



**U.S. Immigration
and Customs
Enforcement**

May 31, 2013

VIA Electronic Mail and FedEx

Catherine Crump
Staff Attorney
American Civil Liberties Union Foundation
125 Broad Street, 17th Floor
New York, NY 10004

**RE: *ACLU of Massachusetts v. DOJ, et al* (D. Mass. 12-cv-11776)
ICE FOIA Case Number 2012FOIA19286**

Dear Ms. Crump:

This letter is the fifth interim release in response to your July 30, 2012, Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), seeking records regarding the use of automatic license plate readers (APLRs). This FOIA request is now the subject of litigation in the United States District Court for the District of Massachusetts.

Your request has been processed under the FOIA, 5 U.S.C. § 552.

In our first interim release, sent to you on January 31, 2013, ICE provided you with 91 pages of records located by the ICE Office of Homeland Security Investigations (HSI).

In our second release, ICE provided you with 27 pages of responsive records located by the ICE Privacy Office.

In our third release, ICE provided you with 85 pages of responsive records located by HSI.

In our fourth release, ICE provided you with 64 pages of responsive records located by HSI.

For this release, the ICE FOIA Office processed a total of 535 pages located by HSI and the ICE Office of Enforcement and Removal Operations (ERO). The ICE FOIA Office determined that 489 pages of those records were non-responsive, as they were either unrelated to the subject matter of your FOIA request or were duplicates of records previously released. The remaining 56 pages were responsive to your request. After a review of those 56 pages, the ICE FOIA Office has determined that 14 pages will be released in their entirety, and portions of 42 pages

will be withheld pursuant to Exemptions (b)(6), (b)(7)(C) and (b)(7)(E) of the FOIA as described below.

ICE is continuing to process records and will release them to you on a rolling basis. ICE expects to make its fourth interim release to you by June 30, 2013.

ICE has applied Exemptions (b)(6) and (b)(7)(C) of the FOIA to protect from disclosure the names, phone numbers, and email addresses of ICE employees and third party individuals, along with other personally identifiable information pertaining to third party individuals and subjects of law enforcement investigations.

FOIA Exemption (b)(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 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 (b)(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, I have 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 private interest you may have in that information does not factor into this determination.

ICE has applied FOIA Exemption (b)(7)(E) to protect from disclosure internal database identification numbers, law enforcement database URL addresses, and other law enforcement sensitive information relating to the location, placement, proliferation and mission-specific capabilities of the LPR system cameras and database. The release of this information, particularly the capabilities and location of LPR systems, could allow the suspects of ICE criminal investigations to circumvent the law and evade detection and apprehension by law enforcement officers.

FOIA Exemption (b)(7)(E) protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or

Catherine Crump
American Civil Liberties Union Foundation
ACLU of Massachusetts v. DOJ, et al (D. Mass. 12-cv-11776)
Page 3

prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. I have 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 United States Attorney Jennifer Serafyn at (617) 748-3188.

Sincerely,

A handwritten signature in black ink, appearing to read 'MPK' followed by a flourish.

Catrina M. Pavlik-Keenan
FOIA Officer

Enclosure(s): 1 CD, 56 pages (Bates numbers ICE 2012FOIA19286.0000268-323)
cc: AUSA Serafyn