

EXHIBIT A



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United States Immigration and Customs Enforcement
Freedom of Information Act Office
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October 4, 2019

Dear Ms. Pavlik-Keenan,

This letter constitutes a request under the Freedom of Information Act (“FOIA”), 5 U.S.C. 552(a)(3), and is submitted on behalf of the UCI Immigrant Rights Clinic and Just Futures Law to United States Immigration and Customs Enforcement (“ICE”). ICE has contracted with Palantir Technologies, Inc. (“Palantir”) to build and/or maintain information systems that include vast amounts of information on individuals. These databases include the FALCON system, for which ICE has awarded contracts totaling approximately \$100,448,401, and the Investigative Case Management (“ICM”) system, for which ICE has awarded contracts totaling approximately \$101,451,809. UCI Immigrant Rights Clinic (UCI IRC) and Just Futures Law (“Requesters”) seek specific ICE documents related to the purchase and use of these systems.

Background

ICE is one of the largest law enforcement organizations in the United States. The agency enforces federal border laws and conducts homeland security investigations, operating both at the US border and the interior. In conducting these investigations, ICE has partnered with Palantir Technologies, Inc. to develop key information systems like the FALCON and ICM systems. While Privacy Impact Assessments (“PIAs”) have been published related to these systems, many questions remain concerning their operations, including whether



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meaningful constraints exist, are communicated, and are enforced for the collection, use, disclosure, and retention of data. Moreover, these systems directly impact the clients of both the UCI IRC and Just Futures Law, as well as the communities both organizations serve through publishing reports; creating know-your-rights materials, toolkits, and webinars; and holding trainings.

Investigative Case Management (ICM) system

The Investigative Case Management (ICM) system is the modernization of ICE’s legacy TECS system. A primary motivation for the modernization project was to enable ICE to more easily link investigative records within and between departments. The ICM system includes the ICM application, which provides case management capabilities, as well as three additional capabilities: “1) an Interface Hub to control the movement of information between ICM and external information repositories; 2) the HSI Data Warehouse to store case information for the purpose of facilitating information sharing and reporting; and 3) the TLS application (and its interface with Pen-Link), which will store case-related telecommunications information obtained via subpoena or other means.”

FALCON system

FALCON is based on Palantir’s Gotham platform, a proprietary software product which allows users to search, visualize, and analyze complex data sets. FALCON serves as ICE’s primary data analysis system and there are several FALCON modules, including FALCON Data Analysis and Research for Trade Transparency System (DARTTS), FALCON Search and Analysis System (SA), and FALCON-Roadrunner System.

Little is known by the public about the effectiveness of the FALCON system, the extent of training for the system, the constraints on dissemination of the data in FALCON, and the mechanisms in place for proper oversight and accountability.

Both the FALCON and ICM systems compile great quantities of sensitive personal information that are used, retained, and disseminated by ICE. These systems, which include individuals not suspected of criminal activity, implicate core privacy interests.

Requesters

Professors Annie Lai and Caitlin Bellis teach at the University of California, Irvine School of Law. Prof. Lai co-directs the Immigrant Rights Clinic (“IRC”), while Prof. Bellis serves as its Fellow. UCI IRC provides pro bono legal services to clients on immigration, employment and civil rights matters. Students work under faculty supervisors who are licensed attorneys. UCI IRC also engages in non-litigation advocacy work and community education to advance immigrants’ rights. For example, UCI IRC has produced reports and commentary on immigrants’ rights issues, which it makes available to the public at no cost on its website, www.law.uci.edu/academics/real-life-learning/clinics/immigrant-rights.html. Recently, UCI IRC published a report on the state of immigration enforcement in Orange County, *see* <https://www.law.uci.edu/news/in-the-news/2019/irc-oc-immigration.html>,

and collaborated with Requester Just Futures Law on a Policy Toolkit directly related to ICE's use of surveillance technologies, including Palantir products. The Toolkit is likewise publicly available. See https://justfutureslaw.org/wp-content/uploads/2019/07/Tech-Policy-Report_v4LNX.pdf.

Just Futures Law is an organization¹ that provides legal support for grassroots organizations engaged in making critical interventions in the United States' deportation and detention systems and policies. JFL employs litigation, education, legal support, and policy advocacy strategies to advance our goals in mitigating or eliminating harsh immigration enforcement and biased immigration policies and policing. Although JFL recently launched in July 2019, JFL has already published a report "*Blueprint for Terror*"² on behalf of Detention Watch Network and Mijente after reviewing documents produced during FOIA litigation on the planning of the biggest immigration enforcement action in Immigration and Customs Enforcement (ICE) history, Operation MEGA. Several of these productions refer to FALCON and ICM systems utilized in various immigration enforcement operations, such as Operation Safe Cities, Operation Raging Bull, Operation MEGA, and many others. The report was covered by mainstream news outlets³ and was disseminated through social media. Additionally, JFL has partnered with UCI IRC to publish the policy toolkit described above and conducted trainings about the role of corporate contracting in ICE enforcement. Although JFL is new to the ecosystem of legal institutions, our staff has decades of experience in high-impact removal defense and federal litigation and come from established institutions that excel in immigration law expertise.⁴

Documents requested

(1) Unredacted copies of all email communications between ICE personnel and representatives of Palantir Technologies containing the terms "ICM," "Integrated Case Management," "FALCON," or "PCloud."

¹ JFL launched in July 2019 as a fiscally-sponsored by the Immigrant Legal Resource Center, a nonprofit organization that provides education and training tools in the area of immigration law.

² See *Blueprint for Terror: How ICE Planned its Largest Immigration Raid in History*, July 3, 2019; <https://mijente.net/icepapers/>

³ "ICE Told Agents 'Happy Hunting!' as They Prepped for Raid," July 3, 2019, *The Daily Beast*, <https://www.thedailybeast.com/ice-told-agents-happy-hunting-as-they-prepped-for-raid> (last visited on 10/2/2019); AS TRUMP ANNOUNCES MASS IMMIGRATION RAID, DOCUMENTS SHOW HOW ICE USES ARREST QUOTAS, *The Intercept*, July 3, 2019, <https://theintercept.com/2019/07/03/ice-raids-arrest-quotas/> (last visited 10/2/2019); "It's Gonna Be EPIC!" Internal Emails Show ICE Agents Were Amped for Massive Raid," *Vice.com* July 3, 2019 (last visited 10/2/2019); "When ICE Raids Homes," *The Atlantic*, July 17, 2019, <https://www.theatlantic.com/family/archive/2019/07/when-ice-raids-homes-immigration/594112/> (last visited 10/2/2019). "Documents shed light on ICE target lists and arrest quotas in Utah," *ABC4 News*, July 13, 2019, <https://www.abc4.com/news/documents-shed-light-on-ice-target-lists-and-arrest-quotas-in-utah/> (last visited 10/2/2019). Additionally, JFL's report was recently reviewed in a *New York Times* article, "How ICE Picks Its Targets in the Surveillance Age," October 2, 2019. Available at: <https://www.nytimes.com/2019/10/02/magazine/ice-surveillance-deportation.html> (last visited October 3, 2019).

⁴ Currently, JFL staff are presently engaged in the following cases: *Saget v. Trump* (challenging termination of Haiti's Temporary Protected Status), *Chavez v. Carmichael*, __ N.C. __, 822 S.E.2d 131 (2018) (a case of first impression in North Carolina involving immigration detainers), and *Mora-Villalpando v. ICE* (retaliation against immigrants' rights activists by ICE).

(2) Unredacted copies of all Memoranda of Agreement, Memoranda of Understanding, or similar agreements between ICE and federal, state, or local agencies, as well as private companies—including any addenda to these agreements—regarding the collection, use, dissemination, disclosure, or retention of data in the ICM system.

(3) Any contracts between ICE and commercial data providers concerning the ICM system.

(4) A list of all GPS data sources from ICE (ERO and HSI), DHS, and external agencies that provide inputs into FALCON geospatial and mapping functions.

In relation to Contract Award ID 192119CIOSDD10042 for the ICM system, awarded on 9/20/2019:

(5) An unredacted copy of Contract Award ID 192119CIOSDD10042, including unredacted copies of all sections, exhibits and attachments.

(6) Unredacted copies of the Performance Work Statement (including all "Statement of Outcomes" and other appendixes), Quality Assurance Surveillance Plan, and License Agreement for Contract Award ID HSCETC14C00002.

(7) Unredacted copies of all training and procedural documents related to "HSI Mobile," the May 2018 rebranding of FALCON Mobile.

(8) Unredacted copies of all training and procedural documents related to FALCON Agent's Virtual Assistant (AVA).

In relation to Contract Award ID HSCETC14C00002 for the ICM system, awarded on 9/26/2014:

(9) An unredacted copy of Contract Award ID HSCETC14C00002, including unredacted copies of Sections A, B, C, D, E, F, G, H, I, and J, as well as unredacted copies of all attachments to these Sections.

(10) Unredacted copies of the Performance Work Statement (including all "Statement of Outcomes" and other appendixes), Quality Assurance Surveillance Plan, and License Agreement for Contract Award ID HSCETC14C00002.

(11) Unredacted copies of Exhibits A, B, C, D, E, F, and G to Contract Award ID HSCETC14C00002.

(12) An unredacted copy of the proposal submitted by Palantir Technologies, Inc., to compete for Contract Award ID HSCETC14C00002.

(13) Unredacted copies of all modifications to Contract Award ID HSCETC14C00002, including: P00001, P00002, P00003, P00004, P00005, P00006, P00007, P00008, P00009, P00010, P00011, P00012, and all subsequent modifications, including all updated versions of Sections A, B, C, D, E, F, G, H, I, and J, as well as unredacted copies of all attachments to these Sections, and all accompanying exhibits.

(14) Unredacted copies of the updated or revised Performance Work Statement (including all "Statement of Outcomes" and other appendixes), Quality Assurance Surveillance Plan, and License Agreement for every modification to Contract Award ID HSCETC14C00002, including modifications P00001, P00002, P00003, P00004, P00005, P00006, P00007, P00008, P00009, P00010, P00011, P00012 and all subsequent modifications.

(15) Unredacted copies of every Past Performance Assessment submitted to the Contractor Performance Assessment Reporting System in relation to Contract Award ID HSCETC14C00002, from 2014 to the present.

(16) An unredacted copy of all documents with the title or sub-title "ICM Quick Reference Guide" from 2014 to the present.

(17) An unredacted copy of all documents titled "Legacy TECS to ICM Translation Guide" from 2014 to the present.

(18) Unredacted copies of all IPT Weekly Status Reports from the ICE Office of the Chief Information Officer (OCIO) for the ICE TECS Modernization program, from 2014 to the present.

(19) An unredacted copy of all documents titled "ICM 101: Field Training Curriculum" from the ICE TECS Modernization Program.

(20) An unredacted copy of all documents titled "ICM Field Training Instructor Guide" from the ICE TECS Modernization Program.

In relation to Contract Award ID HSCETC15C00001 for the FALCON system, awarded on 5/27/2015:

(21) An unredacted copy of Contract Award ID HSCETC15C00001, including unredacted copies of all attachments, addendums, and exhibits.

(22) Unredacted copies of the original and all updated or revised Performance Work Statements (including all "Statement of Outcomes" and other appendixes), Quality Assurance Surveillance Plans, and License Agreements for Contract Award ID HSCETC15C00001.

(23) Unredacted copies of all modifications to Contract Award ID HSCETC15C00001, as well as unredacted copies of all attachments to each modification and all accompanying exhibits.

(24) Unredacted copies of every Past Performance Assessment submitted to the Contractor Performance Assessment Reporting System in relation to Contract Award ID HSCETC15C00001, from 2015 to the present.

(25) An unredacted copy of all FALCON training documents with the title or sub-title "Quick Reference Guide".

(25) An unredacted copy of all documents titled "FALCON Cloud Migration Justification".

(27) An unredacted copy of the document titled "FALCON Schedule of Outcomes: 2017-2018".

(28) An unredacted copy of all documents titled "FALCON: CAPABILITIES COMPARISON" for workspace, mobile and web.

(29) An unredacted copy of all FALCON training documents titled "Importing GPS Pings Guide".

(30) An unredacted copy of all documents titled "FALCON Mobile: Installation Guide".

(31) An unredacted copy of all documents titled "FALCON Mobile: Troubleshooting Guide".

(32) An unredacted copy of all documents titled "FALCON Mobile Overview Day-to-Day Use & Operational Support".

(33) An unredacted copy of all documents titled "FALCON Pen-Link Importer Guide".

(34) An unredacted copy of all documents titled "FALCON PGWeb Guide".

(35) An unredacted copy of all documents titled "Phone Data and Analysis in FALCON Workspace".

(36) An unredacted copy of all FALCON training documents titled "Social Network Analysis Advanced Reference Guide".

(37) An unredacted copy of all documents titled "Phone Data and Analysis in FALCON DARTTS".

(38) An unredacted copy of all documents titled "QUICK GUIDE TO FALCON DARTTS v3".

(39) An unredacted copy of all documents titled "FALCON Training".

(40) An unredacted copy of all documents titled "FALCON Mobile Overview NCIC Search Capability".

(41) An unredacted copy of all documents titled "FALCON DARTTS DATA OVERVIEW".

(42) An unredacted copy of the document titled "Position Memorandum: Obstacles to Granting 5,400 Emergency Removal Operations (ERO) Employees to FALCON Workspace and FALCON Mobile".

(43) An unredacted copy of the HSI document titled "FALCON: Conversion from Core-Based Pricing Model to Unlimited Palantir Gotham License (Firm Fixed Price)".

(44) An unredacted copy of all Market Research Reports conducted by HSI for the FALCON Maintenance & Operations Support Services Project.

(45) An unredacted copy of all documents titled "FALCON system requirements overview".

(46) An unredacted copy of the proposal submitted by Palantir Technologies, Inc. to compete for Contract Award ID HSCETC14C00002.

In relation to Contract Award ID 70CTD019C00000001 for the FALCON system, awarded on 11/28/2018:

(47) An unredacted copy of Contract Award ID 70CTD019C00000001, including unredacted copies of all attachments, addendums, and exhibits.

(48) Unredacted copies of the original and all updated or revised Performance Work Statements (including addendums and attachments), Quality Assurance Surveillance Plans, and License Agreements for Contract Award ID 70CTD019C00000001.

(49) Unredacted copies of all modifications to Contract Award ID 70CTD019C00000001, as well as unredacted copies of all attachments to each modification and all accompanying exhibits to each modification.

(50) Unredacted copies of every Past Performance Assessment submitted to the Contractor Performance Assessment Reporting System in relation to Contract Award ID 70CTD019C00000001, from 2018 to the present.

(51) Unredacted copies of all FALCON training documents since the signing of Contract Award ID 70CTD019C00000001 on 11/28/2018.

(52) An unredacted copy of the proposal submitted by Palantir Technologies, Inc., to compete for Contract Award ID 70CTD019C00000001.

Request for Expedited Processing

Requesters seek expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E) and 6 C.F.R. § 5.5(e)(1)(ii) (“(1) Requests and appeals will be processed on an expedited basis whenever the component determines that they involve ... (ii) An urgency to inform the public about an actual or alleged federal government activity, if made by a person who is primarily engaged in disseminating information”), as well as 6 C.F.R. § 5.5(e)(iv) (requiring expedited processing where the request involves “(iv) A matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity which affect public confidence”).

A. Requesters are organizations primarily engaged in disseminating information in order to inform the public about actual or alleged government activity.

Dissemination of information to the public about actual or alleged government activity is a critical and substantial component of the Requesters’ mission and work. Under the supervision of the Clinic, UCI IRC students engage in Policy Advocacy; Know Your Rights and Community Education; and Lawyers and Client Mobilization (i.e., working with community organizers and directly affected clients on broader campaigns related to immigrant rights) as three of their six core competencies taught in the Clinic. Thus, UCI IRC’s educational model rests on disseminating information in order to inform the public about actual or alleged government activity, whether in the form of policy reports, know your rights materials, or by working with community organizers on campaigns to raise awareness and educate community members. UCI IRC regularly publishes reports on local, state, and federal government activity, which it then makes available on its website free of charge. *See, e.g.*, https://www.law.uci.edu/academics/real-life-learning/clinics/MisplacedPriorities_aguilascho-rodwin-ashar.pdf; <https://www.law.uci.edu/academics/real-life-learning/clinics/ucilaw-irc-MislabeledReport.pdf>; <https://www.law.uci.edu/news/in-the-news/2019/irc-oc-immigration.html>. UCI IRC has created and given a Know Your Rights training on surveillance technologies, including the Palantir information systems implicated in this request. Most recently, UCI IRC and Requester Just Futures Law published a Policy Toolkit, which it makes available on its website free of charge, touching directly on the Palantir technologies about which this request seeks additional information.

The staff of Just Futures Law have decades of experience in creating and disseminating information to the public and have made it a critical component of JFL’s mission. Our methodology provide public education and training to grassroots groups engaged in advocacy on immigration issues, particularly on enforcement. As described above, JFL products and information is offered for free on its website and is disseminated through webinars, trainings, community coalition and policy forums, and social media. Moreover, JFL staff are engaged in providing critical information to important policy stakeholders in Congress and local governments on immigration enforcement and policy changes.

The records requested are urgently needed to inform the public about actual or alleged government activity, specifically, ICE’s use of powerful technologies furnished by a “secretive” and “controversial” company,⁵ to collect vast amounts of personal information. As further described below, the public has and has manifested great interest in Palantir’s involvement in ICE’s enforcement actions, and the specific terms of the contracts between Palantir and the agency.⁶ Both requesters have already worked to inform the public about ICE’s use of Palantir’s technologies and the privacy and civil rights issues presented by these systems. The records requested will inform and further this work and will provide additional and more current information as to the exact relationship between the agency and Palantir, and how these technologies are deployed.

A delayed response to this Request would compromise a significant public interest because it would prevent the public from being able to engage in a timely, thoughtful debate about ICE’s use of Palantir’s surveillance technologies—including those described in the contracts requested—when such concerns and such debate are increasing. In light of the foregoing, expedited processing of this Request is warranted under 5 U.S.C. § 552(a)(6)(E) and 6 C.F.R. § 5.5(e)(ii).

B. This Request seeks information on a matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity which affect public confidence.

Palantir’s involvement in ICE enforcement has been the subject of widespread media coverage.⁷ The coverage has also raised questions about the government’s integrity – including whether it is improperly gathering the “extremely intimate information” of vast numbers of people.⁸ Media outlets have also noted Palantir’s involvement in tracking protesters and whistleblowers, and others engaged in protected First Amendment activities,⁹

⁵ See FNs 7 and 12.

⁶ See *infra*.

⁷ See, e.g., Adam Masmanian, ICE Extends Palantir’s Case Management Contract, *FCW*, Aug. 21, 2019, <https://fcw.com/articles/2019/08/21/palantir-ice-sole-source-extension.aspx>; Ali Breland, ICE Accidentally Just Revealed How Much its New Contract with Peter Thiel’s Palantir Is Worth, *Mother Jones*, Aug. 20, 2019, <https://www.motherjones.com/politics/2019/08/ice-palantir-contract-amount-revealed/>; Rosalie Chan, Big Data Company Palantir Renews Its Controversial Contract with ICE That Is Worth Nearly \$50 Million; Taylor Hatmaker, Secretive Tech Company Palantir Doubles Down on Its ICE Contracts, *The Daily Beast*, Aug. 23, 2019, <https://www.thedailybeast.com/palantir-secretive-tech-company-doubles-down-on-its-ice-contracts>; Melissa Quinn, Palantir Extends Controversial Contract with ICE, *The Washington Examiner*, Aug. 22, 2019, <https://www.washingtonexaminer.com/news/palantir-extends-controversial-contract-with-ice>; Lizette Chapman, Palantir Renews U.S. Immigration Contract Despite Protests, *Bloomberg*, Aug. 20, 2019, <https://www.bloomberg.com/news/articles/2019-08-20/palantir-renews-u-s-immigration-contract-despite-protests>; Palantir Renews ICE Contract, *Yahoo! Finance*, Aug. 22, 2019, <https://finance.yahoo.com/news/palantir-renews-ice-contract-170515368.html>.

⁸ See, e.g., Caroline Haskins, ICE Just Renewed Its Contract with Palantir, *Vice*, Aug. 20, 2019, https://www.vice.com/en_us/article/ywadv7/ice-just-renewed-its-contract-with-palantir.

⁹ See, e.g., Edward Onswego Jr., These Videos Show How Palantir Tracks Leakers, Protesters, and Prisoners, *Vice*, Aug. 21, 2019, https://www.vice.com/en_us/article/ywadv7/ice-just-renewed-its-contract-with-palantir.

as well as “growing evidence that Palantir lends support to agents whose work violates the civil liberties of undocumented immigrants.”¹⁰ Media interest has also focused on Palantir’s relationship with ICE in part because the company previously denied that it was involved in ICE’s interior enforcement, which only came to light thanks to another FOIA request.¹¹ Shedding light on the exact relationship between Palantir and ICE and exactly what services the former provides is critical for maintaining public confidence, especially in light of “ongoing protests of the tech firm’s role in the U.S. immigration system.”¹²

Request for a Fee Waiver

Requesters further seek a limitation or waiver of processing (search and review) fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) (“fees 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 . . .”); 5 U.S.C. § 552(a)(4)(A)(iii) (“Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) 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.”). *See also* 6 C.F.R. § 5.11(d)(1) (search fees shall not be charged “for requests by educational institutions . . . or representatives of the news media”); § 5.11(k)(1) (“Records responsive to a request will be furnished without charge or at a charge reduced below that established under paragraph (c) of this section where a component determines, based on all available information, that the requester has demonstrated that (i) 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; and (ii) disclosure of the information is not primarily in the commercial interest of the requester.”).

A. Release of the requested records is in the public interest.

The records requested will contribute significantly to public understanding of the government’s operations or activities. Under 6 C.F.R. § 5.11(k)(2), the following factors are to be considered in determining whether a disclosure is in the public interest: (i) whether the subject of the requested records concerns “the operations or activities of the government”; (ii) whether the disclosure is “likely to contribute” to an understanding of government operations

¹⁰ Douglas MacMillan and Elizabeth Dwoskin, *The War Inside Palantir: Data-mining Firm’s Ties to ICE Under Attack by Employees*, *The Washington Post*, Aug. 22, 2019, <https://www.washingtonpost.com/business/2019/08/22/war-inside-palantir-data-mining-firms-ties-ice-under-attack-by-employees/>

¹¹ *See* April Glaser, *Palantir Said It Had Nothing to Do with ICE Deportations. New Documents Seem to Tell a Different Story*, *Slate*, May 2, 2019, <https://slate.com/technology/2019/05/documents-reveal-palantir-software-is-used-for-ice-deportations.html>.

¹² *See* Emily Birnbaum, *ICE Renews Contract with Palantir*, *The Hill*, Aug. 20, 2019, <https://thehill.com/policy/technology/458170-ice-renews-contract-with-palantir>; *see also* Levi Sumagaysay, *Palantir’s Controversial ICE Contract Renewed*, *The Mercury News*, Aug. 20, 2019, <https://www.mercurynews.com/2019/08/20/palantirs-controversial-ice-contract-renewed/>; Russell Brandom, *Palantir Forced out of Job Fair After Outcry Over ICE Contracts*, *The Verge*, Aug. 26, 2019, <https://www.theverge.com/2019/8/26/20833792/palantir-lesbians-who-tech-job-fair-ice-contract>

or activities; (iii) whether disclosure of the requested information will contribute to “public understanding,” that is, “the understanding of a reasonably broad audience of persons interested in the subject”; and (iv) whether disclosure is likely to contribute “significantly” to public understanding of government operations or activities. *See* 6 C.F.R. § 5.11(k)(2)(i)–(iv). Each of these considerations is satisfied here.

First, the records requested pertain directly to the operations and activities of the federal government (specifically, ICE and its use of Palantir technologies in its enforcement operations).

Second, this Request is “likely to contribute” to an understanding of government operations or activities, specifically by helping the public understand the scope, purpose, and cost of various surveillance technologies, and how they contribute to ICE’s enforcement actions.

Third, disclosure of the requested information will contribute to “the understanding of a reasonably broad audience of persons interested in the subject” of ICE’s use of surveillance technology, and specifically of the systems furnished by Palantir. Professor Lai and Caitlin Bellis intend to rely on responsive documents in their teaching, research and/or advocacy as clinical law faculty, and Just Futures Law will publish responsive records and analyze specific documents to raise public awareness of ICE’s use of surveillance technology generally.

Finally, disclosure will contribute “significantly” to the public understanding of ICE’s use of Palantir’s information systems. ICE’s use of Palantir’s technologies has been the subject of substantial media attention, yet much remains unknown about these technologies and their impact on the public.

Requesters have thus established, “with reasonable specificity[,] that [their] request pertains to operations of the government,” and “the informative value of a request depends not on there being certainty of what the documents will reveal, but rather on the requesting party having explained with reasonable specificity how those documents would increase public knowledge of the functions of the government.” *Citizens for Responsibility and Ethics in Washington v. Department of Health and Human Services*, 481 F. Supp. 2d 99, 107–109 (D.D.C. 2006).

B. Disclosure of the information requested is not in Requesters’ commercial interest.

Disclosure of the information requested is not in the commercial interest of either Just Futures Law or UCI IRC. Any information obtained as a result of this FOIA request will be made available to the public at no cost.

C. The UCI IRC and Just Futures Law qualify as a representative of the news media.

The UCI IRC and Just Futures Law meet the statutory and regulatory definitions of a “representative of the news media” because it is an “entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials

into a distinct work, and distributes that work to an audience.” 5 U.S.C. § 552(a)(4)(A)(ii)(II); *see also National Security Archive v. Department of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989); *cf. American Civil Liberties Union v. Department of Justice*, 321 F. Supp. 2d 24, 30 n.5 (D.D.C. 2004) (finding non-profit public interest group to be “primarily engaged in disseminating information”). Both requesters are “representative[s] of the news media” for the same reasons that they are “primarily engaged in the dissemination of information.” *See Electronic Privacy Information Center*, 241 F. Supp. 2d at 10–15 (finding non-profit public interest group that disseminated an electronic newsletter and published books was a “representative of the news media” for FOIA purposes).

D. Professors Lai and Bellis are researchers at an educational institution.

Both Professors Lai and Bellis qualify as researchers at an educational institution as that phrase is defined under the Freedom of Information Act and its implementing regulations. *See* 6 C.F.R. § 5.11(c)(1)(i), (d)(1); *see also* § 5.11(b)(4) (defining educational institution to include “an institution of professional education . . . that operates a program of scholarly research”). Professors Lai and Bellis are faculty at UCI School of Law and teach and conduct research in the area of immigrant rights. They seek the requested records not for any commercial use but rather to further the institution’s scholarly research goals. *See* 6 C.F.R. § 5.11(b)(4); *see also Sack v. Department of Defense*, 12-CV-1754 (RLW), 2013 WL 6640776, at *10 (D.D.C. Dec. 13, 2013) (“[A] request from a professor of geology at a State university for records relating to soil erosion, written on letterhead of the Department of Geology, could be presumed to be from an educational institution.” (quoting *OMB Uniform Freedom of Information Act Fee Schedule and Guidelines*, 52 Fed. Reg. 10,012, 10,014 (Mar. 27, 1987))).

For the foregoing reasons, a fee waiver or limitation should be granted. A fee waiver would also fulfill Congress’s legislative intent in amending FOIA, namely to ensure that the Act is liberally construed in favor of granting waivers for noncommercial requesters and to effectuate disclosure of documents of public importance. *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 waivers for noncommercial requesters.” (internal quotation marks and citation omitted)); OPEN Government Act of 2007, Pub. L. No. 110-175, § 2, 121 Stat. 2524 (finding that “disclosure, not secrecy, is the dominant objective of the Act,” quoting *Department of Air Force v. Rose*, 425 U.S. 352, 361 (1992)).

Should a total waiver be denied, fees should be “limited to reasonable standard charges for document duplication.” 5 U.S.C. § 552(a)(4)(A)(ii)(II). In the event a fee waiver or reduction of costs is denied, please notify us in advance if the anticipated costs associated with this Request exceed \$100.00.

CONCLUSION

Pursuant to the applicable statute and regulations, we expect a determination regarding expedited processing within ten (10) calendar days. *See* 5 U.S.C. § 552(a)(6)(E)(ii)(I); 6 C.F.R. § 5.5(d)(4).

We further expect your reply to the Request itself within twenty (20) business days, as required under 5 U.S.C. § 552(a)(6)(A)(i). If the Request is denied in whole or in part, we ask that you justify all withholdings by reference to specific exemptions to the FOIA. We also ask that you release all segregable portions of otherwise exempt material.

We reserve the right to appeal a decision to withhold any information, or to deny expedited processing or a waiver of fees. Requestors hereby authorize disclosure of all records to the following individuals:

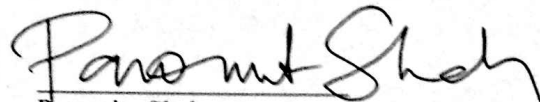
Caitlin Bellis, Esq.
Annie Lai, Esq.
Immigrant Rights Clinic
University of California, Irvine School of Law
PO Box 5479
Irvine, CA 92616-5479
cbellis.clinic@law.uci.edu
alai@law.uci.edu

Paromita Shah, Esq.
Just Futures Law
95 Washington Street, Suite 104-149
Canton, MA 02021
paromita@justfutureslaw.org

Sincerely,



Caitlin Bellis, Esq.
Immigrant Rights Clinic
University of California, Irvine School of Law



Paromita Shah, Esq.
Just Futures Law

EXHIBIT B

From: ice-foia@dhs.gov <ice-foia@dhs.gov>
Sent: Monday, November 4, 2019 11:12 AM
To: Caitlin Bellis (clinic) <cbellis.clinic@law.uci.edu>
Subject: ICE Clarification Request FOIA Number 2020-ICFO-06440

November 04, 2019

Caitlin Bellis
Immigrant Rights Clinic, University of California
401 E. Peltason Dr.
Irvine, CA 92697

RE: ICE FOIA Case Number 2020-ICFO-06440

This e-mail is in regards to your October 04, 2019 ICE FOIA request for various request pertaining to specific ICE documents related to the purchase and use of Palantir Technologies, Inc. database systems FALCON and the Investigative Case Management ("ICM") (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

EXHIBIT C

Re: ICE Clarification Request FOIA Number 2020-ICFO-06440

CB

Caitlin Bellis (clinic)

Thu 11/21/2019 1:20 PM

ice-foia@dhs.gov; Paromita Shah <paromita@justfutureslaw.org>; Kari Ferver (clinic); Sophie (Bo Hyun) Paeng (clinic); Cody Franklin (clinic) ✉



To Whom It May Concern:

In an email dated November 4, 2019, ICE acknowledged receipt of the FOIA request we sent on October 4, 2019, reattached here for reference, but stated that the request "is too broad in scope, did not specifically identify the records which [we] are seeking, or only posed questions to the agency." The email further states that if ICE does not hear from us within 30 days from the date of this letter, ICE 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, the FOIA request 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.

The November 4 email gives no reasoning or basis for the agency's conclusion that our October 4, 2019 FOIA request is too broad in scope, aside from citing 6 C.F.R. § 5.3. As described below, our FOIA request fully complies with that regulation. Please re-review our FOIA request, and either describe what further information your office requires to locate the requested documents or disclose the documents.

The regulation the agency cited, § 5.3(b), requires that we describe the records we are seeking with as much information as possible to ensure that your agency can locate them with a reasonable amount of effort. Examples of such information cited in § 5.3(b) include dates, titles, authors, recipients, subject matter, case number, file designation, or reference numbers. Our request contains these and more:

1. The first requested item is unredacted copies of emails between ICE personnel and representatives of Palantir Technologies containing four specific key words. Together, naming Palantir Technologies as a recipient and providing these key words should allow you to search the relevant email archives easily.
2. The second item is unredacted copies of Memoranda of Agreement, Memoranda of Understanding, or similar agreements between ICE and other government agencies (at the federal, state, and local level) and private companies regarding the collection, use, dissemination, disclosure, or retention of data in the ICM system. This identifies a specific type of document (Memoranda of Agreement, Memoranda of Understanding) as well as the parties to the agreements (ICE and other government agencies and private companies – which of these partner with ICE should be information readily available to the agency). This request also identifies the subject matter of the agreements: the handling of data in the ICM system. These agreements are standard documents between entities and should be easy to locate based on the identified subject matter and the search terms associated with them (data; ICM; and iterations of collection, use, dissemination, disclosure, or retention). If "Memoranda of Agreement" and "Memoranda of Understanding" do not constitute adequate search terms, please advise what headings such documents might fall under.
3. The third item is any contracts between ICE and commercial data providers concerning the ICM system. ICE should have a list of all of its commercial data providers, or that information should otherwise be searchable. Therefore, again, the parties to the contracts are identified, as is the subject matter of the contracts. These should be search terms adequate to locate responsive records.
4. The fourth item is a list of all GPS data sources from ICE, DHS, and external agencies that provide inputs into FALCON geospatial and mapping functions. This request identifies the "authors" of the data inputs and concerns a very specific type of information (GPS data sources) which should be readily identifiable, again by employing these key terms.
5. Finally, the remainder of the FOIA requests extremely specific information from particular contracts. The FOIA provides the contract award ID numbers and dates on which the contracts were awarded and requests specific exhibit numbers, proposals, Performance Work Statements, and other documents with precisely delineated titles. For example, one item requested is "in relation to Contract Award ID 70CTD019C00000001 for the FALCON system, awarded on 11/28/2018, an unredacted copy of Contract Award ID 70CTD019C00000001, including unredacted copies of all attachments, addendums, and exhibits." This is precisely the sort of "file designation" or "reference number" required by the regulation, and this number should allow your agency to locate the contract easily.

Our FOIA request complies with 6 C.F.R. § 5.3(b). Each item sought in the request is specific and designed to make a search for the requested information easy to carry out without any unreasonable burden on your part. Moreover, even if portions are not sufficiently specific – and all are – the agency should disclose those portions which are. Thus, the four contracts and related documents for which we provide the exact contract number and date should all be disclosed immediately.

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. If any confusion about the scope of our requests persists, I request that you contact us via email and "inform the requester what additional information is needed or why the request is otherwise insufficient." 6 C.F.R. § 5.3(b), as this information is absent from your November 4, 2019 response.

Sincerely,

Caitlin Bellis, Esq.

Paromita Shah, Esq.

EXHIBIT D

DHS FOIA Appeal Inquiry

Caitlin Bellis (clinic) <cbellis.clinic@law.uci.edu>

Mon 3/30/2020 11:29 AM

To: FOIA@hq.dhs.gov <FOIA@hq.dhs.gov>

Cc: Robyn Lin (clinic) <linrw.clinic@law.uci.edu>; Sarah Kahn (clinic) <skahn2.clinic@law.uci.edu>; Paromita Shah <paromita@justfutureslaw.org>; Mitra Ebadolahi (clinic) <mitra.clinic@law.uci.edu>

📎 1 attachments (1 MB)

Appeal Packet - exhibits.pdf;

Dear Mr. White,

On October 4, 2019, Just Futures Law and UC Irvine School of Law Immigrant Rights Clinic (“Requestors”) submitted a FOIA request to ICE requesting ICE’s contracts with the company Palantir for various data management tools, as well as documents containing reference to trainings and protocols governing use of those tools. (Exhibit A.) On November 4, 2019, ICE responded by email alleging that the FOIA request was “too broad.” (Exhibit B.) Notably, ICE’s correspondence did not indicate an adverse determination on the Requestors’ FOIA request, nor did it provide any information on an administrative appeal, as is required under 5 U.S.C. § 552 (a)(6)(A)(i).

On November 21, 2019, Requestors responded by email and requested clarification of ICE’s allegation that the request was too broad. (Exhibit C.) To date, ICE has not responded to the November 21 email. After 90 days (i.e., on February 13, 2020), Requestors interpreted ICE’s failure to respond as an adverse determination.

Requestors thus hereby administratively appeal ICE’s adverse determination as to their FOIA request. This administrative appeal is timely, as it is submitted within 90 days of ICE’s adverse determination. 5 U.S.C. § 552 (a)(6)(A)(III)(aa). By way of this correspondence, Requestors also reiterate their request for a substantive response to their October 4, 2019 FOIA request.

If you have any questions, please contact Caitlin Bellis, UC Irvine School of Law, (213) 949- 0284.

Caitlin Bellis
Clinical Fellow
Immigrant Rights Clinic
UCI School of Law
213-949-0284

EXHIBIT E

U.S. Department of Homeland Security
500 12th ST. SW; STOP 5009
Washington, DC 20536-5009



U.S. Immigration
and Customs
Enforcement

April 07, 2020

Caitlin Bellis
Immigrant Rights Clinic, University of California
401 E. Peltason Dr.
Irvine, CA 92697

Dear Ms. Bellis:

The Department of Homeland Security has received your letter appealing the adverse determination of your Freedom of Information Act/Privacy Act (FOIA/PA) request by U.S. Immigration and Customs Enforcement. Your appeal, **postmarked *or* electronically transmitted** on **April 07, 2020**, was received on **April 07, 2020**.

The Government Information Law Division acknowledges your appeal request of **2020-ICFO-06440** and is assigning it number **2020-ICAP-00273** for tracking purposes. Please reference this number in any future communications about your appeal.

A high number of FOIA/PA requests have been received by the Department. Accordingly, we have adopted the court-sanctioned practice of generally handling backlogged appeals on a first-in, first-out basis.¹ While we will make every effort to process your appeal on a timely basis, there may be some delay in resolving this matter. Should you have any questions concerning the processing of your appeal, please contact the ICE FOIA Office/Public Liaison at (866) 633-1182, or by email at ice-foia@dhs.gov.

Sincerely,

/s/MCuestas for

Shiraz Panthaky
Chief
Government Information Law Division
ICE Office of the Principal Legal Advisor
U.S. Department of Homeland Security

¹ Appeals of expedited treatment denials will be handled on an expedited basis.

EXHIBIT F

U.S. Department of Homeland Security
500 12th St. SW; STOP 5009
Washington, DC 20546-5009



U.S. Immigration
and Customs
Enforcement

May 4, 2020

Caitlin Bellis
Immigrant Rights Clinic, University of California
401 E. Peltason Dr.
Irvine, CA 92697

RE: 2020-ICAP-00273, 2020-ICFO-06440

Dear Ms. Bellis:

This is in response to your email dated April 6, 2020, appealing the U.S. Immigration and Customs Enforcement's (ICE) response to your Freedom of Information Act (FOIA) request. Your October 4, 2019, FOIA request, contained 52 subset requests regarding records and contracts pertaining to ICM, FALCON, and Palantir Technologies.

By letter dated November 4, 2019, the ICE FOIA Office acknowledged receipt of your request and informed you that your request was too broad in scope. You responded on November 21, 2019, providing clarifying details regarding your request. You have appealed the ICE FOIA Office's response, having not received further correspondence regarding your FOIA request.

Upon a complete review of the administrative record, ICE has determined that new search(es) or, modifications to the existing search(es), could be made. We are therefore remanding your appeal to the ICE FOIA Office for processing and re-tasking to the appropriate agency/office(s) to obtain any responsive documents. 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. In the subject line of the email, please include the word "appeal," the appeal number, which is **2020-ICAP-00273**, and the FOIA case number, which is **2020-ICFO-06440**.

Sincerely,

Christopher Lanks

for Shiraz Panthaky
Chief
Government Information Law Division
ICE Office of the Principal Legal Advisor
U.S. Department of Homeland Security

EXHIBIT G

FOIA Appeal Remand -- 2020-ICAP-00273 (appeal), 2020-ICFO-06440 (request) -- Status Inquiry

Caitlin Bellis (clinic) <cbellis.clinic@law.uci.edu>

Thu 6/4/2020 3:05 PM

To: ice-foia@dhs.gov <ice-foia@dhs.gov>

Cc: Paromita Shah <paromita@justfutureslaw.org>

Bcc: Robyn Lin (clinic) <linrw.clinic@law.uci.edu>; Mitra Ebadolahi <mebadolahi@aclusandiego.org>

📎 1 attachments (79 KB)

(8) 2020-ICAP-00273, 2020-ICFO-06440 Remand Search1.pdf;

To Whom It May Concern,

On October 4, 2019, Just Futures Law and UC Irvine School of Law Immigrant Rights Clinic (“Requestors”) submitted a FOIA request to ICE requesting ICE’s contracts with the company Palantir for various data management tools, as well as documents containing reference to trainings and protocols governing ICE’s use of those tools. On November 4, 2019, ICE responded by email alleging that the FOIA request was “too broad.” We disputed this determination via an email response on November 21, 2019. After receiving no further correspondence, on April 6, 2020, Requestors appealed what we determined to be ICE’s adverse decision.

On May 4th, 2020, the Government Information Law Division of ICE OPLA responded, informing us that our appeal had been remanded to the ICE FOIA office for processing and re/tasking after it was determined new searches or modifications to the searches could be made. This letter is attached for your reference. According to the ICE FOIA Status of Request website, your office received our remanded request on May 7, 2020. Today marks the 20th working day since your office’s receipt of the appeal. **We request a status update on when we can expect a determination on our request and delivery of documents.**

Thank you for your time and attention to this matter.

Sincerely,

Caitlin Bellis
Clinical Fellow
Immigrant Rights Clinic
UCI School of Law
213-949-0284