



CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

July 13, 2022

[Submitted via OIP FOIA STAR Portal / VIA EMAIL: usms.foia@usdoj.gov]

Charlotte M. Luckstone
FOIA/PA Officer
Office of General Counsel, U.S. Marshals Service
Department of Justice, CG-3, 15th Floor
Washington, DC 20530-0001

Re: FOIA Appeal – USMS FOIA No. 2022-USMS-000118

Dear FOIA Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) submits this appeal of the April 15, 2022 response by the Department of Justice United States Marshals Services (“USMS”) to the above-referenced Freedom of Information Act (“FOIA”) request. Because the USMS failed to conduct an adequate search for all items contained in our request, the USMS should revisit its initial determinations, promptly expand its search, and release the requested records in full.

Background: FOIA Request & Inadequate Responsive Release

On November 17, 2021, CREW submitted a FOIA request to USMS for “the following records relating to the Rutherford County Juvenile Detention Center in Rutherford County, Tennessee (‘RCJDC’) from April 14th, 2016 to the date this request is processed:

1. All contracts or agreements between the US Marshals Service (‘USMS’) and RCJDC, including but not limited to any documents reflecting the terms and conditions of USMS’s engagement with RCJDC for official agency business.
2. Records sufficient to identify the total amount of federal funds paid by USMS or DOJ to RCJDC.
3. All records reflecting any analysis, determination, consideration, complaints, tips, allegations, or inquiries relating to RCJDC’s compliance with federal laws, rules, directives, regulations, or standards concerning the detention of juveniles.
4. All communications with or relating to Judge Donna Scott Davenport, including but not limited to any complaints, tips, inquiries, or allegations relating to Judge Davenport.”

Attachment 1 at 1. CREW's FOIA explicitly requested "records of any kind"—including "all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions"—and "regardless of format, medium, or physical characteristics." *Id.* at 2.

By a letter dated April 15, 2022, USMS responded to CREW's FOIA request, releasing 15 responsive pages. See Attachment 2. The release consisted of an October 2013 Intergovernmental Agreement ("IGA") between USMS and RCJDC, Agreement No. 75-02-0034, establishing the rate at which and other terms by which RCJDC would detain USMS "Federal juvenile detainees" in the USMS' custody. See Attachment 3 at 1–14. The terms of the IGA were to govern the contractual relationship between USMS and RCJDC for a period of four years until late 2017. *Id.* The release also contained an uncontextualized spreadsheet with one line of data. This spreadsheet seemingly shows that certain USMS records only account for one instance in which USMS utilized RCJDC's detention services for one night between April 2016 and January 2022. *Id.* at 15.

USMS claimed to have "conducted a search of the District of Middle Tennessee and the Prisoner Operations Division (POD) and located 15 responsive pages." *Id.* The limited findings, USMS stated, were "[d]ue to [USMS'] limited use of this facility, as well as [USMS'] very limited juvenile population in general, the USMS would not maintain the documentation requested." *Id.*

CREW now timely appeals USMS's April 15, 2022 determinations.

USMS Failed to Conduct an Adequate Search

An agency's search is inadequate when there are "positive indications of overlooked materials." *Valencia-Lucena v. U.S. Coast Guard*, 180 F.3d 321, 326 (D.C. Cir. 1999); see also *CREW v. GSA*, 2019 WL 3414365, at *5–6 (D.D.C. July 29, 2019) (holding that agency's search was inadequate where it failed to uncover publicly released emails responsive to CREW's request). Here, USMS's limited findings with respect to its contractual relationship and payments to Rutherford County Juvenile Detention Center in Rutherford County, Tennessee ("RCJDC"), as well as USMS's suggestion that it "would not maintain" records of complaints regarding or wrongdoing by those with whom USMS contracts, are refuted: (1) by USMS' own admission of its extant, albeit limited, "use of this facility"; (2) by the release itself, which contains an IGA obligating USMS Middle District of Tennessee to receive and respond to monthly invoices from RCJDC; and (3) by federal regulations, as well as USMS internal policies, that require USMS field offices to engage and file in extensive documentation for each IGA into which USMS enters. These "positive indications of overlooked materials" confirm that USMS failed to conduct an adequate search. *Valencia-Lucena*, 180 F.3d at 326.

1) The Communications & Contractual Terms Indicating Further USMS Documentation of its Utilization of RCJDC's Detention Services

The very terms of the released IGA reveal the USMS should have more extensive records of invoices from and inspections of RCJDC. First, the relevant field office of USMS in the Middle District of Tennessee was contractually obligated to document all invoices and payments between USMS and RCJDC pursuant to the IGA. See Attachment 3. Under the

terms of the released IGA, “[t]he Local Government shall prepare and submit for certification and payment, original and separate invoices each month to each Federal Government component responsible for Federal juvenile detainees housed at the Facility.” *Id.* at 10. The IGA identifies USMS Middle District of Tennessee as the recipient of such invoices. *Id.* at 11. Furthermore, the IGA requires RCJDC’s documentation and submission of the following information to the USMS field office as part of each “proper monthly invoice”:

[T]he name and address of the Facility, the name of each Federal juvenile detainee, their specific dates of confinement, the total days to be paid, the appropriate per diem rate as approved in the Agreement, and the total amount billed (total days multiplied by the per-diem rate per day) shall be listed, along with the name, title, complete address, and telephone number of the Local Government official responsible for invoice preparation. Additional services provided, such as transportation and guard services, shall be listed separately and itemized.

Id. The IGA additionally provides that the “Federal Government will make payments to the Local Government...on a monthly basis, promptly, after receipt of an appropriate Invoice.” *Id.* The April 15, 2022 release only contained one, uncontextualized internal USMS record. That record also inexplicably involved a per diem rate distinct from the contractually agreed upon per diem set in the IGA. *Id.* at 1, 15. The release did not include any records submitted by RCJDC to USMS’s field office or communications between the two organizations, despite the contractual obligation mandating such submissions and communications.

Second, the IGA also specifically acknowledges that USMS will conduct regular due diligence in the form of periodic inspections of RCJDC. *Id.* at 12 (“The Local Government agrees to allow periodic inspections by Federal Government Inspectors...in accordance with the Core Detention Standards required by any or all of the Federal authorized agency users whose detainees may be housed pursuant to this Agreement.”) The same section of the IGA provides further that “[f]indings of the inspections” will be produced by USMS and “shared with the Facility administrator in order to promote improvements to Facility operations, conditions of confinement, and levels of services.” *Id.*

Given USMS’s April 15, 2022 acknowledgement of its extant, albeit limited, “use of this facility”, USMS should possess further documentation of invoices from and communications with RCJDC, as well as documentation of its findings from periodic inspections into the RCJDC’s compliance with Federal detention standards. Particularly, given the IGA’s expiration date in late 2017, USMS has not produced any documentation regarding the renewal of its IGA with RCJDC, or a decision not to renew. The April 15, 2022 release failed to produce any such information.

2) Federal Regulations & USMS Policy Directives Requiring Extensive Documentation for Each IGA Into Which USMS Enters.

The Federal Acquisition Regulation (“FAR”), codified in 48 C.F.R. 1, requires agencies such as the USMS to engage in extensive record-keeping, documentation, and filing efforts, both prior to entering into an IGA and throughout the duration of an IGA. The FAR’s onerous documentation requirements aim to ensure contractors are “responsible” and have “a satisfactory record of integrity and business ethics”. § FAR 9.104–1(d). Specifically, FAR §

4.801 establishes that “[t]he head of each office performing contracting...shall establish files containing the records of all contractual actions.” FAR § 4.801(a). Under the regulations, that documentation must “be sufficient to constitute a complete history of the transaction for the purpose of–

- (1) Providing a complete background as a basis for informed decisions at each step in the acquisition process;
- (2) Supporting actions taken;
- (3) Providing information for reviews and investigations; and
- (4) Furnishing essential facts in the event of litigation or congressional inquiries.

FAR § 4.801(b). Responsibility for such documentation falls not only onto the heads of each office, pursuant to FAR §4.801(a), but also onto individually contracting officers. Under FAR § 4.803, contracting officers have extensive documentation obligations and are required to file records of almost any and all action that relates to each IGA, including, inter alia, the USMS’s solicitation, due diligence, audits, determinations about the contractor’s compliance with federal law, and verifications of the contractor’s providing “a fair and reasonable price.” FAR § 4.803.

This regulatory framework suggests that USMS’ contracting officers should have produced significantly more information than that which was released by USMS on April 15. See Attachment 2. USMS only released the IGA itself, without any of the corresponding records about the circumstances leading to the IGA or about the performance of the IGA, contrary to the rules set forth in FAR §4.801–03.

A 2009 USMS Policy Directive explicitly confirms that USMS officers are required to adhere to FAR and operationalizes FAR’s rules within the specific context of the USMS. U.S. MARSHALS SERV., U.S. DEP’T OF JUST., POLICY DIRECTIVES: PROCUREMENT AUTHORITY AND OVERSIGHT 1 (2009) [hereinafter “Policy Directive”], <https://www.usmarshals.gov/foia/directives/procurement.pdf>. As stated in the Policy Directive, a USMS Contracting Officer managing IGAs on behalf of the agency “is responsible for assuring that all documents required by the FAR, JAR, DOJ or USMS policy...are appropriately filed and tabbed in file folders.” *Id.* at 12, 37 (“[W]hen preparing file documentation, the Contracting Officer must ensure that all facts and data providing the rationale for decisions or actions are clearly documented in the file.”). The Policy Directive further provides that contracting officers’ failure to adhere to documentation policies may result in suspension for procurement abuses or violations of procurement integrity regulations. *Id.* at 7.

Other agency guidance establishes that standard USMS procedures for procuring detention services from “state or local detention facility[ies]” involve an “initial on-site inspection of the facility to determine compliance with USMS detention standards.” OFF. OF INSPECTOR GEN., U.S. DEP’T OF JUST., OVERSIGHT OF INTERGOVERNMENTAL AGREEMENTS BY THE UNITED STATES MARSHALS SERVICE AND THE OFFICE OF THE FEDERAL DETENTION TRUSTEE 6 (2007) [hereinafter “OIG Report”], <https://oig.justice.gov/reports/USMS/a0726/final.pdf>. The April 15, 2022 release failed to provide any documentation of such an on-site inspection facility of RCJDC.

More broadly, recent USMS annual reports proudly detail the agency's existing and newly developed procurement infrastructure. For instance, USMS's 2019 Annual Report states, "[a]ccountability and integrity of agency programs, personnel, and financial activities are top agency concerns." U.S. MARSHALS SERV., U.S. DEP'T OF JUST., UNITED STATES MARSHALS SERVICES FY 2109 ANNUAL REPORT 11 (2020) [hereinafter "USMS FY 2019 Annual Report"], <https://www.usmarshals.gov/foia/annual-report-2019.pdf>. The Report also identifies that USMS retains dedicated teams of procurement professionals at both the national and district levels. *Id.* at 35 (noting how the USMS District Acquisition Management Group closely oversees district-level procurement processes "in order to mitigate audit risks and correct deficiencies.") Given the magnitude and variety of USMS procurement infrastructure on both the district and national level, USMS is likely in possession of further documentation of the circumstances that led to USMS entering into an IGA with RCJDC. Additionally, the April 15, 2022 release resulted from inquiries with only USMS Prisoner's Operations Division ("POD") and the Middle District of Tennessee. Inquiries with the agency's procurement oversight teams would be appropriate as well.¹

Although FAR § 9.105-3 exempts from FOIA information "accumulated for purposes of determining the responsibility of a prospective contractor", not all records that USMS is required to maintain fall within that category. For instance, documentation of the USMS's oversight during the IGA period when RCJDC was an actual and not a "prospective" contractor, external records of USMS's payments to and communications with RCJDC, and USMS's efforts to compare RCJDC's solicitation to fair and reasonable market prices would not be exempted.² In other words, that provision is not a blanket exemption. Moreover, FAR § 9.105-3(c) clarifies that the purpose of the exemption is to protect entities from release of "proprietary or source selection information", suggesting the exemption intends to target private sector entities whose valuations may be affected by release of audit information. FAR § 9.105-3(c). Accordingly, these exemptions can be seen as specific applications of the fourth exemption to FOIA for information containing the private sector's trade secrets, rather than an expansion of the legislative exemption. 5 U.S.C. § 552(b)(4).³

¹ Although USMS has stated that USMS use of the RCJDC facility is "limited", the released IGA presents independent causes of concern from a procurement integrity standpoint. The RCJDC's per diem rate of \$140, stipulated in the 2013 IGA, is nearly double the average per diem rate for state and local jails with which USMS contracted several years later in fiscal year 2021 (i.e. \$ 81.46). U.S. MARSHALS SERV., U.S. DEP'T OF JUST., UNITED STATES MARSHALS SERVICES FY 2021 ANNUAL REPORT 44 (2022), <https://www.usmarshals.gov/foia/annual-report-2021.pdf>. The USMS-RCJDC IGA should have reasonably drawn attention from auditors within the agency, resulting in documented investigations, particularly after large-scale initiatives undertaken by USMS in prior years to expand oversight over and capacity for USMS's IGA procurement practices. In particular, a 2007 DOJ Office of the Inspector General report found USMS's oversight of agency procurement practices for IGAs to be "deficient" and characterized procurement officers' reviews as cursory. OIG Report at xxi. The one-hundred and sixty-six page report recommended further funding for procurement staff, heightening review of IGAs, and mandating annual training for procurement staff. *Id.* at 45. The discrepancy between RCJDC's per diem rate and the national average would have reasonably drawn attention from auditors and been the object of further documented discussion and investigation.

² Likewise, FAR § 24.202(a) exempts certain proposals "in the possession or control of the Government, submitted in response to a competitive solicitation," from FOIA disclosure. However, the exemption "does not apply to a proposal, or any part of a proposal, that is set forth or incorporated by reference in a contract between the Government and the contractor that submitted the proposal." FAR § 24.202(a).

³ Indeed, FAR § 24.203(b) explicitly acknowledges, the exemptions "most often applicable are those relating to classified information, to trade secrets and confidential commercial or financial information, to interagency or intra-agency memoranda, or to personal and medical information pertaining to an individual."

July 13, 2022

Page 6

Collectively, relevant federal regulations and internal USMS policies strongly indicate USMS has within its custody further documentation of the USMS field office's evaluation of and due diligence regarding RCJDC. Because USMS's determination is refuted by positive indications of overlooked materials, USMS should conduct a new search for the requested records and promptly release them to CREW.

Conclusion

For the foregoing reasons, USMS should revisit its April 15, 2022 determinations, promptly expand its search, and release the requested records in full. Please direct any communications about this appeal to me at liheanachor@citizensforethics.org.

Sincerely,

Laura Iheanachor
Counsel

Attachments:

1. CREW November 17, 2021 FOIA Request to USMS
2. USMS April 15, 2022 Response Letter to CREW
3. USMS April 15, 2022 Release to CREW (15 pages)

**U.S. Department of Justice
United States Marshals Service
Prisoner Operations Division**

**Detention Services
Intergovernmental Agreement**

1. Agreement Number 75-02-0034	2. Effective Date See Block 19	3. Facility Code(s) (b)(7)(F)	4. DUNS Number (b)(7)(F)
5. Issuing Federal Agency United States Marshals Service Prisoner Operations Division 2604 Jefferson Davis Highway Alexandria, VA 22301-1025		6. Local Government Rutherford Co. Juvenile Detention Center 1710 S. Church Street, Suite 4 Rutherford, TN 37130 TAX-ID# (b)(7)(E)	
7. Appropriation Data (b)(7)(E)		8. Local Contact Person (b)(6);	
		9. Telephone: (b)(6); (b)(7)(C) Fax: Email: (b)(6); rutherfordcounty.org	
Services		Estimated Number of Federal Juvenile Beds	Per Diem Rate
10. This agreement is for the housing, safekeeping, and subsistence of Federal juvenile detainees, in accordance with content set forth herein.		11. MALE: 3 FEMALE: 2 TOTAL: 5	12. \$140.00
13a. Optional Guard/Transportation Services to: <input type="checkbox"/> Medical Facility <input type="checkbox"/> U.S. Courthouse <input type="checkbox"/> JPATS 13b. <input type="checkbox"/> Department of Labor Wage Determination		14. Guard/Transportation Hourly Rate: N/A Mileage shall be reimbursed by the Federal Government at the General Services Administration (GSA) Federal Travel Regulation Mileage Rate.	
15. Local Government Certification <i>To the best of my knowledge and belief, information submitted in support of this agreement is true and correct. This document has been duly authorized by the governing authorities of their applying Department or Agency, State or County Government, and therefore agree to comply with all provisions set forth herein this document.</i>		16. Signature of Person Authorized to Sign (Local) Signature (b)(6); (b)(7)(C) Print Name ERNEST G. BURGESS 10-17-13 Title MAYOR Date	
17. Federal Detainee Type Authorized <input checked="" type="checkbox"/> Juvenile Male <input checked="" type="checkbox"/> Juvenile Female	18. Other Authorized Agency User <input type="checkbox"/> BOP <input type="checkbox"/> ICE	19. Signature of Person Authorized to Sign (Federal) (b)(6); (b)(7)(C); (b)(7)(F) Signature (b)(6); (b)(7)(C); (b)(7)(F) Print Name Grant Specialist 10-22-13 Title Date	

Authority	3
Purpose of Agreement and Security Provided.....	3
Period of Performance and Termination.....	4
Assignment and Outsourcing of Jail Operations	4
Medical Services	4
Affordable Care Act	6
Receiving and Discharge of Federal Juvenile Detainees	6
Optional Guard/Transportation Services to Medical Facility	6
Optional Guard/Transportation Services to U.S. Courthouse	7
Optional Guard/Transportation Services to Justice Prisoner & Alien Transportation System (JPATS)	8
Special Notifications	8
Special Management Inmates and Suicide Prevention	9
Prisoner Rape Elimination Act (PREA)	9
Service Contract Act.....	9
Per-Diem Rate	10
Billing and Financial Provisions.....	10
Payment Procedures.....	11
Hold Harmless	11
Disputes	11
Inspection of Services.....	12
Modifications	12
Litigation	12
Rape Elimination Act Reporting Information.....	13

Authority

Pursuant to the authority of Section 119 of the Department of Justice Appropriations Act of 2001 (Public Law 106-553), this Agreement is entered into between the United States Marshals Service (hereinafter referred to as the "Federal Government") and **Rutherford County Juvenile Detention Center** (hereinafter referred to as "Local Government"), who hereby agree as follows:

Purpose of Agreement and Security Provided

The Federal Government and the Local Government establish this Agreement that allows the United States Marshals Service (USMS) or other authorized agency user as noted in block #18 on page (1) to house Federal juvenile detainees with the Local Government at the **Rutherford County Juvenile Detention Center, 1710 S. Church Street, Suite 4, Murfreesboro, TN 37130** (hereinafter referred to as "the Facility") designated in #6 page 1.

The population (hereinafter referred to as "Federal juvenile detainees,") will include individuals charged with Federal offenses and detained while awaiting trial, individuals who have been sentenced and are awaiting designation and transport to a Bureau of Prisons (BOP) facility, and individuals who are awaiting a hearing on their immigration status or deportation.

The Local Government shall accept and provide for the secure custody, safekeeping, housing, subsistence and care of Federal juvenile detainees in accordance with all state and local laws, standards, regulations, policies and court orders applicable to the operation of the Facility. Detainees shall also be housed in a manner that is consistent with Federal law and the Core Detention Standards and/or any other standards required by an authorized agency whose detainees are housed by the Local Government pursuant to this Agreement (see attached).

The USMS ensures the secure custody, care, and safekeeping of USMS juvenile detainees. Accordingly, all housing or work assignments, and recreation or other activities for USMS juvenile detainees are permitted only within secure areas of the building or within the secure external recreational/exercise areas.

At all times, the Federal Government shall have access to the Facility and to the Federal juvenile detainees housed there, and to all records pertaining to this Agreement, including financial records, for a period going back three (3) years from the date of request by the Federal Government.

Period of Performance and Termination

This Agreement is effective upon the date of signature of the authorized USMS Prisoner Operations Division official, and remains in effect unless inactivated in writing by either party. Either party may terminate this Agreement for any reason with written notice at least thirty (30) calendar days in advance of termination, unless an emergency situation requires the immediate relocation of Federal juvenile detainees.

Where the Local Government has received a Cooperative Agreement Program (CAP) award, the termination provisions of the CAP prevail.

Assignment and Outsourcing of Jail Operations

The overall management and operation of the Facility housing Federal juvenile detainees may not be contracted out without the prior express written consent of the Federal Government.

Medical Services

The Local Government shall provide Federal juvenile detainees with the same level and range of care **inside** the Facility as that provided to state and local juvenile detainees. The Local Government is financially responsible for all medical care provided **inside** the Facility to Federal juvenile detainees. This includes the cost of all medical, dental, and mental health care as well as the cost of medical supplies, over-the-counter medications and, any prescription medications routinely stocked by the Facility which are provided to Federal juvenile detainees. When possible, generic medications should be prescribed. The cost of all of the above-referenced medical care is covered by the Federal per diem rate. However, for specialized medical services not routinely provided within the Facility, such as dialysis, the Federal Government will pay for the cost of that service.

The Federal Government is financially responsible for all medical care provided **outside** the Facility to Federal juvenile detainees. The Federal Government must be billed directly by outside medical care providers pursuant to arrangements made by the Local Government for outside medical care. The Local Government should utilize outside medical care providers that are covered by the USMS's National Managed Care Contract (NMCC) to reduce the costs and administrative workload associated with these medical services. The Local Government can obtain information about NMCC covered providers from the local USMS District Office. The Federal Government will be billed directly by the medical care provider **not** the Local Government. To ensure that Medicare rates are properly applied, medical claims for Federal juvenile detainees must be on Centers for Medicare and Medicaid (CMS) Forms so that they can be re-priced to Medicare rates in accordance with the provisions of Title 18 U.S.C. Section 4006. If the Local Government receives any bills for medical care provided to Federal juvenile detainees outside the

Facility, the Local Government should immediately forward those bills to the Federal Government for processing.

All **outside** medical care provided to Federal juvenile detainees must be pre-approved by the Federal Government except in a medical emergency. In the event of an emergency, the Local Government shall proceed immediately with necessary medical treatment. In such an event, the Local Government shall notify the Federal Government immediately regarding the nature of the Federal juvenile detainee's illness or injury as well as the types of treatment provided.

Medical care for Federal juvenile detainees shall be provided by the Local Government in accordance with the provisions of USMS, Publication 100-Prisoner Health Care Standards (www.usmarshals.gov/prisoner/standards.htm) and in compliance with the Core Detention Standards or those standards which may be required by any other authorized agency user. The Local Government is responsible for all associated medical record keeping.

The Facility shall have in place an adequate infectious disease control program which includes testing of all Federal juvenile detainees for Tuberculosis (TB) within fourteen (14) days of intake.

TB testing shall be accomplished in accordance with the latest Centers for Disease Control (CDC) Guidelines and the result promptly documented in the Federal juvenile detainee's medical record. Special requests for expedited TB testing and clearance (to include time sensitive moves) will be accomplished through advance coordination by the Federal Government and Local Government.

The Local Government shall immediately notify the Federal Government of any cases of suspected or active TB or any other highly communicable diseases such as Severe Acute Respiratory Syndrome (SARS), Avian Flu, Methicillin-Resistant Staphylococcus Aureus (MRSA), Chicken Pox, etc., which might affect scheduled transports or productions so that protective measures can be taken by the Federal Government.

When a Federal juvenile detainee is being transferred and/or released from the Facility, they will be provided with seven (7) days of prescription medication which will be dispensed from the Facility. Medical records and the (b)(7)(E) must travel with the Federal juvenile detainee. If the records are maintained at a medical contractor's facility, it is the Local Government's responsibility to obtain them before a Federal juvenile detainee is moved.

Federal juvenile detainees may be charged a medical co-payment by the Local Government in accordance with the provisions of Title 18, USC Section 4013(d). The Federal Government is not responsible for medical co-payments and cannot be billed for these costs even for indigent Federal juvenile detainees.

Affordable Care Act

The Local Government shall provide Federal juvenile detainees, upon release of custody, information regarding the Affordable Care Act. The Affordable Care Act website is located at <http://www.hhs.gov/opa/affordable-care-act/>.

Receiving and Discharge of Federal Juvenile Detainees

The Local Government agrees to accept Federal juvenile detainees only upon presentation by [REDACTED] (b)(7)(E)
[REDACTED] (b)(7)(E)

The Local Government shall not relocate a Federal juvenile detainee from one facility under its control to another facility not described in this Agreement without permission of the Federal Government. Additional facilities within the same Agreement shall be identified in a modification.

The Local Government agrees to release Federal juvenile detainees only to law enforcement officers of the authorized Federal Government agency initially committing the Federal juvenile detainee [REDACTED] (b)(7)(E)
[REDACTED] (b)(7)(E)
[REDACTED] (b)(7)(F) Those Federal juvenile detainees who are remanded to custody by a DUSM may only be released to a DUSM or an agent specified by the DUSM of the Judicial District.

USMS Federal juvenile detainees sought for a state or local court proceeding must be acquired through a Writ of Habeas Corpus or the Interstate Agreement on Detainers and then only with the concurrence of the jurisdictional United States Marshal (USM).

Optional Guard/Transportation Services to Medical Facility

If Medical Facility in block #13 on page one (1) of this Agreement is checked, the Local Government agrees, subject to the availability of its personnel, to provide transportation and escort guard services for Federal juvenile detainees housed at the Facility to and from a medical facility for outpatient care, and transportation and stationary guard services for Federal juvenile detainees admitted to a medical facility.

These services should be performed by at least [REDACTED] (b)(7)(E) qualified law enforcement or correctional officer personnel. Criteria as specified by the County Entity running the facility. In all cases these are part of a fulltime Law Enforcement Officer (LEO) or Correctional Officer (CO) that have met the minimum training requirements.

The Local Government agrees to augment this security escort if requested by the USM to enhance specific requirement for security, prisoner monitoring, visitation, and contraband control.

If an hourly rate for these services have been agreed upon to reimburse the Local Government, it will be stipulated in block #14 on page one (1) of this Agreement. After **forty-eight (48) months**, if a rate adjustment is desired, the Local Government shall submit a request. Mileage shall be reimbursed in accordance with the current GSA mileage rate.

Optional Guard/Transportation Services to U.S. Courthouse

If U.S. Courthouse in block #13 on page one (1) of this Agreement is checked, the Local Government agrees, subject to the availability of its personnel, to provide transportation and escort guard services for Federal juvenile detainees housed at its facility to and from the U.S. Courthouse.

These services should be performed by at least (b)(7)(E) armed qualified law enforcement or correctional officer personnel.

The Local Government agrees to augment this security escort if requested by the USM to enhance specific requirements for security, detainee monitoring, and contraband control.

Upon arrival at the courthouse, the Local Government's (b)(7)(E)
(b)(7)(E)
(b)(7)(E)

The Local Government will not transport Federal juvenile detainees to any U.S. Courthouse without a specific request from the USM or their designee who will provide the detainee's name, the U.S. Courthouse, and the date the detainee is to be transported.

Each detainee will be (b)(7)(E) during transportation unless otherwise authorized by the USMS.

If an hourly rate for these services have been agreed upon to reimburse the Local Government, it will be stipulated in block #14 on page one (1) of this Agreement. After **forty-eight (48) months**, if a rate adjustment is desired, the Local Government shall submit a request. Mileage shall be reimbursed in accordance with the current GSA mileage rate.

Optional Guard/Transportation Services to Justice Prisoner & Alien Transportation System (JPATS)

If JPATS in block #13 on page one (1) of this Agreement is checked, the Local Government agrees, subject to the availability of its personnel, to provide transportation and escort guard services for Federal juvenile detainees housed at its facility to and from the JPATS.

These services should be performed by at least (b)(7)(E) qualified law enforcement or correctional officer personnel.

The Local Government agrees to augment this security escort if requested by the USM to enhance specific requirements for security, detainee monitoring, and contraband control.

Upon arrival at JPATS, the Local Government's transportation and escort guards (b)(7)(E)

(b)(7)(E)

(b)(7)(E)

The Local Government will not transport federal juvenile detainees to the airlift without a specific request from the USM who will provide the detainee's name, location (district), and the date the detainee is to be transported.

Each detainee will be restrained in (b)(7)(E)

(b)(7)(E)

If an hourly rate for these services has been agreed upon to reimburse the Local Government, it will be stipulated on in block #14 on page one (1) of this Agreement. After **forty-eight (48) months**, if a rate adjustment is desired, the Local Government shall submit a request. Mileage shall be reimbursed in accordance with the current GSA mileage rate.

Special Notifications

The Local Government shall notify the Federal Government of any activity by a Federal juvenile detainee which would likely result in litigation or alleged criminal activity.

The Local Government shall immediately notify the Federal Government of an escape of a Federal juvenile detainee. The Local Government shall use all reasonable means to apprehend the escaped Federal juvenile detainee and all reasonable costs in connection therewith shall be borne by the Local Government. The Federal Government shall have primary responsibility and authority to direct the pursuit and capture of such escaped Federal juvenile detainees. Additionally, the Local Government shall notify the Federal Government as soon as possible when a Federal juvenile detainee is involved in an attempted escape or conspiracy to escape from the Facility.

In the event of the death or assault or a medical emergency of a Federal juvenile detainee, the Local Government shall immediately notify the Federal Government.

Special Management Inmates and Suicide Prevention

The Local Government shall have written policy, procedure, and practice require that all special management inmates are personally observed by a correctional officer (b)(7)(E) (b)(7)(E) but no more than (b)(7)(E) on an (b)(7)(E) Inmates who are violent or mentally disordered or who demonstrate unusual or bizarre behavior receive more frequent observation; suicidal inmates are under (b)(7)(E)

The Local Government shall have a comprehensive suicide-prevention program in place incorporating all aspects of identification, assessment, evaluation, treatment, preventive intervention, and annual training of all medical, mental health, and correctional staff.

Prisoner Rape Elimination Act (PREA)

The Facility must post the Prisoner Rape Elimination Act brochure/bulletin in each housing unit of the Facility. (See Page 13.) The Facility must abide by all relevant PREA regulations.

Service Contract Act

This Agreement incorporates the following clause by reference, with the same force and effect as if it was given in full text. Upon request, the full text will be made available. The full text of this provision may be accessed electronically at this address: <http://www.dol.gov/oasam/regs/statutes/351.htm>.

Federal Acquisition Regulation Clause(s):

52.222-41 Service Contract Act of 1965, as Amended (July 2005)

52.222-42 Statement of Equivalent Rates for Federal Hires (May 1989)

52.222-43 Fair Labor Standards Act and the Service Contract Act – Price Adjustment (Multiyear and Option Contracts) (May 1989)

The current Local Government wage rates shall be the prevailing wages unless notified by the Federal Government.

If the Department of Labor Wage Determination block #13b on page one (1) of this Agreement is checked, the Local Government agrees, in accordance with FAR PART 52.222.43 (f), must notify the Federal Government of any increase or decrease in

applicable wages and fringe benefits claimed under this clause within thirty (30) days after receiving a new wage determination.

Per-Diem Rate

The Federal Government will use various price analysis techniques and procedures to ensure the per-diem rate established by this Agreement is considered a fair and reasonable price. Examples of such techniques include, but are not limited to, the following:

1. Comparison of the requested per-diem rate with the independent Federal Government estimate for detention services, otherwise known as the Core Rate;
2. Comparison with per-diem rates at other state or local facilities of similar size and economic conditions;
3. Comparison of previously proposed prices and previous Federal Government and commercial contract prices with current proposed prices for the same or similar items;
4. Evaluation of the provided jail operating expense information or Cost Sheet for Detention Services, Form (b)(7)(E)

The firm-fixed per-diem rate for services is stipulated in block #12 on page one (1) of this agreement, and shall not be subject to adjustment on the basis of **Rutherford County Juvenile Detention Center** actual cost experience in providing the service. The per-diem rate shall be fixed for a period from the effective date of this Agreement forward for **forty-eight (48) months**. The per-diem rate covers the support of one Federal juvenile detainee per "Federal juvenile detainee day", which shall include the day of arrival, but not the day of departure.

After **forty-eight (48) months**, if a per-diem rate adjustment is desired, the Local Government shall submit a request through the local U.S. Marshals district office. All information pertaining to the Facility on the (b)(7)(E) will be required before a new per-diem rate will be considered.

Billing and Financial Provisions

The Local Government shall prepare and submit for certification and payment, original and separate invoices each month to each Federal Government component responsible for Federal juvenile detainees housed at the Facility.

Addresses for the components are:

**United States Marshals Service
Middle District of Tennessee
Estes Kefauver Federal Building
110 Ninth Avenue South, Room A-750
Nashville, TN 37203
615-736-5417**

To constitute a proper monthly invoice, the name and address of the Facility, the name of each Federal juvenile detainee, their specific dates of confinement, the total days to be paid, the appropriate per diem rate as approved in the Agreement, and the total amount billed (total days multiplied by the per-diem rate per day) shall be listed, along with the name, title, complete address, and telephone number of the Local Government official responsible for invoice preparation. Additional services provided, such as transportation and guard services, shall be listed separately and itemized.

Nothing contained herein shall be construed to obligate the Federal Government to any expenditure or obligation of funds in excess of, or in advance of, appropriations in accordance with the Anti-Deficiency Act, 31 U.S.C. 1341.

Payment Procedures

The Federal Government will make payments to the Local Government at the address listed in block #6 on page one (1) of this Agreement, on a monthly basis, promptly, after receipt of an appropriate invoice.

Hold Harmless

It is understood and agreed that the Local Government shall fully defend, indemnify, and hold harmless the United States of America, its officers, employees, agents, and servants, individually and officially, for any and all liability caused by any act of any member of the Local Government or anyone else arising out of the use, operation, or handling of any property (to include any vehicle, equipment, and supplies) furnished to the Local Government in which legal ownership is retained by the United States of America, and to pay all claims, damages, judgments, legal costs, adjuster fees, and attorney fees related thereto. The Local Government will be solely responsible for all maintenance, storage, and other expenses related to the care and responsibility for all property furnished to the Local Government.

Disputes

Disputes, questions, or concerns pertaining to this Agreement will be resolved between appropriate officials of each party. Both the parties agree that they will use their best

efforts to resolve the dispute in an informal fashion through consultation and communication, or other forms of non-binding alternative dispute resolution mutually acceptable to the parties.

Inspection of Services

Inspection standards for detainees may differ among authorized agency users. The Local Government agrees to allow periodic inspections by Federal Government inspectors, to include approved Federal contractors, in accordance with the Core Detention Standards required by any or all of the Federal authorized agency users whose detainees may be housed pursuant to this Agreement. Findings of the inspections will be shared with the Facility administrator in order to promote improvements to Facility operations, conditions of confinement, and levels of services.

Modifications

For all modifications except for full or partial terminations, either party may initiate a request for modification to this Agreement in writing. All modifications negotiated will be effective only upon written approval of both parties.

Litigation

The Federal Government shall be notified, in writing, of all litigation pertaining to this Agreement and provided copies of any pleadings filed or said litigation within five (5) working days of the filing.

The Local Government shall cooperate with the Federal Government legal staff and/or the United States Attorney regarding any requests pertaining to Federal Government or Local Government litigation.

Rape Elimination Act Reporting Information

SEXUAL ASSAULT AWARENESS

This document is requested to be posted in each Housing Unit Bulletin Board at all Contract Detention Facilities. This document may be used and adapted by Intergovernmental Service Agreement Providers.

While detained by the Department of Justice, United States Marshals Service, you have a right to be safe and free from sexual harassment and sexual assaults.

Definitions

A. Detainee-on-Detainee Sexual Abuse/Assault

One or more detainees engaging in or attempting to engage in a sexual act with another detainee or the use of threats, intimidation, inappropriate touching or other actions and/or communications by one or more detainees aimed at coercing and/or pressuring another detainee to engage in a sexual act.

B. Staff-on-Detainee Sexual Abuse/Assault

Staff member engaging in, or attempting to engage in a sexual act with any detainee or the intentional touching of a detainee's genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, humiliate, harass, degrade, arouse, or gratify the sexual desires of any person. Sexual abuse/assault of detainees by staff or other detainees is an inappropriate use of power and is prohibited by DOJ policy and the law.

C. Staff Sexual Misconduct is:

Sexual behavior between a staff member and detainee which can include, but is not limited to indecent, profane or abusive language or gestures and inappropriate visual surveillance of detainees.

Prohibited Acts

A detainee, who engages in inappropriate sexual behavior with or directs it at others, can be charged with the following Prohibited Acts under the Detainee Disciplinary Policy.

- Using Abusive or Obscene Language
- Sexual Assault
- Making a Sexual Proposal
- Indecent Exposure
- Engaging in Sex Act

Detention as a Safe Environment

While you are detained, no one has the right to pressure you to engage in sexual acts or engage in unwanted sexual behavior regardless of your age, size, race, or ethnicity. Regardless of your sexual orientation, you have the right to be safe from unwanted sexual advances and acts.

Confidentiality

Information concerning the identity of a detainee victim reporting a sexual assault, and the facts of the report itself, shall be limited to those who have the need to know in order to make decisions concerning the detainee-victim's welfare and for law enforcement investigative purposes.

Report All Assaults!

If you become a victim of a sexual assault, you should report it immediately to any staff person you trust, to include housing officers, chaplains, medical staff, supervisors or Deputy U.S. Marshals. Staff members keep the reported information confidential and only discuss it with the appropriate officials on a need to know basis. If you are not comfortable reporting the assault to staff, you have other options:

Agreement Number 75-02-0034

- Write a letter reporting the sexual misconduct to the person in charge or the United States Marshal. To ensure confidentiality, use special (Legal) mail procedures.
- File an Emergency Detainee Grievance - If you decide your complaint is too sensitive to file with the Officer in Charge, you can file your Grievance directly with the Field Office Director. You can get the forms from your housing unit officer, or a Facility supervisor.
- Write to the Office of Inspector General (OIG), which investigates allegations of staff misconduct. The address is: Office of Inspector General, U.S. Department of Justice, 950 Pennsylvania Ave. Room 4706, Washington, DC. 20530
- Call, at no expense to you, the Office of Inspector General (OIG). The phone number is 1-800-869-4499.

Individuals who sexually abuse or assault detainees can only be disciplined or prosecuted if the abuse is reported.

A publication of the Office of the
Federal Detention Trustee
Washington, DC

Published February 2008

US Marshals Service Prisoner Detentions, Rutherford County Juvenile Detention Center, April 2016 to January 2022

<i>District</i>	<i>Facility Name</i>	<i>Admit Date</i>	<i>Release Date</i>	<i>Facility Type</i>	<i>Duration of Stay</i>	<i>Per Diem</i>	<i>Total Cost of Stay</i>
M/TN	RUTHERFORD COUNTY JUVENILE DETENTION CENTER	5/4/2016	5/5/2016	IGA	1	\$ 45.00	\$ 45.00



U.S. Department of Justice

United States Marshals Service

Office of General Counsel

*CG-3, 15th Floor
Washington, DC 20530-0001*

April 15, 2022

Mr. Tosin Akintola, Senior Communications Officer
Citizens for Responsibility and Ethics in Washington
1331 F St. Suite 900, NW, DC 20004
Sent Via Email: foia@citizensforethics.org

Re: Freedom of Information Act Request No. 2022-USMS-000118
Subject: Rutherford County Juvenile Detention Center Contracts or Agreements

Dear Mr. Akintola:

The United States Marshals Service (USMS) is responding to your Freedom of Information Act (FOIA) request for the following records relating to the Rutherford County Juvenile Detention Center in Rutherford County, Tennessee ("RCJDC") from April 14th, 2016 to the date this request is processed:

1. All contracts or agreements between the US Marshals Service ("USMS") and RCJDC, including but not limited to any documents reflecting the terms and conditions of USMS's engagement with RCJDC for official agency business.
2. Records sufficient to identify the total amount of federal funds paid by USMS or DOJ to RCJDC.
3. All records reflecting any analysis, determination, consideration, complaints, tips, allegations, or inquiries relating to RCJDC's compliance with federal laws, rules, directives, regulations, or standards concerning the detention of juveniles.
4. All communications with or relating to Judge Donna Scott Davenport, including but not limited to any complaints, tips, inquiries, or allegations relating to Judge Davenport.

Pursuant to your request, the USMS conducted a search of the District of Middle Tennessee and the Prisoner Operations Division (POD) and located 15 responsive pages. Portions of the pages are withheld pursuant to FOIA Exemptions (b)(6), (b)(7)(C), (b)(7)(F), and (b)(7)(E).

FOIA Exemption (b)(6) allows an agency to withhold personnel, medical, and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Records that apply to or describe a particular individual, including investigative records, qualify as "personnel," "medical," or "similar files" under Exemption 6. FOIA Exemption (b)(7)(C) protects records or information compiled for law enforcement purposes to

the extent that the production of such records or information could reasonably be expected to constitute an unwarranted invasion of personal privacy. A discretionary release of such records is not appropriate. See United States Department of Justice (DOJ) v. Reporters Committee for Freedom of the Press, 489 U.S. 749 (1989).

FOIA Exemption (b)(7)(F) protects law enforcement information that "could reasonably be expected to endanger the life or physical safety of any individual." 5 U.S.C. § 552(b)(7)(F) (2006), amended by OPEN Government Act of 2007, Pub. L. No. 110175, 121 Stat. 2524. Courts have routinely upheld the use of Exemption (b)(7)(F) to protect the identities of law enforcement agents, as well as protect the names and identifying information of non-law enforcement federal employees, local law enforcement personnel, and other third persons in connection with particular law enforcement matters. See Rugiero v. DOJ, 257 F.3d 534, 552 (6th Cir. 2001); Johnston v. DOJ, No. 97-2173, 1998 WL 518529, *1 (8th Cir. Aug. 10, 1998).

Accordingly, the personally identifiable information of law enforcement officers and government employees was withheld from the responsive documentation. The disclosure of such sensitive information contained in records compiled for law enforcement purposes to the public could subject law enforcement officers and other government personnel to harassment and unwelcome contact. This could disrupt and impede official agency activity, as well as endanger the safety of law enforcement officials. Additionally, the personally identifiable information of third parties named in the records was withheld. The disclosure of third party information could constitute an unwarranted invasion of personal privacy and subject the individuals to embarrassment, harassment, and undue public attention. Individuals have a recognized privacy interest in not being publicly associated with law enforcement investigations, not being associated unwarrantedly with alleged criminal activity, and controlling how communications about them are disseminated.

FOIA Exemption (b)(7)(E) exempts from release information that would disclose law enforcement techniques or procedures, the disclosure of which could reasonably be expected to risk circumvention of the law. Public disclosure of information such as internal URLs, codes, and internal identifying numbers could assist unauthorized parties in deciphering the meaning of the codes and numbers, aid in gaining improper access to law enforcement databases, and assist in the unauthorized party's navigation of these databases. This disclosure of techniques for navigating the databases could permit people seeking to violate the law to gain sensitive knowledge and take preemptive steps to counter actions taken by USMS during investigatory operations. The disclosure of this information serves no public benefit and would not assist the public in understanding how the agency is carrying out its statutory responsibilities.

Please note, in reference to items 3 and 4, if you have not already done so, you may wish to contact the facility, RCJDC regarding their internal grievance process for complaints from prisoners and the Department of Justice, Office of Inspector General regarding complaints, inquiries, and/or tips. Due to our limited use of this facility, as well as our very limited juvenile population in general, the USMS would not maintain the documentation requested.

You may contact RCJDC via the following information: Rutherford County Juvenile Detention Center, 1710 South Church Street, Suite 4, Murfreesboro, TN 37130 and locate additional information through the web address which is located via the following: <http://www.rutherfordcountyttn.gov/jdc/>

DOJ OIG may be contacted via the following: Office of the Inspector General, Office of General Counsel, 950 Pennsylvania Ave., NW, Room 4726, Washington, DC 20530, Voice: 202-

616-0646, Fax: 202-616-9152, or via email: oigfoia@usdoj.gov and further information may be located via their website: <https://oig.justice.gov/foia>

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. 552(c) (2006 & Supp. IV (2010)). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

If you are not satisfied with the United States Marshals Service (USMS) determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal.

You may also contact Charlotte Luckstone or our FOIA Public Liaison at (703) 740-3943 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer.

The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

Tracy Broady for
Charlotte M. Luckstone
Senior Associate General Counsel
FOIA/PA Officer
Office of General Counsel



CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

November 17, 2021

VIA EMAIL: usms.foia@usdoj.gov

Charlotte M. Luckstone
FOIA/PA Officer
Office of General Counsel, CG-3, 15th Floor
Washington, DC 20530-0001

Re: Freedom of Information Act Request

Dear FOIA Officer:

Citizens for Responsibility and Ethics in Washington ("CREW") submits this request for records pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and U.S. Department of Justice ("DOJ") regulations

Specifically, CREW requests the following records relating to the Rutherford County Juvenile Detention Center in Rutherford County, Tennessee ("RCJDC") from April 14th, 2016 to the date this request is processed::

1. All contracts or agreements between the US Marshals Service ("USMS") and RCJDC, including but not limited to any documents reflecting the terms and conditions of USMS's engagement with RCJDC for official agency business..
2. Records sufficient to identify the total amount of federal funds paid by USMS or DOJ to RCJDC.
3. All records reflecting any analysis, determination, consideration, complaints, tips, allegations, or inquiries relating to RCJDC's compliance with federal laws, rules, directives, regulations, or standards concerning the detention of juveniles.
4. All communications with or relating to Judge Donna Scott Davenport, including but not limited to any complaints, tips, inquiries, or allegations relating to Judge Davenport.

The above request excludes agency records consisting solely of news articles, press clippings, and other publicly-available material, so long as the records include no accompanying discussion by agency officials.

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 agency wide 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).

Your cooperation in this matter is greatly appreciated and in the spirit of improving the trust and confidence of the public in its law enforcement agencies. The Rutherford County Juvenile Detention Center has recently been the focus of deserved scrutiny, owing to their repeated cruel and unusual incarceration of juveniles for crimes that do not exist under federal or local statute. On October 8, 2021, ProPublica reported that Rutherford County's Juvenile Detention Center has been jailing minors as young as 8 years old for offenses such as in a gross for profit scheme orchestrated by Judge Donna Davenport. Within the report, it's stated that the United States Marshals Service currently has a contract with the detention center. An institution such as this, which places children in solitary confinement for periods no shorter than 12 hours and as long as indefinitely, has no place in society let alone profiting from taxpayers through federal contracts. Your transparency and accountability in this matter is of substantial interest to the American public.

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 to¹analyze 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

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at (202) 408-5565 or foia@citizensforethics.org. 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 me at either foia@citizensforethics.org or Tosin Akintola, Citizens for Responsibility and Ethics in Washington, 1331 F St. NW, Suite 900, Washington, D.C. 20004.

Sincerely,

Tosin Akintola
Senior Communications Associate

¹ Armstrong, K. A., & Knight, M. (2021, October 8). Black children were jailed for a crime that doesn't exist. almost nothing happened to the adults in charge. ProPublica. Retrieved November 17, 2021, from <https://www.propublica.org/article/black-children-were-jailed-for-a-crime-that-doesnt-exist>.