per Section 5.5(a) of the DHS FOIA regulations, 6 C.F.R. Part 5, ICE processes FOIA requests according to their order of receipt. Although ICE's goal is to respond within 20 business days of receipt of your request, the FOIA does permit a 10- day extension of this time period. As your request seeks numerous documents that will necessitate a thorough and wide-ranging search, ICE will invoke a 10-day extension for your request, as allowed by Title 5 U.S.C. § 552(a)(6)(B). If you care to narrow the scope of your request, please contact our office. We will make every effort to comply with your request in a timely manner.

As it pertains to your request for a fee waiver, after thoroughly reviewing your letter, ICE has determined that you have not presented a convincing argument that **ACLU Immigrants' Rights Project** is entitled to a blanket waiver of applicable fees.

The DHS FOIA Regulations at 6 CFR § 5.11(k)(2) set forth six factors to examine in determining whether the applicable legal standard for a fee waiver has been met. We will consider these factors in our evaluation of your request for a fee waiver:

- (1) Whether the subject of the requested records concerns "the operations or activities of the government";
- (2) Whether the disclosure is "likely to contribute" to an understanding of government operations or activities;
- (3) Whether disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requestor or a narrow segment of interested persons;
- (4) Whether the contribution to public understanding of government operations or activities will be "significant";
- (5) Whether the requester has a commercial interest that would be furthered by the requested disclosure; and
- (6) Whether the magnitude of any identified commercial interest to the requestor is sufficiently large in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requestor.

As a requester, you bear the burden under FOIA of showing that the fee waiver requirements have been met. Based on my review of your October 05, 2015 letter and for the reasons stated herein, I have determined that your fee waiver request is deficient because your request has failed to satisfy factors 4, 5, and 6. Since your request for a fee waiver has failed to satisfy each of the required factors, I am denying your fee waiver request.

Provisions of the FOIA allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the DHS Interim FOIA regulations as they apply to non-commercial requesters. As a non-commercial requester, you will be charged 10 cents per page for duplication; the first 100 pages are free, as are the first two hours of search time, after which you will pay the per quarter-hour rate (\$4.00 for clerical personnel, \$7.00 for professional personnel, \$10.25 for managerial personnel) of the searcher. We will construe the submission of your request as an agreement to pay up to \$25.00. You will be contacted before any further fees are accrued.

You have the right to appeal the determination to deny your request for expedited treatment and a fee waiver. 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.

Freedom of Information Act (FOIA) | Homeland Security

www.dhs.gov

FOIA promotes government openness and accountability by giving the public the right to request copies of records in the possession of federal executive branch agencies, exclusive of nine exemptions and three special law enforcement provisions.

ICE has queried the appropriate program offices within ICE for responsive records. If any responsive records are located, they will be reviewed for determination of releasability. Please be assured that one of the processors in our office will respond to your request as expeditiously as possible. We appreciate your patience as we proceed with your request.

Your request has been assigned reference number **2016-ICFO-01568**. Please refer to this identifier in any future correspondence. To check the status of an ICE FOIA/PA request, please visit <http://www.dhs.gov/foia-status>. Please note that to check the status of a request, you must enter the 2015-ICFO-XXXXX or 2016-ICFO-XXXXX tracking number. You may contact this office at (866) 633-1182. Our mailing address is 500 12th Street, S.W., Stop 5009, Washington, D.C. 20536-5009.

Regards,

ICE FOIA Office
Immigration and Customs Enforcement
Freedom of Information Act Office
500 12th Street, S.W., Stop 5009
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Telephone: 1-866-633-1182
Visit our FOIA website at www.ice.gov/foia

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Sent: Wednesday, September 21, 2016 10:04 AM
To: Mishan Wroe
Cc: Lee, Eunice; asalceda@aclunc.org
Subject: Fw: ICE FOIA Request 2016-ICFO-01574

From: ice-foia@dhs.gov <ice-foia@dhs.gov>
Sent: Tuesday, October 13, 2015 10:49 AM
To: Michael Tan
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125 Broad St , 18th FL.
New York, NY 10004

RE: ICE FOIA Case Number 2016-ICFO-01574

Dear Mr. Tan:

This acknowledges receipt of your Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), dated October 05, 2015, and to your request for expedited treatment and a waiver of all assessable FOIA fees. Your request was received in this office on October 13, 2015. Specifically, you requested the following reports created pursuant to the ICE Directive 11002.1, Parole of Arriving Aliens Found to Have a Credible Fear of Persecution or Torture (Dec. 8,2009), from January 2010 to the present: • Monthly reports by the ICE Field Office Directors detailing the number of parole adjudications for each area of responsibility; the result of those adjudications; and the underlying basis to grant or deny parole. See ICE Directive 11002.1 ^ 8.11. • All analyses of these monthly reports and of random samplings of individual case information by the Assistant Director for Operations or his or her designee. See ICE Directive 11002.1 8.11. • All quality assurance reports by the Assistant Director for Operations or his or her designee. See ICE Directive 11002.1 8.12.

Your request for expedited treatment is hereby denied.

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Regards,

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