

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 18-cv-00302-RPM

CIVIL RIGHTS EDUCATION AND ENFORCEMENT CENTER,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF HOMELAND SECURITY; and,
UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT,

Defendants.

**DECLARATION OF ICE FOIA OFFICER CATRINA PAVLIK-KEENAN
REGARDING ICE FOIA OFFICE WORKLOAD AND RESOURCES**

I, Catrina Pavlik-Keenan, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am the FOIA Officer of the Freedom of Information Act Office (ICE FOIA OFFICE) at the United States Immigration and Customs Enforcement (ICE). I have been the director of the ICE FOIA Office since that office was created on December 18, 2006. Prior to holding this position, I worked for approximately four years in the FOIA Office at the Transportation Security Administration, first as a Supervisory FOIA Analyst, then as Deputy Director for two years, and finally as Director. In total, I have 25 years of experience processing FOIA requests.
2. My official duties and responsibilities include the general management, oversight, and supervision of the ICE FOIA Office. The ICE FOIA Office is responsible for the receipt, processing, and response to all FOIA and Privacy Act (PA) requests received at ICE. I manage and supervise a staff of ICE FOIA Paralegal Specialists, who report to me regarding the processing

of FOIA and PA requests received by ICE. In connection with my official duties, I am familiar with ICE's procedures for responding to requests for information pursuant to provisions of FOIA and the PA.

3. I make the declaration in my official capacity based on my personal knowledge, my review of records 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.

4. This declaration describes ICE's current staffing and workload constraints, as well as ICE FOIA's ability to process records for production in pending litigation matters.

5. The ICE FOIA Office has an increasingly heavy workload. Accordingly, ICE FOIA has adopted the court-sanctioned practice of generally handling backlogged requests on a "first-in, first-out basis." The ICE FOIA Office receives requests for ICE records directly from myriad requesters including, but not limited to, individuals, media outlets, nonprofit organizations, and researchers. The ICE FOIA Office also receives a high volume of FOIA requests referred to ICE by U.S. Citizenship and Immigration Services (USCIS) FOIA Office. The ICE FOIA Office is responsible for processing these referred requests, which typically consist of ICE documents from an individual's Alien File (A-file), and then responding directly to the requester.

6. The ICE FOIA Office tracks all of the requests it receives, both directly and through referral, through FOIAXpress, which is ICE FOIA's case management system.

7. As of July 30, 2018, for Fiscal Year (FY) 2018, ICE has received 79,915 FOIA requests.

8. As of July 30, 2018, for FY 2018, ICE FOIA has a backlog of approximately 1,988 FOIA requests, which have been pending for more than 20 business days, as tracked

in FOIAXpress.

9. These numbers represent a substantial increase in the number of FOIA requests received by ICE in previous years. In FY 2015, ICE FOIA received 44,748 FOIA requests, and had a backlog of approximately 841 FOIA requests carried over into FY 2016. In FY 2016, ICE FOIA received 63,385 FOIA requests, and had a backlog of approximately 621 FOIA requests carried over into FY 2017. In FY 2017, ICE FOIA received 47,839 FOIA requests, and had a backlog of approximately 535 FOIA requests carried over into FY 2018.

10. The dramatic increase in the ICE FOIA Office's workload over the course of three years is mainly due to an increase in the number of referrals received from USCIS. Prior to FY 2012, USCIS had an agreement with ICE, whereby USCIS agreed to process certain types of non-investigatory ICE records located within an Alien File (A-File) pursuant to a FOIA request for A-File records. During the course of FY 2012, that agreement was changed, and USCIS began referring ICE records contained in the A-File to ICE for processing and direct response to the requestor.

11. In addition to the increase in USCIS referrals of A-File documents, ICE has also experienced an increase in the number and complexity of FOIA requests such as Plaintiff's requests that seek documents other than those typically found in an A-File. These FOIA requests take considerably longer to process, due to the extensive search that is usually required and the intricacies of the documents or data produced. In FY 2017, one FOIA requestor alone – a data clearing house – filed more than 270 FOIA requests seeking extensive data extracts. As of January 31, 2018, ICE FOIA has 144 open similar FOIA requests from the same requestor in FY 2018 alone.

12. A consequence of the increasing complexity and volume of ICE FOIA's workload is that more of those FOIA requests become subject to litigation in U.S. District Court. The ICE FOIA Litigation Processing Unit consists of three personnel, who also have other duties, in addition to processing documents pursuant to litigation. The members of the ICE FOIA Litigation Processing Unit also prepare reports, redact Prison Rape Elimination Act (PREA) reports, redact Office of Detention Oversight (ODO) reports, as well as handle consults and referrals from other agencies as they come in. Additionally, the members of the ICE FOIA Litigation Processing Unit also handle a host of other administrative duties, including, but not limited to, monitoring the ICE FOIA inbox, scheduling productions, preparing clearance emails, as well as preparing submitter's notices. In addition, due to the loss of nine ICE FOIA employees due to budget cuts, members of the team are also increasingly required to assist other units within ICE FOIA on the processing of incoming FOIA requests, congressional inquiries and other projects at any given time. Each personnel team member can process on average 100-300 pages per day, depending on the complexity of the documents.

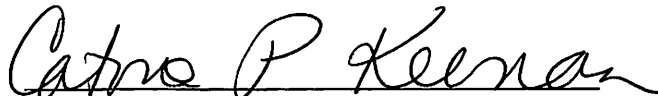
13. As of July 30, 2018, the ICE FOIA litigation processing unit is working on 78 active FOIA litigations. The ICE FOIA Office is currently processing documents for rolling production in 18 of those cases with an additional 3 cases that are scheduled to be added shortly. The additional 3 cases are expected to contribute a combined total of 1,500 pages per month. The current total average monthly litigation production page count is between 8,000 to 11,000 pages per month. This page count number does not take into account FOIA litigation matters that are short-term and do not require productions on a rolling basis.

14. All of these factors have resulted in ICE FOIA nearly doubling its overall workload in comparison with the same date for FY 2017.

15. In order to meet its obligations for all cases in litigation, and ensure that all of the FOIA matters progress so that each requester can receive responses, the ICE FOIA Office typically cannot process more than 500 pages per month for each case. Any increase in one matter would hinder ICE FOIA's ability to process records for productions in other matters.

I declare under penalty of perjury that the forgoing is true and correct:

Dated this 3th of August 2018.



Catrina Pavlik-Keenan, FOIA Officer
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