

U.S. Department of Homeland Security
500 12th St SW, Stop 5009
Washington, DC 20536



U.S. Immigration
and Customs
Enforcement

April 30, 2015

NATHAN FREED WESSLER
ACLU
125 BROAD STREET
18TH FLOOR
NEW YORK, NY 10004

RE: ICE FOIA Case Number 2015-ICFO-07629

Dear Mr. Freed Wessler:

This letter is the final response to your Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), dated November 19, 2014. You have requested copies of the following records:

1) All policies, guidelines, rules, practices, or legal analysis regarding the use of cell site simulators deployed on aircraft including restrictions on when, where, how, and against whom they may be used; what information can be acquired using this technology; the possibility of disruption of lawful phone calls; protections for non-targets; limitations on retention and use of collected data; when a warrant or other legal process must be obtained; deployment of this technology in investigations conducted with other agencies or at the request of other agencies; disclosure of information acquired using this technology to other agencies; and when the existence and use of cell site simulators may be revealed to the public, criminal defendants or judges. 2) Records regarding the acquisition of cell site simulators that were meant for aircraft deployment or were used on aircraft including invoices, purchase orders, contracts, loan agreements, procurement documents, correspondence with companies providing the devices, and similar documents. 3) All applications submitted to state or federal courts for search warrants or orders authorizing use of cell site simulators deployed on an aircraft in criminal investigations, as well as any affidavits or other documents filed in support thereof, warrants or orders, denials of warrants or orders, and returns of warrants associated with those applications. If any responsive records are sealed, please provide a record containing the date and docket number for each sealed document. 4) Records reflecting the docket numbers--or, if unavailable, other identifying information--of all criminal cases in which law enforcement officers sought permission to use, were authorized to use, or in fact used a cell site simulator deployed on an aircraft as part of the underlying investigation. 5) Records reflecting the number of investigations in which cell site simulators deployed on aircraft have been used, and the number of those investigations that have resulted in prosecutions. (Date Range for Record Search: From 01/01/1997 To 12/02/2014)

ICE has considered your request under both the FOIA, 5 U.S.C. § 552, and the Privacy Act, 5 U.S.C. § 552a. Information about an individual that is maintained in a Privacy Act system of

records may be accessed by that individual¹ unless the agency has exempted the system of records from the access provisions of the Privacy Act.²

ICE has conducted a search of the ICE Office of Policy, ICE Homeland Security Investigations, ICE Office of Acquisition Management (OAQ), and ICE Office of Principal Legal Advisor (OPLA) for records responsive to your request and no records responsive to your request were found.

You have the right to appeal ICE's determination and should you wish to do so, please send your appeal following the procedures outlined in the DHS regulations at 6 Code of Federal Regulations § 5.9 and a copy of this letter to:

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

Your appeal must be received within 60 days of the date of this letter. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at www.dhs.gov/foia.

Provisions of the FOIA and Privacy Act allow us to recover part of the cost of complying with your request. In this instance, because the cost is below the \$14 minimum, there is no charge.³

If you need to contact the FOIA office about this matter, please call (866) 633-1182 and refer to FOIA case number **2015-ICFO-07629**.

Sincerely,

R. Gowins, for

Catrina M. Pavlik-Keenan
FOIA Officer

¹ 5 U.S.C. § 552a(d)(1).

² 5 U.S.C. §§ 552a(d)(5), (j), and (k).

³ 6 CFR § 5.11(d)(4).



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**Freedom of Information Act Office
500 12th St., S.W., MS 5009
Washington, D.C. 20536-5009**

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