



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

November 15, 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 tenth and final 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.

The following is a summary of the past releases to you in relation to your request:

- The first interim release, ICE provided you with 91 pages of records located by the ICE Office of Homeland Security Investigations (HSI).
- The second release, ICE provided you with 27 pages of responsive records located by the ICE Privacy Office.
- The third release, ICE provided you with 85 pages of responsive records located by HSI.
- The fourth release, ICE provided you with 64 pages of responsive records located by HSI.
- The fifth release, ICE provided you with 56 pages of responsive records located by HSI and the ICE Office of Enforcement and Removal Operations (ERO).
- The sixth release, ICE provided you with 132 pages of responsive records located by ERO.
- The seventh release, ICE provided you with 105 pages of responsive records located by ERO.
- The eighth release, ICE provided you with 68 pages of responsive records located by ERO.

- The ninth release, ICE provided you with 42 pages of responsive records located by the ICE Office of Acquisitions (OAQ).
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For this release, a total of 146 pages of responsive records were located by OAQ. The ICE FOIA Office determined that portions of these pages will be withheld pursuant to Exemptions (b)(4), (b)(6), (b)(7)(C) and (b)(7)(E) of the FOIA as described below.

ICE has applied Exemption (b)(4) of the FOIA to protect from disclosure unit pricing information for individual license plate readers and related products and services.

FOIA Exemption 4 protects trade secrets and commercial or financial information obtained from a person that is privileged or confidential. The courts have held that this subsection protects (a) confidential commercial information, the disclosure of which is likely to cause substantial harm to the competitive position of the person who submitted the information and (b) information that was voluntarily submitted to the government if it is the kind of information that the provider would not customarily make available to the public. I have reviewed the responsive documents and relevant case law, and I have determined that portions of the responsive records are exempt from disclosure under subsection (b)(4) of the FOIA and must be withheld in order to protect the submitter's proprietary interests.

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

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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 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,



Catrina M. Pavlik-Keenan
FOIA Officer

Enclosure(s): 1 CD, Bates numbers ICE 2012FOIA19286.0000671-816

cc: AUSA Serafyn