

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

E.G.V.,

Plaintiff,

v.

U.S. IMMIGRATION AND CUSTOMS  
ENFORCEMENT,

Defendant.

Civil Action No. 22-CV-00407

**DECLARATION OF FERNANDO PINEIRO  
IN SUPPORT OF U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT**

**I. INTRODUCTION**

I, Fernando Pineiro, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am the FOIA Director of the U.S. Immigration and Customs Enforcement (“ICE”) Freedom of Information Act (“FOIA”) Office. I have held this position since August 14, 2022, and I am the ICE official immediately responsible for supervising ICE responses to requests for records under the Freedom of Information Act, 5 U.S.C § 552 (“the FOIA”), the Privacy Act, 5 U.S.C. § 552a (“the Privacy Act”), and other applicable records access statutes and regulations. Prior to this position, I was the Deputy FOIA Officer of the ICE FOIA Office from December 29, 2013, to August 13, 2022, and prior to that I was the FOIA Officer for three years at the Office for Civil Rights and Civil Liberties (“CRCL”) at the U.S. Department of Homeland Security (“DHS”).

2. My official duties and responsibilities include the oversight and supervision of the ICE FOIA Litigation and Intake Teams. The Intake Team is responsible for acknowledging the receipt of all

FOIA and Privacy Act requests at ICE (5 U.S.C. § 552 and 5 U.S.C. § 552a). This team also conducts searches for responsive records. The Litigation Team is responsible for picking up the case when a complaint is filed and seeing it through to completion. Depending on what is alleged in the complaint, the Litigation Team will conduct a search, gather responsive records, go through the records for responsiveness, process productions, and release records with applicable withholdings to the plaintiff or plaintiff's counsel. I manage and supervise the supervisors of the Intake and Litigation Teams. These teams are comprised of FOIA Assistants and Paralegal Specialists. Due to my experience and the nature of my official duties, I am familiar with ICE's procedures for responding to requests for information pursuant to provisions of the FOIA and the Privacy Act.

3. The statements contained in this declaration are based upon my personal knowledge, my review of documents kept by ICE in the ordinary course of business, and information provided to me by other ICE employees in the course of my official duties. In this declaration I describe ICE's procedures in responding to Plaintiff's FOIA request.

## **II. PLAINTIFF'S FOIA REQUEST**

4. Plaintiff submitted a FOIA request to ICE on January 29, 2021, seeking, "All documents, records, and notes relating to the subject [Plaintiff] and [her] A-number, including but not limited to: all interactions with ICE; investigation records; ICE arrest records; requests for ICE detainers or warrants; all detention center records, including but not limited to medical records, transfer records, deportation/removal records."

## **III. ICE'S STANDARD PROCEDURE FOR INITIATING SEARCHES IN RESPONSE TO FOIA REQUESTS**

5. Each program office within ICE has a designated point of contact ("POC") who is the primary person responsible for communications between that program office and the ICE FOIA Office. Each POC is a person with detailed knowledge about the operations of their particular

program office. When the ICE FOIA Office receives a FOIA request, its first step is to identify which program offices, based on their experience and knowledge of ICE's program offices, within ICE are reasonably likely to possess records responsive to that request (if any) and to initiate searches within those program offices. Once the ICE FOIA Office determines the appropriate program offices for a given request, it provides the POCs within each of those program offices with a copy of the FOIA request and instructs them to conduct a search for responsive records. The POCs then review the FOIA request along with any case-specific instructions that may have been provided, and based on their experience and knowledge of their program office practices and activities, forward the request and instructions to the individual employee(s) or component office(s) within the program office that they believe are reasonably likely to have responsive records, if any. Per the ICE FOIA Office's instructions, the individuals and component offices are directed to conduct searches of their file systems, including both paper files and electronic files, which in their judgment and based on their knowledge of the manner in which they routinely keep records, would most likely be the files to contain responsive documents. Once those searches are completed, the individuals and component offices provide any potentially responsive records to their program office's POC, who in turn provides the records to the ICE FOIA Office. The ICE FOIA Office then reviews the collected records for responsiveness.

6. ICE employees maintain records in several ways. ICE program offices use various systems to maintain records, such as investigative files, records regarding the operation of ICE programs, and administrative records. ICE employees may store electronic records on their individual computer hard drives, their program office's shared drive (if the office uses one), DVDs, CDs, or USB storage devices. The determination as to how to conduct searches in response to a particular FOIA tasking is necessarily based on the manner in which each employee maintains his or her files.

7. Additionally, all ICE employees have access to email. ICE uses the Microsoft Outlook email system. Each ICE employee stores their files in the way that works best for that particular employee. ICE employees use various methods to store their Microsoft Outlook email files: some archive their files monthly, without separating by subject; others archive their email by topic or by program; still others may create PST files of their emails and store them on their hard drive or shared drive.

8. Individual employees archive their own emails according to their individual work-related needs. Individual archives of emails are searched by the individual employees where those employees have identified individual archives containing potentially responsive documents.

#### **IV. PROGRAM OFFICES TASKED WITH SEARCHING FOR RECORDS IN RESPONSE TO PLAINTIFF'S FOIA REQUEST**

9. ICE is the principal investigative arm of DHS and the second largest investigative agency in the federal government. Created in 2003 through a merger of the investigative and interior enforcement elements of the U.S. Customs Service and the Immigration and Naturalization Service, ICE now has more than 20,000 employees and offices in all 50 states and 48 foreign countries.

10. Upon receipt and review of Plaintiff's FOIA request, the ICE FOIA Office determined that Enforcement and Removal Operations ("ERO"), was the office reasonably likely to have records responsive to the request and that no other ICE program offices were likely to have responsive records. The ICE FOIA Office instructed ERO to conduct a comprehensive search for records and to provide all records located during that search to the ICE FOIA Office for review and processing.

#### **V. ERO'S SEARCH FOR RESPONSIVE RECORDS**

11. The mission of ERO is to identify, arrest, and remove noncitizens who present a danger to national security or are a risk to public safety, as well as those who enter the United States illegally or otherwise undermine the integrity of immigration laws and border control efforts. ERO upholds

America's immigration laws at, within, and beyond our borders, through efficient enforcement and removal operations. ERO transports removable noncitizens from point to point, manages noncitizens in custody or in an alternative to detention program, and removes individuals from the United States who have been ordered deported. With a budget of approximately \$4.12 billion, ERO has a cadre of more than 7,900 employees assigned to 25 ERO field offices and headquarters, in more than 200 domestic locations and 25 overseas locations.

12. When ERO receives a FOIA tasking from the ICE FOIA Office, the request is submitted to ERO's Information Disclosure Unit ("IDU"). Points-of-Contact ("POCs") in IDU review the substance of the request and based on subject matter expertise and knowledge of the program offices' activities within ERO, IDU forwards the FOIA request to specific individuals and/or component offices, and directs specific employees to conduct searches of their file systems which in their judgment, based on their knowledge of the manner in which they routinely keep records, would be reasonably likely to have responsive records, if any.

13. The employees exercise discretion, based on their operational knowledge and subject matter expertise, in choosing the search locations and specific search terms utilized to ascertain whether potentially responsive documentation exists. Once searches are completed, the individuals and component offices provide any potentially responsive records to the IDU POC, who in turn provides the records to the ICE FOIA Office. The ICE FOIA Office then reviews the collected records for responsiveness.

14. Differences in the title of the ERO employees who searched, number of employees who searched, locations searched, and the specific terms used to search in response to a FOIA request are a result of various factors such as staffing allocations, subject matter expertise, resource allocation, and geographic priorities.

15. For Plaintiff's request, when the search tasking was received by ERO, the ERO IDU POC reviewed the substance of the request and based on her experience and knowledge of her office's practices and activities, determined that a search at the ERO ICE Health Service Corps ("IHSC") was appropriate because that office's area of responsibility is overseeing health services at detention facilities. The ERO IDU POC also tasked the Houston Contract Detention Facility to search for all documents related to Plaintiff's detention, as per the FOIA Request.

16. On March 25, 2021, an Assistant Health Services Administrator and a Health Information Management Technician, within ERO IHSC, searched for records in the eClinical Works system, which is the ISHC electronic health record, and the Plaintiff's Alien File, using the Plaintiff's A-number and name. Responsive records were found and forwarded to the ERO IDU POC.

17. On April 5, 2021, a Management and Program Analyst within ERO IDU completed a search of the Central Index System ("CIS"), the Enforce Alien Removal Module ("EARM"), and the EID Arrest Graphical User Interface for Law Enforcement ("EAGLE"). The Central Index System is a repository of electronic data that contains an index of basic elements related to an individual as he or she passes through the immigration process. EARM is an application that supports ICE's processing and removal of aliens from the U.S. and used primarily as a case management tool to track the status of alien removal proceedings. EAGLE is a booking application used by ICE law enforcement officers to process biometric and biographic information of individuals arrested by ICE for violations of the Immigration and Nationality Act and criminal violations of law. The Management and Program Analyst searched these systems of records using the Plaintiff's name, country of birth, date of birth, A-number, and alias. Responsive records were found and forwarded to the ERO IDU POC.

18. In June 2021, ICE attempted to release responsive records to Plaintiff's counsel electronically. It appears that, given the size of the attached file, the attempted electronic production was

not successful. After the Complaint in this matter was filed, ICE learned that the production had not been successful and resent the responsive documents to Plaintiff's counsel.

19. On May 26, 2022, upon conducting a litigation review after the filing of this suit, the ERO IDU POC tasked the ERO San Diego Field Office, the ERO Houston Field Office, and the ERO New Orleans Field Office for all records responsive to the FOIA request.

20. The New Orleans Field Office assigned the search to the Assistant Field Office Director, who searched his email using the Plaintiff's name, A-number, date of birth, and country of birth. This search located records from the Adams County Detention Center. The New Orleans Assistant Field Office Director also searched the EARM database which produced records duplicative of previously located records. Responsive records were found and forwarded to the ERO IDU POC.

21. The San Diego Field Office assigned the search to the Assistant Field Office Director, who searched his outlook email and his computer files using the Plaintiff's name, as well as her A-number. Responsive records were found and forwarded to the ERO IDU POC.

22. The Houston Field Office assigned the search to a Mission Support Specialist and an Assistant Field Office Director, who conducted searches of the RAILS database, their computer, and outlook email accounts, using Plaintiff's name and A-number. Responsive records were found and forwarded to the ERO IDU POC.

23. On September 2, 2022, ICE FOIA re-tasked ERO for all of Plaintiff's medical records from the Joe Corley Detention Facility, as well as all transfer and/or attempted removal documents. Upon receipt of this tasking, the ERO IDU POC re-tasked the ERO Houston Field Office for records responsive to this supplemental tasking.

24. On September 2, 2022, a Detention Officer at the Houston Contract Detention Facility, under the ERO Houston Field Office, conducted a search of her Outlook email, and her desktop

computer using the Plaintiff's A-number, date of birth, name, and country of birth. The Assistant Officer in Charge also searched the EARM and EAGLE databases. Responsive records were found and forwarded to the ERO IDU POC.

25. On September 2, 2022, the Assistant Officer in Charge at the ERO Houston Field Office conducted a search of EARM and RAILS for detention history records using the Plaintiff's name. Responsive records were found and forwarded to the ERO IDU POC.

26. On November 2, 2022, the ERO IDU POC submitted a supplemental tasking request to ERO Removal and ICE Air Operations for responsive records to the FOIA Request. The Deputy Attaché for Removal, Guatemala City, Guatemala, commenced a search for records on his desktop computer using the Plaintiff's name and A-number. This search yielded no records. In addition, on November 4, 2022, an Assistant Attaché of ERO Removal conducted a search of his desktop computer and outlook email using Plaintiff's name and A-number. This search also yielded no records. Finally, the Unit Chief of ICE Air Operations conducted a search for records on his desktop computer and his outlook email using the Plaintiff's name, A-number, and date of birth. This search yielded no responsive records.

27. On January 4, 2023, the ERO IDU POC submitted another supplemental tasking request to the ERO Houston Field Office and the Joe Corley Detention Facility. This tasking was for additional medical records from when Plaintiff was detained at the Joe Corley Detention Facility. The specific time frame referenced for this supplemental tasking was from July 15, 2020, until Plaintiff's release on August 8, 2020. In response, a Deportation Officer from the Houston Field Office conducted a search of the EARM system using Plaintiff's A-number, full name, and medical record number. The same search was done of the Deportation Officer's desktop computer and outlook email. This supplemental search yielded duplicates of previously produced records, including no new responsive records.



28. On January 4, 2023, the ERO IDU POC submitted a supplemental tasking request to the New Orleans Field Office and the Oakdale Detention Facility. This supplemental tasking was specifically for documents related to two alleged attempted removals and/or transfers on or around November 11, 2020, and December 8, 2020, as well as the missing medical records from Joe Corley Detention Facility. The tasking also specified a transfer of Plaintiff between Oakdale and Houston by air. The Assistant Field Officer Director assigned to this request searched his outlook email. The Assistant Field Office Director also searched the EARM system using Plaintiff's name and A-number, which produced duplicates of records previously produced. Responsive records were found and forwarded to the ERO IDU POC.

29. On April 10, 2023, another supplemental search tasking was sent to the Houston Field Office for medical records relating to Plaintiff during her period of Detention at the Joe Corley Detention Medical Facility. Specifically, this tasking requested a search for medical records related to documents produced in the fifth interim release, pages 1108-1112, and pages 1114-15, where reference to additional medical treatment or appointments is made. The Supervisory Detention and Deportation Officer searched the EARM and the Person Centric Query Service ("PCQS") systems using Plaintiff's name, as well her A-number. He also searched his outlook email account using the Plaintiff's name and A-number. Both searches yielded no records not previously produced.

30. On May 18, 2023, a last supplemental search was tasked out to both the Houston Field Office and the New Orleans Field Office. This supplemental search was for records related to a fire at Joe Corley Detention Facility on July 15, 2020, when (1) Plaintiff was allegedly seen by medical personnel for smoke inhalation and damage to her face on July 15 and 16, 2020, and (2) when Plaintiff was allegedly taken to the infirmary for shortness of breath. The New Orleans Field Office deferred this search to the Houston Field Office. The Houston Field Office conducted a search of a Deportation

Officer's desktop computer using the search term "fire." This search yielded no responsive records. The Deportation Officer also searched her outlook email using Plaintiff's name, A-number, and the search term "fire," which also resulted in no responsive records. The ERO Houston Office submitted a final no additional records response to this FOIA request.

31. On October 5, 2023, the following 3 inquiries were sent to ERO IDU for a response: 1) Plaintiff claims there was a "fire" on July 15, 2020, and that she was seen by medical staff on July 15 or July 16, 2020. Can we please double check those dates for any medical visits or records? 2) On Bates Page 1111 it states that an appointment was made for 5/6/2020. Can we find any documentation about that appointment? And 3) Plaintiff claims that she was put on a plane (and pulled off the plane) on Nov. 12, 2020. Can we see if we have any records about the Plaintiff being put on that plane, being removed from the plane?

32. With respect to 1) and 2), the Director of Nursing, at the Joe Corley Processing Center, where Plaintiff was detained, conducted a search of the Plaintiff's medical file, and did not find any records related to the alleged medical staff interaction on/around July 15, 2020 or the alleged medical appointment on May 6, 2020. The visits may or may not have taken place, but no records in writing were located of such visits. With respect to 3), the ERO IDU POC tasked all 3 Deportation Officers found on the document cited by Plaintiff's Counsel. All 3 Deportation Officers conducted searches of their Outlook Emails using Plaintiff's name and A-Number, and all 3 had no responsive records related to the alleged incidents on November 11, 2020 and December 8, 2020. It is possible that the Plaintiff was put on a plane and then taken off the plane without incident. If that was the case, it would not necessarily have been recorded into any type of evidence. Daily there are last minute subject's taken off of aircraft due to not being removable.

33. I believe that all reasonable searches that could identify responsive records have been conducted by the agency and no additional searches would be reasonably likely to identify any responsive records that have not already been found and produced to the Plaintiff.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Signed this 29<sup>th</sup> day of August, 2024.

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Fernando Pineiro, FOIA Director  
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