



CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

October 11, 2022

BY EMAIL: ICE-FOIA@dhs.gov

U.S. Immigration and Customs Enforcement
Freedom of Information Act Office
500 12th Street, S.W., Stop 5009
Washington, D.C. 20536-5009

Re: Freedom of Information Act Request

Dear FOIA Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) submits this request for records from U.S. Immigration and Customs Enforcement (“ICE”) pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and U.S. Department of Homeland Security (“DHS”) regulations.

Specifically, CREW requests the following:

1. All communications between ICE and the Office of Texas Governor Greg Abbott regarding the September 14, 2022 transportation of 48 migrants from San Antonio, Texas, to Martha’s Vineyard, Massachusetts from July 1, 2022 to the present.
2. All communications between ICE and the Office of Florida Governor Ron DeSantis regarding the September 14, 2022 transportation of 48 migrants from San Antonio, Texas, to Martha’s Vineyard, Massachusetts from July 1, 2022 to the present.
3. All communications within ICE regarding the September 14, 2022 transportation of 48 migrants from San Antonio, Texas, to Martha’s Vineyard, Massachusetts from July 1, 2022 to the present.
4. Any informational materials provided to migrants regarding transportation and resettlement from Texas to Massachusetts.

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records, and anyone who was cc'ed or bcc'ed on any emails.

If it is your position any portion of the requested records is exempt from disclosure, CREW requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). If some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. See 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. See *Mead Data Central v. U.S. Dep't of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

Please be advised that CREW intends to pursue all legal remedies to enforce its rights under FOIA. Accordingly, because litigation is reasonably foreseeable, the agency should institute an agencywide preservation hold on all documents potentially responsive to this request.

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A) and agency regulations, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures likely will contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. See *id.* § 552(a)(4)(A)(iii). Moreover, the request primarily and fundamentally is for non-commercial purposes. See, e.g., *McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

By way of background, on September 14, 2022 Florida Governor Ron DeSantis chartered two planes to transport 48 Venezuelan migrants from San Antonio, Texas to Martha's Vineyard, Massachusetts.¹ While DeSantis claimed that migrants boarded the flights "voluntarily," many of the migrants expressed that they were led onto the planes under false pretenses.² According to two immigration lawyers, ICE also played a role in transporting the migrants. In a statement to reporters Boston immigration attorney Rachel Self said that ICE agents processed the migrants in San Antonio and "listed falsified addresses on the migrants' paperwork," naming "random homeless shelters all across the country" as their mailing addresses.³ Tallahassee immigration attorney Elizabeth Ricci

¹ Judd Legum, *The smoking gun in Martha's Vineyard*, *Popular Information*, September 19, 2022, available at <https://popular.info/p/the-smoking-gun-in-marthas-vineyard>

² *Id.*

³ *Immigration Attorney Rachel Self addresses Martha's Vineyard migrants sent Gov. by DeSantis*, *Yahoo Finance*, September 15, 2022, available at <https://finance.yahoo.com/video/immigration-attorney-rachel-self-addresses-035309154.html>

echoed these claims, telling the Orlando Sentinel that “ICE likely conspired with the governor’s office to pull off the stunt.”⁴

There have been several concerns over the legality of the transportation of these migrants from Texas to Massachusetts.⁵ Immigration officers are obligated to enforce the law, and whether these federal law enforcement officials deliberately mislead migrants is a matter of great concern. The requested records will shine light on ICE’s role in the transportation of these migrants and their motivation to participate in this plan.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public’s right to be aware of the activities of government officials, to ensuring the integrity of those officials, and to highlighting and working to reduce the influence of money on politics. CREW uses a combination of research, litigation, and advocacy to advance its mission. CREW intends to analyze the information responsive to this request and to share its analysis with the public through reports, press releases, or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website, www.citizensforethics.org. The release of information obtained through this request is not in CREW’s financial interest.

CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. See *Nat’l Sec. Archive v. U.S. Dep’t of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989) (holding non-profit a “representative of the news media” and broadly interpreting the term to include “any person or organization which regularly publishes or disseminates information to the public”).

CREW routinely disseminates information obtained through FOIA to the public in several ways. For example, CREW’s website receives hundreds of thousands of page views every month. The website includes blogposts that report on and analyze newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. These reports frequently rely on government records obtained through FOIA. CREW also posts the documents it obtains through FOIA on its website.

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

Conclusion

⁴ Jeffrey Schweers and Steven Lemongello, [Homeland Security agents helped with DeSantis’ migrant move, lawyers charge](https://www.orlandosentinel.com/news/os-ne-desantis-marthas-vineyard-folo-20220916-4bxoufyvz5fm7hq3npeuyzpfpi-story.html), *Orlando Sentinel*, September 17, 2022, available at <https://www.orlandosentinel.com/news/os-ne-desantis-marthas-vineyard-folo-20220916-4bxoufyvz5fm7hq3npeuyzpfpi-story.html>

⁵ Valerie Crowder, [Flying migrants to Massachusetts was political, critics say. But was it legal?](https://www.npr.org/2022/09/18/1123644692/desantis-migrants-texas-massachusetts-marthas-vineyard-legal-questions), *NPR*, September 18, 2022, available at <https://www.npr.org/2022/09/18/1123644692/desantis-migrants-texas-massachusetts-marthas-vineyard-legal-questions>

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If you have any questions about this request or foresee any problems in fully releasing the requested records, please email me at rjacobs@citizensforethics.org and foia@citizensforethics.org or call me at (202) 408-5565. Also, if CREW's request for a fee waiver is denied, please contact our office immediately upon making such a determination.

Where possible, please produce records in electronic format. Please send the requested records to rjacobs@citizensforethics.org and foia@citizensforethics.org or by mail to Rebecca Jacobs, Citizens for Responsibility and Ethics in Washington, 1331 F St. NW, Suite 900, Washington, D.C. 20004.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Jacobs', written in a cursive style.

Rebecca Jacobs
Senior Researcher