

EXHIBIT G



U.S. Immigration and Customs Enforcement

September 21, 2016

Michael Tan, Esq.
ACLU Immigrants' Rights Project
125 Broad Street, 18th Floor
New York, New York 10004

Re: 2016-ICAP-00632, 2016-ICFO-01574

Dear Mr. Tan:

This is in response to your most recent letter, dated August 22, 2016, and received on August 23, 2016, appealing U.S. Immigration and Customs Enforcement's (ICE) response to your October 5, 2016 Freedom of Information Act/Privacy Act (FOIA/PA) request. Your October 5, 2015, FOIA/PA request to ICE asked for "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" for the following:

- "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 analysis 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."

Although the ICE FOIA Office had not yet responded to your request, your February 11, 2016, letter appealed both the adequacy of the search undertaken pursuant to your request and also the withholdings that were applied with respect to the records that were released to you in response to a separate request.¹

¹ A review of the administrative record reflects that some of the records provided to you in ICE FOIA's response to your request 2016-ICFO-01568, dated December 17, 2015, may seem to contain records responsive to this request as well. However, your appeal of the ICE FOIA's Office's response to 2016-ICFO-01568 is being addressed a under that appeal number and separate cover.

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On March 31, 2016, ICE assigned the identification number 2016-ICAP-00405 to your appeal of the ICE FOIA Office's *perceived* response to your FOIA/PA request 2016-ICFO-01574.² After a review of the administrative record, ICE remanded your appeal to ICE FOIA for processing of the responsive records for release directly to you of any non-exempt information, and for processing and tasking to the appropriate agency/office(s) to obtain any responsive documents.

In the ICE FOIA Office's June 23, 2016, response to you, it noted that nine (9) Excel workbooks and 9 pages of records that were responsive to your request would be released to you. The 9 pages of records were released to you in their entirety, and portions of the 9 Excel workbooks were withheld pursuant to FOIA Exemptions (b)(6) and (b)(7)(C). Your August 22, 2016, letter appeals both the adequacy of the search undertaken pursuant to your request and also the withholdings that were applied with respect to the records that were released to you. ICE is now assigning the number 2016-ICAP-00632 to your appeal of the ICE FOIA Office's *actual* response to your request 2016-ICFO-01574.

In your appeal you argue that ICE's withholdings are "improper because ICE merely asserts, without explanation, that certain information and/or records meet the standards outlined in 5 U.S.C. §552(b). It is well-settled that FOIA's 'exemptions 'must be narrowly construed.'" (citation omitted). "Furthermore, in claiming a law enforcement exemption, the government must 'establish a 'rational nexus' between enforcement of a federal law and the document for which an exemption is claimed.'" (citation omitted).

As was explained in the ICE FOIA Office's decision letter, ICE has applied FOIA Exemptions (b)(6) and (b)(7)(C) to protect from disclosure the names of third parties contained within the record. Both Exemption (b)(6) and Exemption (b)(7)(C) require a balancing of the relevant privacy interests and public interests.

There is a particularly strong interest of individuals in not being unwarrantably associated with criminal activity and expressing a fear of removal to another country. In this case, there is a particularly strong interest in not publicizing a compilation of factors that determine whether an individual was granted parole into the United States. Individuals who had undergone a credible fear review have a strong interest in avoiding any embarrassment or retaliation that may be caused by the Government's publicly identifying them as (1) illegal aliens, (2) fearful of removal, and in some cases (3) dangers to the community or flight risks. In your request, you have not articulated a public interest sufficient to outweigh the strong privacy interest of the individuals whose names you requested.

Upon a complete review of the information withheld by ICE in the initial determination on your FOIA/PA request, the withholding of this information was proper in all respects, and the information is exempt from disclosure under the applicable provisions of 5 U.S.C. § 552 cited above. The decision of the ICE FOIA Office to withhold the names and alien numbers from the spreadsheets provided in response to your request is affirmed.

² See note 1, *supra*.

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With respect to the search, after a review of the administrative record, ICE has determined that a new search or modifications to the existing search for both requests could be made. ICE is therefore remanding your appeal to ICE FOIA for processing and re-tasking to the appropriate agency/office(s) to obtain responsive documents, if any. The ICE FOIA Office will respond directly to you.

Should you have any questions regarding this appeal remand, please contact ICE at ice-foia@dhs.gov. In the subject line of the email, please include the word "appeal," your appeal number and the FOIA case number, which are **2016-ICAP-00632** and **2016-ICFO-01574** respectively.

Sincerely,



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

cc: The ICE FOIA Office