

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**SOUTHERN POVERTY LAW
CENTER, INC.,**

2 and 3, 2016. During these immigration raids, ICE agents targeted 121 immigrant women and children in their homes, and removed them into custody.¹ These raids have caused widespread panic and fear in immigrant communities nationwide, and witnesses' reports have raised serious concerns about potential due process and constitutional violations committed by ICE agents during the raids.

3. Plaintiff submitted a FOIA request to Defendants seeking specific information related to these immigration raids on January 7, 2016. To date, Defendants have failed to produce any records or provide any substantive response to the request.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1346. This Court also has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. § 552(a)(4)(B).

5. Venue is proper in the Northern District of Georgia pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e). Venue is proper because a substantial portion of the events giving rise to this action occurred in this district, and because

¹ Statement by Secretary Jeh C. Johnson, Southwest Border Security (Jan. 4, 2016) <https://www.dhs.gov/news/2016/01/04/statement-secretary-jeh-c-johnson-southwest-border-security> (“As part of these operations, 121 individuals were taken into custody, primarily from Georgia, Texas, and North Carolina. . .”).

Defendants maintain records and information subject to the FOIA request in this district.

PARTIES

6. Plaintiff SPLC is a non-profit organization dedicated to fighting hate and bigotry and to seeking justice for the most vulnerable members of our society. Through the use of public education, litigation, and other forms of advocacy, SPLC works towards a vision of equal justice and equal opportunity. SPLC has a longstanding commitment to defending the rights of immigrants, and provides free

2-3, 2016.² ICE has possession of, and control over, the information sought by Plaintiff under FOIA.

STATUTORY BACKGROUND

9. FOIA, 5 U.S.C. § 552, mandates disclosure of records held by a federal agency in response to a request for such records by a member of the public unless the records sought fall within certain narrow statutory exemptions.

10. The basic purpose of FOIA is to enable the public to hold the government accountable for its actions, through transparency and public scrutiny of governmental operations and activities. Through access to government information, FOIA helps the public better understand the government, thereby enabling a vibrant and functioning democracy. Freedom of Information Act, 74 Fed. Reg. 4683 (Jan. 26, 2009) (“In our democracy, the Freedom of Information Act (FOIA), which encourages account0(m)17.2(p)-4(r)8.18 Tm [(2(t)-n)--4(r)8.18 Tm.0(m)17R-4.3(eIn)-43

11. Any member of the public may request records from an agency of the United States under FOIA. An agency that receives a FOIA request must respond in writing to the requestor within 20 business days after receipt of the request. 5 U.S.C. § 552(a)(6)(A)(i).³ In its response, the agency must inform the requestor whether or not it intends to comply with the request, provide reasons for its determination, and inform the requestor of his or her right to appeal the determination. FOIA provides for an extension of this deadline “[i]n unusual circumstances” but limits this extension to “ten working days.” 5 U.S.C. § 552(a)(6)(B)(i).

12. A FOIA requestor is deemed to have exhausted all administrative remedies if the agency fails to comply with the request within statutory time limits. 5 U.S.C. § 552(a)(6)(C)(i).

13. FOIA requires an agency to timely disclose all records to a FOIA request that do not fall within nine narrowly construed statutory exemptions. 5

³ The FOIA Improvement Act of 2016, Pub. L. No. 114-185, 130 Stat. 538 (codified at 5 U.S.C. § 552 (2016)), which amended 5 U.S.C. § 552, was enacted on June 30, 2016, and is effective for any FOIA requests made after this date. This complaint cites to statutory requirements in effect at the time of the filing of Plaintiff’s FOIA request, on January 7, 2016.

U.S.C. § 552(a)(3)(A); 5 U.S.C. § 552(b)(1)-(b)(9). FOIA also requires an agency to make a reasonable search for responsive records. 5 U.S.C. § 552(a)(3)(C).

14. Upon a requestor's complaint, a district court has jurisdiction to enjoin an agency from withholding records and to order production of records subject to disclosure. 5 U.S.C. § 552(a)(4)(B).

FACTUAL BACKGROUND

15. On January 2 and 3, 2016, ICE agents conducted a multistate enforcement operation, sweeping into homes across Georgia, North Carolina, and Texas. Upon information and belief, ICE agents targeted and detained 121 people during these immigration raids, all of whom were women and children. ICE agents removed these women and children from their homes, and transferred them to an immigration detention facility in Dilley, Texas.

16. These raids have raised serious concerns about potential constitutional violations. Upon information and belief, in several instances, ICE agents entered homes without obtaining lawful and voluntary consent during these immigration raids. In these cases, ICE agents allegedly used deception to gain entry into the homes, stating that they were police officers looking for a criminal suspect and showing residents a photo of an African American man. In other instances, ICE

agents allegedly stated that they were only taking the immigrants into custody for a short time to examine the women's electronic ankle shackles.

17. Upon information and belief, the ICE agents did not have warrants to conduct these raids. The agents did not show residents copies of warrants, which are required to enter a home without valid consent, regardless of a person's immigration status. When asked for copies of warrants or orders to enter a home, ICE agents ignored the requests, threatened residents, or ordered them to "be quiet."

18. Upon information and belief, ICE had granted many of the targeted immigrants permission to remain in the United States prior to the immigration raids. These immigrants had complied with orders of supervision provided by ICE, which permitted them to remain in the United States subject to certain conditions, including regular check-in appointments with ICE, or wearing electronic ankle shackles that allowed ICE to track their location. These immigrants had consistently complied with the conditions of their orders of supervision.

19. Upon information and belief, all but approximately twelve of the detained families were subsequently deported. The families that have been able to remain in the United States had insisted on speaking to a lawyer while detained, allowing their counsel to file petitions for stays of deportation with the Board of Immigration Appeals, all of which were uniformly granted.

20. These raids, and their impact on immigrant communities nationwide, have become the subject of immense public interest and criticism.⁴ The raids immediately incited widespread panic and fear in immigrant communities across the

enforcement agencies.⁷ Likewise, the national news media has raised concerns about potential due process and constitutional violations committed during the raids.⁸

PLAINTIFF'S FOIA REQUEST

21. On January 7, 2016, Plaintiff served Defendants with a request for agency records pursuant to FOIA. The request sought disclosure by Defendants of documents pertaining to the January 2-3, 2016 immigration raids. A copy of Plaintiff's FOIA request is attached as Exhibit A.

22. The FOIA request sought the following categories of documents:

- 1) Any and all records containing, describing, or referring to guidance, guidelines, rules, directives, policies, procedures, or trainings related to enforcement operations to identify, locate, arrest, or remove individuals apprehended at the southern border after May 1, 2014 without authorization, including, but not limited to individuals taken into custody in North Carolina, Georgia, and Texas on January 2 and 3, 2016; or discussing enforcement goals, quotas, or targets for such enforcement teams or operations;

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, FoxNewsLatino, Jan. 5, 2016; Bruce Leshan, , Courier Post, Jan. 11, 2016; Imelda Mejia, Valley Central, Jan. 6, 2016; Aliyya Swaby, ,” New Haven Independent, Jan. 6, 2016

⁸ Matthew Teague,

- 2) Any and all records containing, describing, or referring to disciplinary complaints, press releases, public statements, and post-investigation reports for enforcement operations conducted by DHS in North Carolina, Georgia, and Texas on January 2 and 3, 2016, including, but not limited to lists of individuals relied upon during enforcement operations;
- 3) Any and all records containing, describing, or referring to assistance provided by or cooperation with local, state, or federal law enforcement officers or agencies, including, but not limited to local police departments or sheriffs in the jurisdictions of enforcement operations conducted by DHS in North Carolina, Georgia, and Texas on January 2 and 3, 2016. Such records may include, but are not limited to agreements with counties, cities, towns, and municipalities, or any agent thereof; information-sharing agreements, including, but not limited to proposed agreements, Memoranda of Agreements, Memoranda of Understanding; or communication between DHS agents and any local or state law enforcement official;
- 4) Any and all records containing, describing, referring to, or revealing the following information related to enforcement operations conducted by DHS in North Carolina, Georgia, and Texas on January 2 and 3, 2016:
 - a. Individuals Apprehended by Immigration and Customs Enforcement (“ICE”) or other DHS component agencies, including Homeland Security Investigations (“HIS”):
 - i. Name, date of birth, nationality, race and ethnicity, and location of any individual of 4.0(y6.5(o2 14.03 Ts8.0(n)-4.)-2

iv.

circumstances” but limits this extension to “ten working days.” 5 U.S.C. § 552(a)(6)(B)(i). In its January 8, 2016 email, ICE stated that it would invoke this ten-day extension. Exhibit B.

25.

CAUSES OF ACTION

COUNT I:

VIOLATION OF THE FREEDOM OF INFORMATION ACT

27. Plaintiff realleges and incorporates the allegations contained in the foregoing numerical paragraphs as if each such allegation was set forth herein in its entirety.

28. Defendants have violated 5 U.S.C. § 552(a)(3)(A) by failing to promptly release agency records in response to the FOIA request.

29. Defendants have violated 5 U.S.C. § 552(a)(3)(C)-(D) by failing to make reasonable efforts to search for records responsive to the FOIA request.

30. Defendants have violated 5 U.S.C. § 552(a)(6)(A)(i) by failing to make a determination regarding the FOIA request within the governing statutory time limit.

31.

32. Declaratory relief is authorized under 22 U.S.C. § 2201 because an actual and justiciable controversy exists regarding Defendants' improper withholding of agency records in violation of FOIA.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff herewith prays for the following relief:

- (a) For a judicial declaration that Defendants' failure to disclose the records requested by Plaintiff is unlawful;
- (b) For injunctive relief ordering Defendants to immediately and expeditiously process Plaintiff's FOIA request and, upon such processing, to make the requested records available to Plaintiff;
- (c) For Plaintiff's reasonable attorney's fees and litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and
- (d) For such other relief as the Court may deem just and proper.

CERTIFICATE OF COMPLIANCE WITH LR 5.1

I hereby certify that the foregoing document is written in 14 point Times New Roman font in accordance with Local Rule 5.1.