

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

AMERICAN CIVIL LIBERTIES UNION OF MASSACHUSETTS, INC.,)	
)	
Plaintiff,)	
)	Civil Action No. _____
v.)	
)	
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT,)	COMPLAINT
)	
Defendant.)	
)	
)	

INTRODUCTION

1. This is an action for the production of public records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552.

2. On February 10, 2019, a senior official of U.S. Immigration and Customs Enforcement (“ICE”) delivered an “Immigration Updates” address to the Legal Affairs Committee of the National Sheriffs’ Association. On February 22, 2019, the ACLU of Massachusetts (“ACLUM”) submitted a FOIA request for certain records related to that address, including for recordings of the address and for associated written remarks, slides, and handouts. To date, ICE has not provided any substantive response to this request, nor has it produced any of the requested records.

3. Production of these records is important to assist the public in understanding the guidance provided by ICE to state and local law enforcement. Among other things, this suit seeks an order requiring ICE to search for and produce the requested records.

PARTIES

1. The American Civil Liberties Union of Massachusetts is a Massachusetts non-profit corporation with its principal place of business in Boston, Massachusetts. ACLUM's mission is to defend freedoms guaranteed in the Constitution and Bill of Rights and to educate the public about civil liberties and civil rights. ACLUM is committed to principles of transparency and accountability in government. Obtaining information about government activity, analyzing that information, and widely publishing and disseminating it to the press and the public is a critical and substantial component of the ACLUM's work and one of its primary activities.

2. U.S. Immigration and Customs Enforcement is an organization within the U.S. Department of Homeland Security.

JURISDICTION AND VENUE

3. This Court has jurisdiction pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

4. Venue lies in the District of Massachusetts pursuant to 5 U.S.C. § 552(a)(4)(B), including because it is the district in which ACLUM has its principal place of business.

FACTS

5. Matthew T. Albence is ICE's Executive Associate Director for Enforcement and Removal Operations and Senior Official Performing the Duties of Deputy Director.¹

6. On February 10, 2019, Mr. Albence delivered an address entitled "Immigration Updates" to the Legal Affairs Committee at the 2019 Winter Legislative and Technology Conference of the National Sheriffs' Association (the "Address"). *See* Ex. A (conference agenda and photo appended to FOIA request).

¹ <https://www.ice.gov/leadership>

7. The existence of the Address was publicly disclosed, including through a photograph distributed on Twitter by the Bristol County Sheriff's Office in Massachusetts. *See* Ex. A (photo and caption appended to FOIA request).

8. On February 22, 2019, ACLUM submitted a FOIA request to ICE by electronic mail (the "Request"). *See* Ex. A (Request, exhibits, and transmittal email).

9. Among other things, the Request sought any audio and/or visual recordings of the address, as well as any records containing some or all of the Address (such as prepared remarks) and any slides, powerpoint presentations, or handouts presented with the Address. *See* Ex. A.

10. Exhibit A to this Complaint is a true and accurate copy of the Request and the email transmitting it.

11. On March 15, 2019, ICE sent an email invoking a 10-day extension to respond to the Request pursuant to 5 U.S.C. § 552(a)(6)(B). *See* Ex. B.

12. ICE has not provided any other response to the Request, nor has it produced any of the requested records.

CLAIM FOR RELIEF

Violation of FOIA 5 U.S.C. § 552

13. The foregoing allegations are re-alleged and incorporated herein.

14. Defendant has failed to make reasonable efforts to search for records sought by the Request.

15. Defendant has failed to timely produce any records responsive to the Request.

16. ACLUM has exhausted administrative remedies to the extent required by law.

PRAYER FOR RELIEF

Wherefore, Plaintiff asks this Court to GRANT the following relief:

1. Order that ICE shall produce all requested records;
2. Enjoin ICE from charging ACLUM search, review, or duplication fees for processing the Request;
3. Award ACLUM costs and reasonable attorney fees in the action; and
4. Grant such other relief as the Court may deem just and proper.

April 10, 2019

Respectfully Submitted,

/s/ Daniel L. McFadden

Matthew R. Segal (BBO #654489)

Daniel L. McFadden (BBO #676612)

Jessica Lewis (BBO #704229)*

American Civil Liberties Union

Foundation of Massachusetts, Inc.

211 Congress Street

Boston, MA 02110

(617) 482-3170

msegal@aclum.org

dmcfadden@aclum.org

jlewis@aclum.org

**D. Mass. Admission Pending*