

Exhibit H

Freedom of Information Act Office

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



U.S. Immigration
and Customs
Enforcement

September 20, 2017

Nathan Wessler
American Civil Liberties Union
125 Broad Street
18th Floor
New York, NY 10004-2400

RE: ICE FOIA Case Number 2017-ICFO-28863

Dear Mr. Wessler:

This letter is the final response to your Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), dated May 19, 2017. You have requested copies of the following records:

The ACLU seeks the release of the following records (including reports, memoranda, guidance documents, instructions, training documents, formal and informal presentations, directives, contracts or agreements, memoranda of understanding, and written or electronic communications): Any policy directives, guidance documents, memoranda, training materials, or similar records created on or after October 19, 2015, governing or concerning use of cell site simulators by Immigrations and Customs Enforcement and Customs and Border Protection agents, employees, or partners, including any policy or guidance document that cites Department of Homeland Security Policy Directive 047-02 (“Department Policy Regarding Use of Cell-Site Simulator Technology”),⁷ as well as any communications with Congress concerning implementation of or updates to DHS Policy Directive 047-02 and other policies governing cell site simulator use.

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 Enforcement and Removal Operations (ERO), the ICE Office of Homeland Security Investigations (HSI), the ICE Office of Acquisitions (OAQ), and the ICE Office of Congressional Relations (OCR) for records responsive to your request and no records responsive to your request were found.

¹ 5 U.S.C. § 552a(d)(1).

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

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 response to this request, you have the right to appeal following the procedures outlined in the DHS regulations at 6 C.F.R. § 5.9. Should you wish to do so, you must send your appeal and a copy of this letter, within 90 days of the date of this letter, to:

U.S. Immigration and Customs Enforcement
Office of the Principal Legal Advisor
U.S. Department of Homeland Security
500 12th Street, S.W., Mail Stop 5900
Washington, D.C. 20536-5900

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 any further assistance or would like to discuss any aspect of your request, please contact the FOIA office and refer to FOIA case number **2017-ICFO-28863**. You may send an e-mail to ice-foia@ice.dhs.gov, call toll free (866) 633-1182, or you may contact our FOIA Public Liaison, Fernando Pineiro, in the same manner. Additionally, you have a right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, 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,



for

Catrina M. Pavlik-Keenan
FOIA Officer

³ 6 CFR § 5.11(d)(4).