

# **EXHIBIT I**



## U.S. Immigration and Customs Enforcement

September 21, 2016

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

**Re: 2016-ICAP-00320, 2016-ICFO-01568**

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 "records prepared, received, transmitted, collected and/or maintained by ICE" pertaining to the following:

"(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 cannot establish to the satisfaction of an immigration officer that 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.

2016-ICAP-00320, 2016-ICFO-01568

Michael Tan, Esq.

Page 2

(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).”

In ICE FOIA’s December 17, 2015, response to you regarding 2016-ICFO-01568, it noted that nine Excel workbooks and 60 pages that were responsive to your request would be released to you, with 16 pages released to you in their entirety. Portions of the nine Excel workbooks and of the remaining 44 pages were withheld pursuant to FOIA Exemptions (b)(2), (b)(6), (b)(7)(C), and (b)(7)(E). Your February 11, 2016, letter appealed both the adequacy of the search undertaken pursuant to your requests and also the withholdings that were applied with respect to the records that were released to you. On March 31, 2016, after a review of the administrative record, ICE determined that information previously withheld may be releasable to you under FOIA, and that a new search or modifications to the existing search for both requests could be made. ICE then remanded your appeal to ICE FOIA for re-processing of the responsive records for release directly to you of any non-exempt information, and for processing and re-tasking to the appropriate agency/office(s) to obtain any additional responsive documents.

ICE considers your letter of August 22, 2016, to be a request for a reconsideration of the appeal determination of March 31, 2016. As the ICE FOIA Office has not yet responded to you regarding this remand, the March 31, 2016, appeal determination remains in effect. This office will ask the ICE FOIA Office to effectuate the previous remand. 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](mailto: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-00320** and **2016-ICFO-01568** 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

2016-ICAP-00320, 2016-ICFO-01568

2016-ICAP-00405, 2016-ICFO-01574

Michael Tan

Page 3

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](mailto: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-00320, 2016-ICFO-01568** and **2016-ICAP-00405, 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