

EXHIBIT D



December 7, 2018

Sent via fax and U.P.S. Overnight

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Re: Expedited Request for Information under Freedom of Information Act (FOIA)

Dear FOIA Officers:

The National Immigration Law Center (NILC) makes this request for information under the Freedom of Information Act (FOIA), 5 U.S.C. § 552 *et seq.*, for records related to the worksite enforcement operation conducted on April 5, 2018 by U.S. Immigration and Customs Enforcement (ICE) and Homeland Security Investigations (HSI) at Southeastern Provision located at 1617 Helton Road, Bean Station, Tennessee.

Requestor seeks through this FOIA request the identities of all ICE, HSI or other Department of Homeland Security personnel physically present during the above-referenced raid, including, but not limited to:

- a. Full name;
- b. Rank or official title; and
- c. Office location.

Fee Waiver Request

NILC respectfully request a waiver of all costs associated with a response to this FOIA pursuant to the public interest/benefit fee waiver available under 5 U.S.C. § 552(a)(4)(A)(iii) (“Documents shall be furnished without any charge . . . if disclosure of the information is in the public interest because it 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.”). The public interest/benefit fee waiver provisions of the FOIA are to be “liberally construed” and are “consistently associated with requests from journalists, scholars, and non-profit interest groups who it was intended to benefit.” *See Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (“Congress amended FOIA to ensure that it be ‘liberally construed’ in favor of fee waivers for noncommercial requesters.”) (citation omitted); *see also Carney v. U.S. Dept. of Justice*, 19 F.3d 807, 814 (2d Cir. 1994) (reversing a fee waiver denial that was based on an “unduly restrictive construction [of] the public interest fee waiver provision”). Moreover, the National Immigration Law Center is routinely granted fee waivers by government agencies. Some of the fee waivers granted by DHS include FOIA Requests 2018-HQFO-01161, 2017-HQFO-01398; 2017-HQFO-00779, 2017-HQFO-01101, and 2016-HQFO-00400.

Disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government regarding high-visibility worksite enforcement actions. Already this worksite enforcement action has garnered national attention. *See, e.g.*, “ICE Raids Meatpacking Plant in Rural Tennessee; 97 Immigrants Arrested,” *Washington Post* (Apr. 6, 2018), https://www.washingtonpost.com/local/immigration/ice-raids-meatpacking-plant-in-rural-tennessee-more-than-95-immigrants-arrested/2018/04/06/4955a79a-39a6-11e8-8fd2-49fe3c675a89_story.html?utm_term=.35870ae9c91a.

NILC is a nonprofit national legal advocacy organization that engages in policy analysis, advocacy, education, and litigation to promote and advance the rights of low-income immigrants and their families. NILC serves as an important resource to a broad range of immigrant advocacy groups, community organizations, legal service organizations, and the general public. As a part of its work, NILC disseminates information to the public through electronic newsletters, news alerts, issue briefs, trainings, and other educational and informational materials. In addition, NILC disseminates information to individuals, tax-exempt organizations, not-for-profit groups, and members through its website (<http://www.nilc.org>). NILC’s website receives approximately 3,632 visits per day, and many visitors actively download NILC’s reports, brochures and fact sheets. NILC’s email listserv has about 110,000 subscribers. NILC’s Twitter account has over 71,800 followers, and NILC’s Facebook account has over 51,000 followers.

Requestor has no commercial interest in these records, is requesting them for educational and advocacy-related purposes and will disseminate any information it obtains to the public free of charge. *See* 6 C.F.R. § 5.11(k). Any information related to the worksite enforcement operation at Southeastern Provision contributes significantly to public understanding and may help dispel

some of the fear and panic currently felt in immigrant communities across the country because of this enforcement operation. The information sought in this FOIA request is of great value to the public and cannot otherwise be obtained through public searches.

In the alternative, we request a limitation of processing fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II). (“[F]ees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by ... a representative of the news media.”). *See also* 6 C.F.R. § 5.11(d). If the fee waiver request is denied, while reserving our right to appeal the denial, NILC agrees to pay fees up to \$50. If fees are estimated to exceed this limit, please inform us to obtain consent to incur additional fees.

Expedited Processing

NILC also requests expedited processing because there is “an urgency to inform the public about an actual or alleged federal government activity” occurring in Tennessee by an organization “primarily engaged in disseminating information.” 5 U.S.C. § 552(a)(6)(E)(v)(II). This request implicates a matter of urgent public concern: namely, government policies and practices related to immigration raids, which often impact workers with employment authorization and citizens as well.

In addition, expedited processing is warranted because the information sought is needed to prevent “the loss of substantial due process rights.” 28 C.F.R. § 16.5(d)(1)(iii). There are reports that, if accurate, raise serious questions about the manner in which the worksite enforcement operation was conducted. Requests for information bearing upon possible Constitutional violations require an immediate response to cease present violations and prevent future violations.

Expedited processing is also warranted because the information sought relates to “a matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity which affects public confidence.” 28 C.F.R. § 16.5(d)(1)(iv). This request relates to possible violations of statutory and Constitutional rights.

The exceptional media interest in the conduct of ICE’s involvement in this worksite enforcement operation is demonstrated by the widespread news coverage at both the local and national level.¹

¹ *See* “ICE Raids Meatpacking Plant in Rural Tennessee; 97 Immigrants Arrested,” Washington Post (Apr. 6, 2018), https://www.washingtonpost.com/local/immigration/ice-raids-meatpacking-plant-in-rural-tennessee-more-than-95-immigrants-arrested/2018/04/06/4955a79a-39a6-11e8-8fd2-49fe3c675a89_story.html?utm_term=.35870ae9c91a; “Families Wait for Answers After ICE Raid in Grainger County,” WBIR (Apr. 6, 2018), <https://www.wbir.com/article/news/local/families-wait-for-answers-after-ice-raid-in-grainger-county/51-536062125>; “Affidavit Details Alleged Worker Exploitation, Tax Fraud at Grainger Plant,” WBIR (Apr. 6, 2018), <https://www.wbir.com/article/news/crime/affidavit-details-alleged-worker-exploitation-tax-fraud-at-grainger-co-plant/51-535625793>; “Large Cash Withdrawals Led Federal Authorities to Grainger County Slaughterhouse,” ABC 6/WATE (Apr. 6, 2018), <http://www.wate.com/news/local-news/97-detained-at-grainger-co-slaughterhouse-following-ice-raid/1104512258>; “IRS, ICE Officials Raid Grainger County Meat Packing Plant,” Citizen Tribune (Apr. 6, 2018), <http://www.citizentribune.com/news/local/irs-i-c-e->

At minimum, should you decide that expedited processing is not warranted, Requestor reserves its right to appeal that decision and expects a response within the twenty-day time limit set forth under 5 U.S.C. § 552(a)(6)(A)(ii).

Conclusion

The requested records are not exempt from disclosure under the FOIA. We expect that all records will be provided in complete form. For any records produced in redacted form, we request that only necessary portions are redacted with non-redacted content disclosed and that the specific statutory grounds justifying the redaction is provided. If you deny this request in whole or in part, we request you provide a written explanation justifying the denial, including references to the application statutory provisions that support the denial. Finally, should any records be withheld, please also provide the exemption that permits the withholding and provide a list of the records being withheld.

Requestor reserves all rights to appeal available under federal law, including appeal of a denial in whole or part of this request, or a constructive denial. Additionally, we reserve the right to challenge the adequacy of the search for responsive documents, the withholding of any documents, redactions in the responsive records produced, as well as decisions to deny expedited processing, to withhold any information, or to deny a waiver or limitation of fees.

I certify that the information contained in this request is true and correct to the best of my knowledge. *See* 6 C.F.R. § 5.5(d)(3).

Please contact me should you have any questions regarding this request. You may reach me directly at (213) 674-2820 or Keaney@nilc.org. Thank you in advance for your time and consideration of this request.

Sincerely,

s/Melissa Keaney

Melissa Keaney

Staff Attorney

National Immigration Law Center

[officials-raid-grainger-county-meat-packing/article_214bbe7e-39ba-11e8-b62c-bb1f2d394701.html](https://www.knoxnews.com/story/news/crime/2018/04/05/ice-raids-meatpacking-plant-grainger-county/490673002/); “ICE raids Grainger County meatpacking plant amid charges owners avoided \$2.5M in payroll taxes,” Knox News (Apr. 5, 2018), <https://www.knoxnews.com/story/news/crime/2018/04/05/ice-raids-meatpacking-plant-grainger-county/490673002/>; “97 Arrested in Immigration Raid at TN Beef Plant,” Ag Web (Apr. 6, 2018), <https://www.agweb.com/article/97-arrested-in-immigration-raid-at-tn-beef-plant/>; “At least 50 detained in Tennessee Immigration Raid,” Mountain News/WYMT (Apr. 6, 2018), <http://www.wymt.com/content/news/478993163.html>.

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