

U.S. Department of Homeland Security
500 12th St., SW
Washington, D.C. 20536



U.S. Immigration
and Customs
Enforcement

March 26, 2021

Cathy Alton
WilmerHale
1875 Pennsylvania Avenue NW
Washington, DC 20006

**RE: Citizens For Responsibility and Ethics in Washington v. DHS, No. 20-cv-2553-TJK
ICE FOIA Case Number 2021-ICLI-00011
First Interim Release**

Dear Ms. Alton,

This is the first interim response to your client's Freedom of Information Act (FOIA) requests to U.S. Immigration and Customs Enforcement (ICE), dated September 11, 2020, given the tracking number 2020-ICLI-00061. Your clients are seeking the all communications from June 2, 2020 relating to the decision to deploy federal agents to Portland, OR and Chicago, IL, as well as other cities/states.

ICE has considered this request under the FOIA, 5 U.S.C. § 552, and processed 1,670 pages of potentially responsive records from Enforcement and Removal Operations (ERO), Office of the Executive Secretariat (OES) and the Directors Office. Please note that these records were located during a search in response to a FOIA request similar to the one you submitted on September 11, 2020. ICE FOIA has determined that the attached records are also responsive to your request. The 205 pages have been Bates numbered 2021-ICLI00011- 1 through 2021-ICLI-00011 205. ICE has applied FOIA Exemptions (b)(6), (b)(7)(C) and (b)(7)(E) to portions of these pages as described below.

Please note that 452 pages require consultations with an outside agency.

The ICE FOIA office has applied FOIA Exemptions (b)(5), (b)(6), (b)(7)(C), and (b)(7)(E) to portions of the pages produced as described below.

FOIA Exemption 5 protects inter-agency or intra-agency memorandums or letters which are not available by law to a party other than an agency in litigation with the agency. The deliberative process privilege protects the integrity of the deliberative or decision-making processes within the agency by exempting from mandatory disclosure opinions, conclusions, and recommendations included within inter-agency or intra-agency memoranda or letters. The release of this internal information would discourage the expression of candid opinions and inhibit the free and frank

exchange of information among agency personnel. The attorney work-product privilege protects documents and other memoranda prepared by an attorney in contemplation of litigation. The attorney-client privilege protects confidential communications between an attorney and his client relating to a legal matter for which the client has sought professional advice. It applies to facts divulged by a client to his attorney, and encompasses any opinions given by an attorney to his client based upon, and thus reflecting, those facts, as well as communications between attorneys that reflect client-supplied information. The attorney-client privilege is not limited to the context of litigation.

FOIA Exemption 6 exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right to privacy. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

FOIA Exemption 7(C) protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. This exemption takes particular note of the strong interests of individuals, whether they are suspects, witnesses, or investigators, in not being unwarrantably associated with alleged criminal activity. That interest extends to persons who are not only the subjects of the investigation, but those who may have their privacy invaded by having their identities and information about them revealed in connection with an investigation. Based upon the traditional recognition of strong privacy interest in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate. As such, ICE FOIA has determined that the privacy interest in the identities of individuals in the records you have requested clearly outweigh any minimal public interest in disclosure of the information. Please note that any privacy interest you may have in that information does not factor into this determination.

FOIA Exemption 7(E) protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. ICE FOIA has determined that disclosure of certain law enforcement sensitive information contained within the responsive records could reasonably be expected to risk circumvention of the law. Additionally, the techniques and procedures at issue are not well known to the public.

If you have any questions about this letter, please contact Assistant U.S. John C. Truong at (202) 815-8958.

Sincerely,

Senior Paralegal, ICE FOIA for
Fernando Pineiro Jr.
(A)FOIA Officer

Enclosure: 205 pages