

Exhibit C

Subject: Re: ICE Clarification Request FOIA Number 2020-ICFO-19662
Date: Friday, February 28, 2020 at 11:08:51 AM Mountain Standard Time
From: Chavarria, Edgar
To: ice-foia@dhs.gov
Attachments: image002.emz, image004.png, 2020-02-28 Response to ICE re broad request FINAL.pdf

February 28, 2020

U.S. Immigration and Customs Enforcement
Freedom of Information Act Office
Mail Stop 5009
500 12th Street, SW
Washington, DC 20536-5009
Via email to: ICE-FOIA@dhs.gov

Re: ICE FOIA Case Number 2020-ICFO-19662

Dear FOIA Officer:

On December 17, 2019, Comunidad Colectiva submitted a request under the Freedom of Information Act (FOIA) to U.S. Immigration and Customs Enforcement (ICE) seeking records regarding ICE surveillance and enforcement in North Carolina.

In an email dated January 29, 2020, you stated: “[Y]our request is **too broad in scope**, did not specifically identify the records which you are seeking, or only posed questions to the agency.” (emphasis yours). The email further stated that “[r]ecords must be described in reasonably sufficient detail to enable government employees who are familiar with the subject area to locate records without placing an unreasonable burden upon the agency” and that the FOIA “does not require an agency to create new records, answer questions posed by requesters, or attempt to interpret a request that does not identify specific records.” The email then stated that absent a response from us within 30 days, your agency will “assume [we] are no longer interested in this FOIA request, and the case will be administratively closed.”

We write to notify ICE that we remain interested in the FOIA request, and that the case should not be administratively closed. Further, we do not wish to modify our FOIA request as it is quite specific, does not ask ICE to create new records, and it does not pose any questions to the agency. To be clear, we seek only the release of *existing* records that ICE has in its files. With regard to the specificity of our FOIA request, it contains a reasonable description of the records we are seeking, and an ICE employee familiar with the subject area should be able to locate the responsive records with a reasonable amount of effort. Our request is for specific records relating to the surveillance of one entity (Comunidad Colectiva) and two specified individuals (Mayra Stefania Arteaga and Oliver Merino). Further, we list multiple officials who are likely to be in possession of most of the relevant documents requested. Accordingly, simple searches of Comunidad Colectiva and the specified affiliated individuals within the emails and records of the named ICE officials should return most of the responsive records. If ICE should view any particular sub-request as vague, unclear, or too broad, it should specifically identify that sub-request and the need for clarification.

Although a large number of records may be responsive to the FOIA request, the number of records requested has no bearing on whether the request reasonably describes the records sought. *See, e.g., Yeager v. DEA*, 678 F.2d 315, 326 (D.C. Cir. 1992). The requested records from ICE concern the core promise of FOIA, which is to “open agency action to the light of public scrutiny, thus ensuring that citizens know “what their government is up to.” *Am. Civil Liberties Union v. U.S. Dep’t of Justice*, 655 F.3d 1, 6 (D.C. Cir. 2011) (quoting *U.S. Dep’t of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 772, 773 (1989)). Moreover, the fact that the records requested are likely all in electronic form should make it all the easier for

ICE to comply with the request, given that the only "expertise" necessary for fulfilling the request is likely to be keyword searches.

For the aforementioned reasons, we request that ICE process the FOIA request as it is reasonably specific and allows ICE to locate the responsive records with a reasonable amount of effort. Accordingly, we expect a response to the request within 20 working days, as FOIA requires. *See* 5 U.S.C. § 552(a)(6)(A)(i). Thank you for your time and attention to this matter. Should you have any questions regarding this request, please contact Humberto Prospero at 303-871-6140.

Sincerely,

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From: "ice-foia@dhs.gov" <ice-foia@dhs.gov>
Date: Wednesday, January 29, 2020 at 8:01 AM
To: "Chavarria, Edgar" <echavarria21@law.du.edu>
Subject: ICE Clarification Request FOIA Number 2020-ICFO-19662

January 29, 2020

Edgar Chavarria
University of Denver Sturm College of Law
Student Law Office
2255 East Evans Avenue Ste. 335
Denver, CO 80208

RE: ICE FOIA Case Number 2020-ICFO-19662

This e-mail is in regards to your December 17, 2019 ICE FOIA request for various records related to information collected or in the possession or control of Immigration and customs enforcement ("ICE") regarding Comunidad Colectiva, its members and associates (see request for details).

After careful review of your FOIA request, we determined that your request is **too broad in scope**, did not specifically identify the records which you are seeking, or only posed questions to the agency. Records must be described in reasonably sufficient detail to enable government employees who are familiar with the subject area to locate records without placing an unreasonable burden upon the agency. For this reason, §5.3(b) of the DHS regulations, 6 C.F.R. Part 5, require that you describe the records you are seeking with as much information as possible to ensure that our search can locate them with a reasonable amount of effort. Whenever possible, a request should include specific information about each record sought, such as the date, title or name, author, recipients, and subject matter of the records, if known, or the ICE program office you believe created and/or controls the record. The FOIA does not require an agency to create new records, answer questions posed by requesters, or attempt to interpret a request that does not identify specific records.

Please resubmit your request containing a reasonable description of the records you are seeking. Upon receipt of a perfected request, you will be advised as to the status of your request.

If we do not hear from you within 30 days from the date of this letter, we will assume you are no longer interested in this FOIA request, and the case will be administratively closed. Please be advised that this action is not a denial of your request and will not preclude you from filing other requests in the future.

Sincerely,

ICE FOIA