



THE COMMONWEALTH OF MASSACHUSETTS
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ATTORNEY GENERAL

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June 29, 2017

U.S. Immigration and Customs Enforcement
Freedom of Information Act Office
500 12th Street, SW, Stop 5009
Washington, DC 20536-5009

U.S. Citizenship and Immigration Services
National Records Center, FOIA/PA Office
P.O. Box 648010
Lee's Summit, MO 64064-8010

U.S. Customs and Border Protection
ATTN: Sabrina Burroughs, FOIA Officer
1300 Pennsylvania Ave, NW
Room 3.3D
Washington, DC 20229

To whom it may concern:

The President's Executive Orders, and the steps taken by the Department of Homeland Security to implement those orders, have generated new fears and uncertainties in immigrant communities across the country. Families are afraid to send their children to school. People are avoiding necessary medical treatment. Victims and witnesses are not reporting crimes or cooperating with state and local law enforcement. As the attorneys general of our respective states, we believe the "chilling effect" of these new policies undercuts public health, safety, and welfare.

The lack of transparency surrounding the Administration's enforcement activities and priorities is greatly exacerbating the fear in immigrant communities and decreasing cooperation with local law enforcement. Widely circulated reports in national and local media recount detentions and deportations of parents with young children, individuals approved for Deferred Action for Childhood Arrivals ("DACA"), and individuals meeting with federal immigration officials to discuss their status. Arrests are occurring in the vicinity of locations previously deemed by the Department of Homeland Security or its components as "sensitive," as well as in or around courthouses. Detainer requests are being issued more frequently to our state and local law enforcement officials and detention facilities. Meanwhile, accurate information on the

numbers of and bases for detentions, deportations, and detainer requests, as well as actions taken upon those requests, has not been made available to our states or to the general public. To the contrary, we have learned that the Department of Homeland Security has reduced the amount of information it makes available about detentions, detainer requests, and deportations, at the same time it is significantly increasing its efforts to detain and deport, and to issue detainer requests concerning, residents of our states.

To better understand how the Department of Homeland Security is implementing its immigration enforcement policies, this letter contains a series of requests made under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 522. As you are aware, Immigration and Customs Enforcement (“ICE”), Customs and Border Protection (“CBP”), and U.S. Citizenship and Immigration Services (“USCIS”) are subject to the requirements of FOIA.

Instructions. Unless otherwise stated in a specific request, the date range of this request is for records in the custody, control, or possession of ICE, CBP, and USCIS, and all respective subdivisions of each entity, between October 1, 2016 and the date of this request. For each request in which data or other compilations of information are sought, please provide a state-by-state breakdown of such data or compilations of information, should it exist. **Nothing in these requests should be interpreted to be seeking personally identifiable information such as names or addresses.**

Definitions. For the purpose of these requests, the following are defined as:

“Administration” – The President of the United States, the President of the United States’ staff, White House staff, or any person communicating on behalf of those individuals.

“Any record” – Records sufficient to provide the information sought in a particular request, **excluding redundant or duplicative records and any personally identifiable information.**

“All records” – Each and every record responsive to a particular request, **excluding any personally identifiable information.**

“DACA” – Deferred Action for Childhood Arrivals.

“Memorandum” – Includes any policy directive, analysis, white paper, or order.

“Policies” – Includes any policy, procedure, manual, guidebook, protocol, or handbook.

“Respective States” – California, District of Columbia, Hawaii, Illinois, Iowa, Massachusetts, Maryland, New York, Oregon, and Washington.

“Sensitive Locations” – Includes, but is not limited to, schools, including daycares and bus stops; medical treatment and health care facilities, including hospitals and doctors’ offices; churches, synagogues, mosques, or other institutions of worship, such as buildings rented for the purpose of religious services; the site of a funeral, wedding, or

other public religious ceremony; and a site during the occurrence of a public demonstration, such as a march, rally, or parade.¹

We hereby request any and all records that reflect the following information:

1. Records related to DACA, specifically:

- a. All memoranda issued from the Administration and/or the Department of Homeland Security regarding DACA;
- b. Any record containing information and/or data reflecting the number of individuals residing in our respective states whose deferred action under the DACA process have been terminated;
- c. All records regarding the detention and/or deportation of any individual residing in our respective states previously granted an approval or extension of DACA since its initiation on June 15, 2012, including the specific factual basis for detaining and/or initiating deportation proceedings for each individual notwithstanding their DACA status; and
- d. All policies, procedures, and training documents that were in effect between October 1, 2016 and the date of this request concerning the process for checking an individual's DACA status prior to arresting, issuing a detainer request, initiating a removal proceeding, or removing an individual.

2. Records related to arrests and/or detentions of individuals at certain locations, specifically:

- a. All memoranda issued from the Administration and/or the Department of Homeland Security regarding ICE or CBP designated sensitive locations;
- b. Any record containing information and/or data reflecting the number of individuals in our respective states arrested and/or detained at, or within 100 exterior feet of an entrance or exit to, an ICE or CBP designated sensitive location;
- c. All memoranda issued from the Administration and/or the Department of Homeland Security regarding ICE or CBP immigration enforcement at, or within 100 exterior feet of an entrance or exit to, a state or local courthouse;
- d. Any record containing information and/or data reflecting the number of individuals in our respective states arrested and/or detained at an ICE or CBP designated check-in and/or interview;

¹ This definition is intended to comport with the definition currently in use by the Department of Homeland Security. See <https://www.ice.gov/ero/enforcement/sensitive-loc> (last visited June 28, 2017).

- e. Any record containing information and/or data reflecting the number of individuals in our respective states arrested and/or detained at, or within 100 exterior feet of an entrance or exit to, a courthouse (excluding those arrested or detained pursuant to a courthouse official's voluntary cooperation with a detainer request);
- f. Copies of all I-213 forms that contain the term "courthouse" or "court house;"
- g. Any chart, spreadsheet, data compilation, or record that shows any of the following relating to Form I-9 audits in our respective states:
 - i. The action taken and its outcome;
 - ii. The business sector, industry, or category of the employer;
 - iii. The size of the employer; and
 - iv. The location of the employer;
- h. All memoranda issued from the Administration and/or the Department of Homeland Security regarding Form I-9 audits;
- i. Any record containing information and/or data reflecting the number of individuals in our respective states arrested and/or detained at, or within 100 exterior feet of an entrance or exit to, the individual's workplace or jobsite; and
- j. All memoranda issued from the Administration and/or the Department of Homeland Security regarding workplace and/or jobsite enforcement actions.

3. Records related to ICE or CBP detainer requests and databases, specifically:

- a. Any chart, spreadsheet, data compilation, or record that shows any of the following:
 - i. All detainer requests issued in our respective states by ICE or CBP;
 - ii. The immigration status of individuals in our respective states for whom ICE or CBP requested a detainer;
 - iii. The nationality/citizenship of individuals in our respective states for whom ICE or CBP requested a detainer, including those individuals with U.S. citizenship;
 - iv. All cancelled detainer requests issued in our respective states by ICE or CBP;

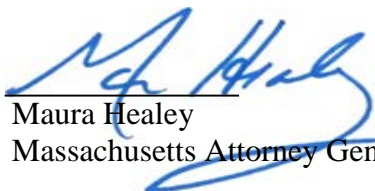
- v. All ICE or CBP detainer requests issued in our respective states that were later determined to be based on the mistaken identity of the subject;
 - vi. For each individual in our respective states for which ICE or CBP issued a detainer request, the individual's criminal history, or, any indication that the individual has no criminal history; and/or
 - vii. All ICE or CBP detainer requests in our respective states that were later determined to concern a United States citizen or individual otherwise not subject to removal and/or deportation;
- b. All records reflecting detainer requests issued in our respective states by ICE or CBP that were later determined to be based on the mistaken identity of the subject;
 - c. All records reflecting detainer requests issued in our respective states by ICE or CBP for an individual later determined to be a United States citizen or otherwise not subject to removal and/or deportation;
 - d. All memoranda, policies, procedures, and training documents that were in effect between October 1, 2016 and the date of this request relating to the process for issuing, withdrawing, and deciding whether to undertake enforcement on the basis of a detainer request; and
 - e. Any record describing the databases used by ICE or CBP for immigration enforcement, including but not limited to any record describing the fields maintained in each such database.

If responsive data exists in a database but not in a specific record, we request that you run a query to produce the data set in response to the request, with the data properly correlated. See Nat'l Sec. Counselors v. Cent. Intelligence Agency, 898 F. Supp. 2d 233, 270 (D.D.C. 2012) (“In responding to a FOIA request for ‘aggregate data,’ therefore, an agency need not create a new database or a [sic] reorganize its method of archiving data, but if the agency already stores records in [its] electronic database, searching that database does not involve the creation of a new record.”); Long v. U.S. Dep’t of Justice, 450 F. Supp. 2d 42, 48 (D.D.C. 2006) (“fields of data” in a database are subject to FOIA). In an effort to assist the agency in complying with these requests, where responsive records would offer identical or redundant information to other records to be provided in response to these requests, the agency may note this in its response and withhold the records with redundant information.

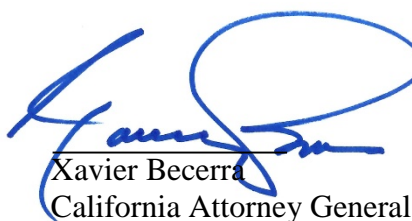
We also request that all fees be waived as these requests are in the public interest. In the event that there are fees, please inform us of the total charges in advance of fulfilling these requests. We request that your responses be fulfilled electronically.

Thank you in advance for your attention to this matter. If you have any questions or wish to clarify any request, please do not hesitate to contact **Jonathan Sclarsic, Assistant Attorney General in the Massachusetts Attorney General's Office, at 617-963-2045**. We look forward to receiving your response to these requests within twenty (20) business days, as required by FOIA.


Sincerely,



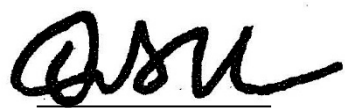
Maura Healey
Massachusetts Attorney General



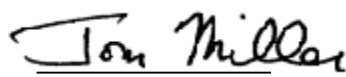
Xavier Becerra
California Attorney General



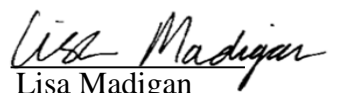
Karl A. Racine
District of Columbia Attorney General




Douglas S. Chin
Hawaii Attorney General



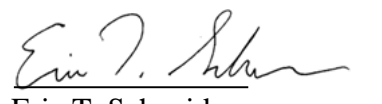
Tom Miller
Iowa Attorney General



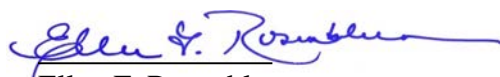
Lisa Madigan
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Brian E. Frosh
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Eric T. Schneiderman
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Ellen F. Rosenblum
Oregon Attorney General



Bob Ferguson
Washington Attorney General