



U.S. Immigration
and Customs
Enforcement

January 24, 2012

MARIA SACCHETTI
THE BOSTON GLOBE
P.O. BOX 55814
BOSTON, MA 02205

Re: ICE FOIA Request Number 2012FOIA1383

Dear Ms. Sacchetti:

This letter is the final response to your Freedom of Information Act (FOIA) request to the U.S. Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE) dated September 28, 2011. You have requested "... a list of convicted criminal aliens released by ICE, but not deported since 1/1/2008 due to the 2001 Supreme Court decision *Zadvydas v. Davis*". The requested list includes names, crimes they were convicted of; date of release from ICE custody; and place or jurisdiction in which they were released.

Your request has been processed under the FOIA, 5 U.S.C. § 552. A search of the Office of Enforcement and Removal Operations (ERO) located 1 Excel spreadsheet in response to your request. After a review of the spreadsheet, I have determined that portions of spreadsheet will be withheld pursuant to exemptions (b)(6) and (b)(7)(C) of the FOIA.

The portions of the spreadsheet are being withheld as described below.

ICE has applied Exemptions 6 and 7(C) to protect from disclosure of the names of third parties contained within the documents.

FOIA Exemption 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 types of documents and/or information that we have withheld may consist of social security numbers, home addresses, dates of birth, or various other documents and/or information belonging to a third party that are considered personal. 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.

Exemption 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.

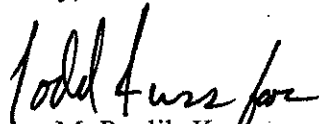
You have the right to appeal our withholding determination. Should you wish to do so, you must send your appeal and a copy of this letter, within 60 days of the date of this letter to: Immigration Customs Enforcement, Office of Principal Legal Advisor, U.S. Department of Homeland Security, 500 12th Street, SW, Stop 5009, Washington, D.C. 20536, following the procedures outlined in the DHS regulations at 6 C.F.R. § 5.9. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at www.dhs.gov/foia.

The Office of Government Information Services (OGIS) also 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. If you wish to contact OGIS, you may email them at ogis@nara.gov or call 1-877-684-6448.

Provisions of the FOIA 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.¹

If you need to contact our office about this matter, please refer to case number **2012FOIA1383**. This office can be reached at (202) 732-0600 or (866) 633-1182.

Sincerely,



Catrina M. Pavlik-Keenan
FOIA Officer

Enclosure(s): 1 Excel Spreadsheet on 1 CD

¹ 6 CFR § 5.11(d)(4).

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



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

April 20, 2012

MARIA SACCHETTI
THE BOSTON GLOBE
PO BOX 55814
BOSTON, MA 02205

RE: OPLA12-437, 2012FOIA1383

Dear Ms. Sacchetti:

This is in response to your letter, dated February 24, 2012, appealing the adverse determination concerning your Freedom of Information Act/Privacy Act (FOIA/PA) request. The initial request asked for "a list of convicted criminal aliens released by ICE, but not deported since 1/1/2008, due to the 2001, Supreme Court decision, *Zadvydas v. Davis*."

U.S. Immigration and Customs Enforcement (ICE) denied your request in part by withholding records pursuant to FOIA Exemptions (b)(6), (b)(7)(C), and (b)(7)(E). We have reviewed the records in question that gave rise to this initial determination.

A search of the ICE Office of Enforcement and Removal Operations (ERO) produced a total of 1 spreadsheet of records that were withheld in part pursuant to the FOIA Exemptions listed above. You have appealed the withholding applied to this document; specifically, you have appealed the application of (b)(6) and (b)(7)(C) to third party names and/or other personally identifiable information. Our analysis follows.

In particular, the reasoning behind the use of these exemptions in the initial determination was provided to you in the letter dated January 24, 2012.

As to the application of (b)(6) and (b)(7)(C) to withhold third party names or other identifying information, the categorical withholding of third party names located within law enforcement resources is appropriate.¹

Upon a complete review of the information withheld in the initial determination on your FOIA request, the withholding of this information was proper in all respects, and the information is exempt from disclosure under the applicable provisions of 5 U.S.C. § 552 cited above.

This decision is the final action of the Department of Homeland Security concerning your FOIA/PA request. Inasmuch as you consider this to be a denial of your appeal, you may obtain judicial review

¹ Blanton v. U.S. Dep't of Justice, 64 Fed. Appx. 787, 789 (D.C. Cir. 2003).

of this decision pursuant to the provisions of 5 U.S.C. § 552(a)(4)(B) in the United States District Court in the district in which you reside, or in which the agency records are situated, or in the District of Columbia.

The Office of Government Information Services (OGIS) also 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. If you wish to contact OGIS, you may email them at ogis@nara.gov or call 1-877-684-6448.

Should you have any questions regarding this appeal closure, please contact ICE at ice-foia@dhs.gov. In the subject line of the email please include the word "appeal", your appeal number, which is OPLA12-437, and the FOIA case number, which is 2012FOIA1383.

Sincerely,

Catherine Gonzalez Gallego for

Susan Mathias

Chief

Government Information Law Division

ICE Office of the Principal Legal Advisor

Department of Homeland Security