



Americans for Immigrant Justice

formerly Florida Immigrant Advocacy Center (FIAC)

January 09, 2019

VIA FIRST CLASS AND ELECTRONIC MAIL

U.S. Immigration and Customs Enforcement
Freedom of Information Act Office
500 12th Street SW, Stop 5009
Washington, D.C. 20536-5009
ICE-FOIA@dhs.gov

Re: Freedom of Information Act Request

Dear FOIA Officer:

Americans for Immigrant Justice (AI Justice) submits this request for information under the Freedom of Information Act, 5 U.S.C. § 552, *et. seq.* (hereinafter the “Request”).

REQUEST FOR INFORMATION

AI Justice requests disclosure of any and all records¹ authored, prepared, received, collected and/or maintained by or transmitted to/from the U.S. Department of Homeland Security (DHS) and/or U.S. Immigration and Customs Enforcement (ICE)² that describe, refer or relate ICE’s documentation of its officers’ considerations of the least restrictive setting for each age-out as required under 8 U.S. Code § 1232 (c)(2)(B).

This Request is limited to records dated between October 1, 2018 and the present day.

¹ The term “records” as used herein includes all records or communications preserved in electronic or written form, including but not limited to correspondence, power point, excel spreadsheet, directives, documents, data, videotapes, audiotapes, emails, faxes, files, guidance, standards, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, technical manuals, technical specifications, training materials or studies, including records kept in written form, or electronic format on computers and/or other electronic storage devices, electronic communications and/or videotapes, as well as any reproductions thereof that differ in any way from any other reproduction, such as copies containing marginal notations.

² The term “ICE” as used herein refers to ICE headquarters offices, including any divisions, subdivisions or sections therein, ICE field operations offices, including any divisions, subdivisions or sections therein; ICE offices at ports of entry, including any divisions, subdivisions or sections therein; and any other ICE organizational structures and offices.

- (1) All guidelines, directives, rules, policies, procedures, memoranda, reports, correspondence, communications or other documents that relate to the custody decisions pertaining to “age outs”³ subject to the 8 U.S. Code § 1232 (c)(2)(B) within the Miami Field Office area of jurisdiction from October 1, 2018 to present.
- (2) All policies, memoranda, correspondence, and other documents related to an October 17, 2018 ICE policy requiring documentation of Title 8 U.S. Code § 1232 (c)(2)(B) decisions made by ICE regarding the manner of detention or release from detention of formerly unaccompanied minors who have turned 18 while in the custody of ORR, hereinafter referred to as “age-outs”.
- (3) All documents uploaded since October 1, 2018 to a SharePoint page created for the purpose of documenting ICE officers’ considerations of the less restrictive setting for each “age-out” within the Miami Field Office area of jurisdiction pursuant to Title 8 U.S.C. § 1232 (c)(2)(B) including the form in which age out custody decisions are made and documented.
- (4) All guidelines, directives, rules, policies, procedures, memoranda, reports, correspondence, communications or other documents that relate to the number of age outs transferred from ORR custody to ICE detention facilities within the jurisdiction of the Miami Field Office of ICE from October 1, 2018 until the present.

REQUEST FOR WAIVER OF ALL COSTS

AI Justice respectfully requests that all fees associated with this FOIA request be waived. AI Justice is entitled to a waiver of all costs because disclosure of the information requested is “. . . likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 522(a)(4)(A)(iii). *See also* 6 C.F.R. § 5.11(k) (Records furnished without charge or at a reduced rate if the information is in the public interest, and disclosure is not in commercial interest of institution). In addition, AI Justice has the ability to widely disseminate the requested information. *See Judicial Watch v. Rossoti*, 326 F.3d 1309 (D.C. Cir. 2013) (finding a fee waiver appropriate when the requester explained, in detailed and non-conclusory terms, how and to whom it would disseminate the information it received).

AI Justice protects and promotes the basic human rights of immigrants through a unique combination of free legal services, impact litigation, policy reform and public education at the local, state and national levels. Grounded in real-world experience, our direct work with immigrants informs our broader policy and advocacy work. Our multicultural and multilingual staff works to foster alliances between immigrant and non-immigrant groups, including

³ An “age-out” is defined as a formerly unaccompanied minor who has turned 18 while in the custody of ORR, and then transferred into ICE custody.

government, civic, social and faith-based communities. Immigration activists, the national media and federal and state policy makers consider AI Justice one of the most effective organizations advocating for immigrant justice.

Disclosure of the Information Is in the Public Interest

With immigration reform once more on the horizon in Congress, immigration issues constitute a major segment of public discourse. Increasingly covered by media outlets, information regarding immigration matters is now more widely disseminated than ever before. Disclosure of the requested information will contribute significantly to the public understanding of operations within the ICE Miami Field Office as it relates to custody determinations of unaccompanied minors. The disclosed records will inform attorneys, advocates, members of the public and others concerned about detention conditions and immigrant rights. AI Justice has the capacity and intent to disseminate the requested information to the public. To this end, we will post relevant information on our website, draft analysis of the information obtained and disseminate it to the public, other immigration advocacy groups, stakeholders and potentially to members of Congress.

Disclosure of the Information Is Not Primarily in AI Justice's Commercial Interest

AI Justice is a 501(c)(3), tax-exempt, non-profit legal services organization that advocates for immigrant rights through direct representation, policy reform, impact litigation, and public education. Accordingly, AI Justice has no commercial interest that could be furthered by information responsive to a FOIA request. Immigration advocates, immigrants and other interested members of the public access information about DHS and ICE policies and practices on AI Justice's website. As previously stated, we seek the requested information for the purpose of disseminating it to the public and not for any commercial intent.

Please inform me in advance if the charges for this FOIA production will exceed \$50.00.

Thank you in advance for your response to this request within twenty working days, pursuant to FOIA requirements. *See* 5 U.S.C. § 552(a)(6)(A)(i). Should you have any questions or concerns, please feel free to contact me at (305) 573-1106 Ext. 1020, or via email at llehner@aijustice.org.

Sincerely,

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