



## **PARTIES**

2. Plaintiff NYIC is a policy and advocacy organization that represents and serves nearly 200 groups in New York working with immigrants and refugees. NYIC researches, generates, and supports advocacy around issues related to immigration. It also works with national immigration advocacy groups to develop policy guidance and oversight in the ever-changing context of immigration law. NYIC's targeted research and advocacy enables legal service providers, community members, and policymakers to address the needs and gaps in services to immigrants living in New York State.

3. Defendant ICE is an agency within the Department of Homeland Security in the executive branch of the United States government and consists of three operational directorates: Homeland Security Investigations ("HSI"), Enforcement and Removal Operations ("ERO"), and Office of the Principal Legal Advisor. ICE is an agency within the meaning of 5 U.S.C. § 552(f)(1).

4. Defendant CBP is an agency within the Department of Homeland Security in the executive branch of the United States government. CBP is an agency within the meaning of 5 U.S.C. § 552(f)(1).

## **JURISDICTION AND VENUE**

5. This Court has jurisdiction over the parties and action under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

6. This Court has the authority to grant declaratory relief pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*

7. Venue is proper pursuant to 5 U.S.C. § 552(a)(4)(B) because Plaintiff NYIC resides in and has its principal place of business in the forum and at least some, if not all, of the records NYIC seeks are believed to be located in the Southern District of New York.

### **STATUTORY FRAMEWORK**

8. FOIA promotes open government by providing every person with a right to request and receive federal agency records. 5 U.S.C. § 552(a)(3)(A). FOIA “adopts as its most basic premise a policy strongly favoring public disclosure of information in the possession of federal agencies.” *Halpern v. F.B.I.*, 181 F.3d 279, 286 (2d Cir. 1999).

9. In furtherance of its purpose to encourage open government, FOIA imposes strict deadlines on federal government agencies to provide responsive documents to FOIA requests. 5 U.S.C. § 552(a)(6)(A).

10. An agency must comply with a FOIA request by issuing a determination within twenty business days after receipt of the request. *Id.* § 552(a)(6)(A)(i).

11. An agency may be entitled to one ten-day extension of time to respond to a request if it provides written notice to the requester explaining that “unusual circumstances” exist that warrant additional time. 5 U.S.C. § 552(a)(6)(B).

12. An agency must immediately notify the requester of its determination whether to comply with a request, and the reasons for it, and of the right of such person to appeal an adverse determination. *Id.* § 552(a)(6)(A)(i).

13. An agency must make a determination on appeal within twenty business days after receipt of the appeal. *Id.* § 552(a)(6)(A)(ii).

14. A FOIA requester who exhausts administrative remedies may petition the court for injunctive and declaratory relief from the agency's continued withholding of public records. *Id.* § 552(a)(4)(B).

**DEFENDANTS' INVOLVEMENT WITH OPERATION MATADOR**

15. Launched in May 2017, Operation Matador is a joint federal-state task force designed to combat the proliferation of transnational gangs in the United States, with a particular focus on the gang known as MS-13.

16. Defendants ICE and CBP have both been heavily involved in the planning and execution of Operation Matador. On June 14, 2017, ICE issued a press release stating that "U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) New York, along with ICE Enforcement and Removal Operations (ERO), announced their recent launch of Operation Matador." *Operation Matador nets 39 MS-13 arrests in last 30 days*, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (June 14, 2017), <https://www.ice.gov/new/releases/operation-matador-nets-39-ms-13-arrests-last-30-days>. (Ex. C.) According to this press release, Operation Matador is a joint operation between several federal and state agencies, including multiple ICE components (HSI and ERO) and CBP. In its first ten months, 475 individuals were arrested as part of this wide-ranging operation. *Joint Operation nets 24 transnational gang members, 475 total arrests under Operation Matador*, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (March 29, 2018), <https://www.ice.gov/news/releases/joint-operation-nets-24-transnational-gang-members-475-total-arrests-under-operation>. (Ex. D.)

17. Given their significant involvement in Operation Matador, and upon information and belief, ICE and CBP possess voluminous records relating to the operation. These records include documents about Operation Matador's conception and approval, an authorization

memorandum, the operation's planning documents, guidelines for carrying out the operation, and Operation Matador's funding and budget.

18. While Operation Matador's existence and goals have been widely reported, little is known about it. Federal and state authorities have declined to disclose even basic information that is made public in most law enforcement operations. *See* Tom Hays and Colleen Long, *The New York crackdown on MS-13 that Trump touted in his State of the Union speech remains shrouded in secrecy*, BUSINESS INSIDER (Feb. 21, 2018), <https://www.businessinsider.com/ap-much-touted-ms-13-sweep-keeps-even-most-basic-details-secret-2018-2>. (Ex. E.)

19. Operation Matador is of special and current public interest, particularly in New York, where it is centered. Upon information and belief, millions of dollars of taxpayer money have been expended on Operation Matador and hundreds of New York residents have been arrested as part of the operation.

20. Operation Matador disproportionately affects immigrant communities. Many individuals investigated as a part of Operation Matador were undocumented immigrants who have been taken from their families and indefinitely detained or even deported, despite a dearth of evidence tying them to gang activity. Over half of arrests associated with Operation Matador (248 of the 475 total arrests) have been administrative arrests by immigration agencies, rather than criminal arrests. *See* Ex. D. Other immigration rights groups have accused the government of using unsubstantiated rumors of gang affiliations to detain innocent people. *See* Ex. E.

#### **NYIC'S FOIA REQUESTS**

21. NYIC is gravely concerned that two federal immigration agencies, ICE and CBP, and the immigration court system are so heavily involved in a law enforcement operation purportedly aimed at "gang members," not immigrants. NYIC therefore sought documents from

ICE and CBP that would shed light on Operation Matador and ensure that the rights of immigrants were not being violated.

22. In particular, on November 22, 2017, NYIC submitted a FOIA request to ICE, directed at both HSI and ERO (the “ICE Request,” attached as Exhibit A).

23. On the same day, NYIC also submitted a similar FOIA request to CBP (the “CBP Request,” attached as Exhibit B).

24. The ICE Request and the CBP Request (collectively the “FOIA Requests”) seek from each agency:

(1) All documents relating to [the agency’s] agreements with other government agencies, state or federal, involving Operation Matador . . . ; (2) all documents reflecting communication and coordination between government agencies, state or federal, involving Operation Matador . . . ; (3) all training materials distributed to or communicated with any governmental agency, state or federal, that participated in Operation Matador . . . ; and (4) all documents, regulations, and guidelines defining or outlining the groups or profiles of individuals targeted by Operation Matador.

25. In addition, to determine the extent of CBP’s involvement in Operation Matador specifically, the CBP Request asks for, “All documents and guidance relating to CBP resources committed or contributed to Operation Matador, including any personnel or equipment used in Operation Matador.” *See* Ex. B.

26. Because ICE planned and launched the joint operation, the ICE Request also requests,

(1) All documents related to the initial conception of Operation Matador, including the plan submitted for approval and any comments, objections, or reservations related to the plan; (2) the authorization memorandum approving Operation Matador; (3) all documents, regulations, and guidelines relating to the operation plans for carrying out Operation Matador; (4) all documents, regulations, and guidelines relating to operation approval plans for carrying out Operation Matador; (5) all documents, regulations, and guidelines relating to Operation Matador’s funding and any funding requests; and (6) all documents and guidelines relating to Operation Matador’s budget. *See* Ex. A.

27. As detailed further below, despite the government's expressed presumption in favor of disclosure with regard to FOIA requests, and NYIC's exhaustion of administrative remedies, CBP produced only ten pages of heavily redacted emails and ICE failed to produce a single document.

**DEFENDANT ICE'S INSUFFICIENT RESPONSE**

28. On December 12, 2017, ICE acknowledged receipt of the ICE Request and invoked the 10-day statutory extension to respond. (Ex. F.)

29. On January 12, 2018, ICE issued its FOIA decision. (Ex. G.) It stated that ICE was withholding the requested records in their entirety pursuant to 5 U.S.C. § 552(b)(7)(A) ("FOIA Exemption 7(A)"). According to ICE's decision,

30. "ICE has determined that the information you are seeking relates to ongoing criminal law enforcement investigations. Therefore, ICE is withholding all records, documents, and/or other material, which if disclosed prior to completion, could reasonably be expected to interfere with law enforcement proceedings and final agency actions related to those proceedings. Please be advised that once all pending matters are resolved and FOIA Exemption 7(A) is no longer applicable, there may be other exemptions which could protect certain information from disclosure, such as FOIA Exemptions 6, 7(C), 7(D), 7(E), and/or 7(F)."

31. ICE's decision violated FOIA in at least three ways. First, ICE failed to detail why or how the requested information was related to an enforcement proceeding. Second, ICE withheld all requested documents, rather than provide access to, at a minimum, the portions of responsive records that would not interfere with enforcement proceedings. Third, ICE failed to include any information about the search it was obligated to conduct in response to NYIC's request, including whether such a search actually occurred.

32. NYIC timely appealed ICE's decision by letter dated February 27, 2018, explaining the deficiencies in ICE's response. (Ex. H.) ICE received NYIC's appeal letter on March 9, 2018. (Ex. I.)

33. ICE issued its decision on appeal on April 6, 2018. (Ex. J.) ICE's letter response conclusorily stated that HSI and ERO searched for responsive records after receiving the ICE Request and that the search was "adequate in all respects and was reasonably calculated to uncover all relevant documents." *Id.* The letter also affirmed ICE's initial decision to withhold the records, stating that,

34. The ICE FOIA Office applied FOIA Exemption (b)(7)(A) because of the "open status of an ongoing criminal investigation and the nature of the documents, specifically, that they are records or information compiled for a law enforcement purpose, the disclosure of which could reasonably be expected to interfere with ongoing enforcement proceedings. ICE has confirmed that as of April 6, 2018, the investigation is still ongoing. . . . ICE reserves the right to assert FOIA Exemptions (b)(5), (b)(6), (b)(7)(C), (b)(7)(D), (b)(7)(E), and (b)(7)(F) when FOIA Exemption (b)(7)(A) no longer applies." *Id.*

35. ICE's improper refusal to disclose any substantive details about how Exemption (b)(7)(A) allegedly applies to the requested documents hampers NYIC's ability to meaningfully respond and itself is a violation of FOIA. But ICE's reading of the exemption is improper even on its face because Exemption (b)(7)(A) exempts "records or information compiled for law enforcement purposes, *but only to the extent that the production of such [records] could reasonably be expected to interfere with enforcement proceedings.*" 5 U.S.C. § 552(b)(7)(A) (emphasis added). This exemption therefore could not possibly fully exempt every document, and every word within the documents, responsive to NYIC's twenty categories of requests. In fact,

none of NYIC's requests seek documents whose disclosure would interfere with enforcement proceedings. The requests ask only for broad, agency-level information, not details of specific investigations. For example, it is inconceivable that releasing records responsive to NYIC's request for "documents and guidelines relating to Operation Matador's budget" would interfere with agencies' ability to carry-out the operation itself.

36. ICE's withholding of records responsive to the ICE Request is improper and in violation of the FOIA.

### **DEFENDANT CBP'S INSUFFICIENT RESPONSE**

37. On December 8, 2017, CBP responded to the CBP Request via email, stating that "After a careful review of your FOIA request, we determined that the information you are seeking is not under the purview of CBP. Requests for information regarding Operation Matador, should be made to Immigration and Customs Enforcement (ICE)." (Ex. K.)

38. CBP's decision violated FOIA in two key ways. First, CBP failed to include any information about the search it was obligated to conduct in response to NYIC's request, including whether such a search actually occurred or whether responsive documents were located. Second, NYIC impermissibly denied NYIC's request for a fee waiver under 5 U.S.C. § 552(a)(4)(A)(iii). NYIC timely appealed CBP's decision by letter dated January 2, 2018, explaining these deficiencies. (Ex. L.)

39. On April 20, 2018, CBP responded with its decision on NYIC's appeal. Implicitly admitting that its previous search may not have fully responded to the CBP Request, CBP stated that it conducted a new search for records related to the planning and execution of Operation Matador. The letter stated, in response to NYIC's first category of requests for "all documents relating to Custom and Border Protection (CBP) agreements with other government agencies, state

or federal involving Operation Matador,” that there were no information sharing agreements between CBP and ICE because the “One DHS Rule,” DHS Policy Directive 262-05, “Information Sharing and Safeguarding” (Sept. 4, 2014), mandated that Department of Homeland Security (DHS) components automatically share information with each other. But this response was deficient because the fact that CBP and ICE automatically share information does not mean that CBP does not have agreements with state agencies, or federal agencies outside DHS, that had a role in Operation Matador, an issue which CBP’s response does not address.

40. CBP’s letter then outlined CBP’s newest search for responsive records. According to CBP’s decision on appeal, CBP’s FOIA Division contacted the CBP office geographically closest to the sites of the operation and requested “any CBP records they had about CBP’s role in the planning and execution of Operation Matador.” The local CBP office responded with ten pages of emails which the CBP FOIA Division redacted pursuant to its invocation of FOIA Exemptions (b)(6), (b)(7)(C), and (b)(7)(E) before releasing them to NYIC. (Ex. M.)

41. The CBP’s search for records “about CBP’s role in the planning and execution of Operation Matador” was not sufficiently broad nor sufficiently detailed to ensure that the local CBP office found all documents responsive to all of the categories in the CBP Request. For instance, the CBP Request asked for “all documents reflecting communication and coordination between government agencies, state or federal, on Operation Matador.” This request was not restricted to the planning and execution of the Operation but, rather, sought all related communications (*see also* Ex. B). Additionally, the email was not reasonably calculated to locate all records responsive to the CBP Request. For example, instead of searching all offices likely to possess responsive information, CBP’s search was restricted to the single CBP office closest to the site of the operation.

42. As evidence of the insufficiency of CBP's search, despite CBP's active participation in Operation Matador over the last twelve months, it was purportedly able to find only 10 total pages of records.

43. CBP's heavy redactions to the documents before releasing them to NYIC also violate FOIA. None of NYIC's requests seek information regarding (1) "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy," 5 U.S.C. § 552(b)(6); (2) "records or information compiled for law enforcement purposes [that] could reasonably be expected to constitute an unwarranted invasion of personal privacy," *id.* § 552(b)(7)(C); or (3) "records or information compiled for law enforcement purposes [that] would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law," *id.* § 552(b)(7)(E).

44. CBP's redactions were therefore unwarranted. For example, CBP redacted innocuous information such as the "number and type of CBP employees" provided to the Operation under Exemption (b)(7)(E). The disclosure of this type of generic information on personnel would not "disclose techniques and procedures" or "reasonably be expected to risk circumvention of the law." *See id.*

45. CBP's withholding of responsive records is therefore improper and a violation of FOIA.

**CAUSE OF ACTION**

(Violation of FOIA, 5 U.S.C. § 552)

46. NYIC re-alleges and incorporates by reference the allegations set forth in paragraphs 1 through 45 of this complaint.

47. Defendants' failure to make promptly available the records sought by NYIC's request violates FOIA, 5 U.S.C. § 552.

48. Defendants' failure to conduct a reasonable search for the records sought by NYIC's request violates FOIA, 5 U.S.C. § 552.

49. NYIC has exhausted all administrative remedies with respect to its FOIA requests.

50. There is a justiciable controversy between the parties as to the production of documents responsive to NYIC's FOIA requests.

51. Unless enjoined by this Court, ICE and CBP will not comply with their obligations under FOIA to release the requested information on Operation Matador.

52. NYIC and the public at large will be substantially damaged and harmed if the Court does not enjoin and order Defendants to produce the requested records.

**REQUESTED RELIEF**

WHEREFORE, Plaintiff NYIC respectfully requests that this Court provide the following relief:

A. Find that Defendants violated FOIA by failing to promptly produce records responsive to NYIC's requests;

B. Declare that Defendants violated FOIA by failing to promptly produce records responsive to NYIC's requests;

C. Enjoin Defendants from withholding the records requested in NYIC's requests that have not yet been produced;

D. Order Defendants to immediately and expeditiously search for and disclose the records requested in NYIC's requests;

E. Order that this case be expedited in light of the government's non-cooperation with NYIC's requests;

F. Award NYIC costs and reasonable attorneys' fees as provided by 5 U.S.C. § 552(a)(4)(E); and

G. Grant such other and further relief as this Court may deem just and proper.

DATED: May 16, 2018

Respectfully submitted,

/s/ Terence Y. Leong

Warren Haskel  
Terence Y. Leong  
KIRKLAND & ELLIS LLP  
601 Lexington Avenue  
New York, NY 10022  
Tel.: (212) 446-4800  
Fax: (212) 446-4900  
warren.haskel@kirkland.com  
terence.leong@kirkland.com

*Attorneys for New York Immigration Coalition*

# **EXHIBIT A**



131 West 33<sup>rd</sup> Street  
Suite 610  
New York, NY 10001  
(212) 627-2227  
[www.nyic.org](http://www.nyic.org)

November 22, 2017

U.S. Immigration and Customs Enforcement  
Freedom of Information Act Office  
500 12th Street SW, Stop 5009  
Washington, D.C. 20536-5009  
(202) 732-0660

**Re: Freedom of Information Act Request – Operation Matador  
(Expedited Processing Requested)**

Dear Freedom of Information Officer:

On behalf of the New York Immigration Coalition (NYIC), we request the following pursuant to the Freedom of Information Act, 5 U.S.C. § 552:

A. REQUEST FOR DOCUMENTATION

I. **Homeland Security Investigations (“HSI”)**

1. All documents related to the initial conception of Operation Matador, including the plan submitted for approval and any comments, objections, or reservations related to the plan.
2. The authorization memorandum approving Operation Matador.
3. All documents, regulations, and guidelines relating to the operation plans for carrying out Operation Matador.
4. All documents, regulations, and guidelines relating to operation approval plans for carrying out Operation Matador.
5. All documents, regulations, and guidelines relating to Operation Matador’s funding and any funding requests.
6. All documents and guidelines relating to Operation Matador’s budget.
7. All documents relating to HSI’s agreements with other government agencies, state or federal, involving Operation matador including, but not limited to, ICE Enforcement and Removal Operations, U.S. Citizenship and Immigration Services, U.S. Customs and Border Protection, the Suffolk County Police Department, the Nassau County Police Department, and the New York City Police Department.
8. All documents reflecting communication and coordination between government agencies, state or federal, on Operation Matador including, but not limited to, ICE Enforcement and Removal Operations, U.S. Citizenship and Immigration Services, U.S. Customs and Border

Protection, the Suffolk County Police Department, the Nassau County Police Department, and the New York City Police Department.

9. All training materials distributed to or communicated with any governmental agency, state or federal, that participated in Operation Matador including, but not limited to, ICE Enforcement and Removal Operations, U.S. Citizenship and Immigration Services, U.S. Customs and Border Protection, the Suffolk County Police Department, the Nassau County Police Department, and the New York City Police Department.
10. All documents, regulations, and guidelines defining or outlining the groups or profiles of individuals targeted by Operation Matador.

## **II. Enforcement and Removal Operations (ERO)**

1. All documents related to the initial conception of Operation Matador, including the plan submitted for approval and any comments, objections, or reservations related to the plan.
2. The authorization memorandum approving Operation Matador.
3. All documents, regulations, and guidelines relating to the operation plans for carrying out Operation Matador.
4. All documents, regulations, and guidelines relating to operation approval plans for carrying out Operation Matador.
5. All documents, regulations, and guidelines relating to Operation Matador's funding and any funding requests.
6. All documents and guidelines relating to Operation Matador's budget.
7. All documents relating to ERO's agreements with other government agencies, state or federal, involving Operation Matador including, but not limited to, ICE Homeland Security Investigations, U.S. Citizenship and Immigration Services, U.S. Customs and Border Protection, the Suffolk County Police Department, the Nassau County Police Department, and the New York City Police Department.
8. All documents reflecting communication and coordination between government agencies, state or federal, on Operation Matador including, but not limited to, ICE Homeland Security Investigations, U.S. Citizenship and Immigration Services, U.S. Customs and Border Protection, the Suffolk County Police Department, the Nassau County Police Department, and the New York City Police Department.
9. All training materials distributed to or communicated with any governmental agency, state or federal, that participated in Operation Matador including, but not limited to, ICE Homeland Security Investigations, U.S. Citizenship and Immigration Services, U.S. Customs and Border Protection, the Suffolk County Police Department, the Nassau County Police Department, and the New York City Police Department.

10. All documents, regulations, and guidelines defining or outlining the groups or profiles of individuals targeted by Operation Matador.

**B. REQUEST FOR EXPEDITED PROCESSING**

We are requesting expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E) and 22 C.F.R. § 171.11(f).

The NYIC is a state-wide advocacy and policy coalition representing over 200 non-profit members and partners serving immigrant communities throughout New York State. As MS-13 enforcement efforts have increasingly centralized on Long Island in 2017, the NYIC and its members have paid particular attention to the intersection between gang enforcement and immigration enforcement operations in that part of the state. Earlier this month media reports, citing an ICE official in charge of MS-13 related operations, confirmed that the agency is using gang enforcement as a method of carrying out its immigration enforcement purposes, regardless of known or suspected gang affiliations of the individuals taken into custody.<sup>1</sup> Given these statements and reports, and the rapid and aggressive manner in which ICE is carrying out immigration enforcement often at the expense of due process, it is urgent that the NYIC, its members, and allies, understand the manner in which gang enforcement targeting immigrant communities is carried out to ensure that they are not deprived of their rights.

In addition, and as demonstrated above, the manner in which ICE carries out gang enforcement, particularly operations targeted at immigrant communities, are a “matter of widespread and exceptional media interest.” See 6 C.F.R. § 5.5(e)(3) (“The existence of numerous articles published on a given subject can be helpful to establishing the requirement of that there be an ‘urgency to inform’ the public on the topic”). The numerous news reports on Operation Matador and related operations have called into question the actual purpose of these publicly-funded operations, which have also resulted in a breakdown of trust between local communities and federal and local law enforcement.<sup>2</sup>

In order to ensure that the stated goal of enforcement against MS13 does not infringe upon our communities’ civil liberties and due process rights, it is imperative that this information be released as soon as practicable.

**C. REQUEST FOR FEE WAIVER**

The NYIC requests that ICE waive all fees in connection with this FOIA request in accordance with 5 U.S.C. § 552(a)(4)(A)(iii). Disclosure “is in the public interest because it is likely to contribute

---

<sup>1</sup> Julianne Hing, “Julianne Hing, “ICE Admits Gang Operations are Designed to Lock Up Immigrants”, The Nation (November, 2017) <https://www.thenation.com/article/ice-admits-gang-operations-are-designed-to-lock-up-immigrants/>

<sup>2</sup> *Id.*, See also Julianne Gage, “The US Government is Targeting MS13, But A Former Gang Member Says Arrests Alone Won’t Solve the Problem”, PRI’s The World (November 16, 2017) <https://www.pri.org/stories/2017-11-16/why-former-gang-member-joined-county-health-department>

significantly to public understanding of the operations or activities of the government,” and the NYIC is non-profit organization without any commercial interest in the records.

**a) The records requested concern “operations or activities of the government.”**

The requested records concern the operations or activities of the government. Any operations created and run by ICE, as an agency within the Department of Homeland Security, are fundamentally operations or activities of the government in its handling of immigration enforcement and carrying out its duties to protect the homeland from actual threats. Furthermore the requested documents are not protected from disclosure because they only pertain to the operations and policies of the agency, not to specific investigations or investigatory tactics.

**b) The records requested are likely to contribute significantly to public understanding.**

As stated above, the public has a significant interest in the disclosure of these documents. Both gang operations and immigration enforcement have a tremendous impact on our communities and it as the frequency and scope have greatly expanded in 2017, it is imperative that communities have a greater understanding of the purpose and goals of these operations, as well as what public resources are being used to carry them out.

**c) The NYIC has no commercial interest in the records requested.**

The NYIC is an umbrella policy and advocacy organization for nearly 200 groups in New York State working with immigrants and refugees. The NYIC researches, generates, and supports advocacy around issues related to immigration. It also works with national immigration advocacy groups to develop policy guidance and oversight in the ever-changing context of immigration law. Relevant to these pursuits, the requested information would provide invaluable insight into the needs of vulnerable immigrant populations in New York State and how the government is meeting those needs. This insight would enable targeted research and advocacy to legal service providers, community members, and policymakers to address as to the needs and gaps in services to immigrants living in New York State.

This information is not already available. However, the NYIC will make the disclosed information publicly available to serve the greater community. We will do this in the form of posting the responsive documents on our website, including an index of all available documents, and will synthesize the findings in a report to be distributed publicly and for free to all interested parties.

If it is your position that records exist that are responsive to this request, but that these records (or portions of these records) are exempt from disclosure, please identify the records that are being withheld and state the basis for the denial for each record being withheld. In addition, please provide the nonexempt portions of the records. Requester reserves the right to appeal a decision to withhold any information or a denial of fee waivers.

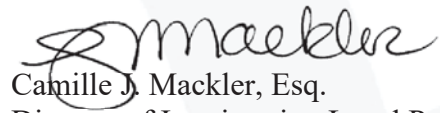
In order to avoid delays in receiving the records, Requester further ask that the records be produced as soon as practicable and on a rolling basis as soon as they become available.

All applicable records can be released to Camille J. Mackler, Esq.; c/o The New York Immigration Coalition; 131 W. 33<sup>rd</sup> Street, Suite 610; New York, NY 10001.

D. CERTIFICATION

I certify that the above information supporting the request for expedited processing is true and correct to the best of my knowledge. If you have any questions regarding the processing of this request, you may contact me by phone at 212-627-2227 ext. 226 or by email at [cmackler@nyic.org](mailto:cmackler@nyic.org). Thank you for your prompt attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "cmackler", written over the printed name.

Camille J. Mackler, Esq.  
Director of Immigration Legal Policy  
New York Immigration Coalition

# **EXHIBIT B**



131 West 33<sup>rd</sup> Street  
Suite 610  
New York, NY 10001  
(212) 627-2227  
[www.nyic.org](http://www.nyic.org)

November 22, 2017

U.S. Customs and Border Patrol  
Via Electronic Form

**Re: Freedom of Information Act Request – Operation Matador  
(Expedited Processing Requested)**

Dear Freedom of Information Officer:

On behalf of the New York Immigration Coalition (NYIC), we request the following pursuant to the Freedom of Information Act, 5 U.S.C. § 552:

**A. REQUEST FOR DOCUMENTATION**

1. All documents relating to Custom and Border Protection (CBP) agreements with other government agencies, state or federal involving Operation Matador, including, but not limited to, ICE Homeland Security Investigations, ICE Enforcement and Removal Operations, U.S. Citizenship and Immigration Services, the Suffolk County Police Department, the Nassau County Police Department, and the New York City Police Department.
2. All documents reflecting communication and coordination between government agencies, state or federal, on Operation Matador including, but not limited to, ICE Homeland Security Investigations, ICE Enforcement and Removal Operations, U.S. Citizenship and Immigration Services, the Suffolk County Police Department, the Nassau County Police Department, and the New York City Police Department.
3. All training materials distributed to or communicated with any governmental agency, state or federal that participated in Operation Matador, including, but not limited to, ICE Homeland Security Investigations, ICE Enforcement and Removal Operations, U.S. Citizenship and Immigration Services, the Suffolk County Police Department, the Nassau County Police Department, and the New York City Police Department.
4. All documents, regulations, and guidelines defining or outlining the groups or profiles of individuals targeted by Operation Matador.
5. All documents and guidance relating to CBP resources committed or contributed to Operation Matador, including any personnel or equipment used in Operation Matador.

## B. REQUEST FOR EXPEDITED PROCESSING

We are requesting expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E) and 22 C.F.R. § 171.11(f).

The NYIC is a state-wide advocacy and policy coalition representing over 200 non-profit members and partners serving immigrant communities throughout New York State. As MS-13 enforcement efforts have increasingly centralized on Long Island in 2017, the NYIC and its members have paid particular attention to the intersection between gang enforcement and immigration enforcement operations in that part of the state. Earlier this month media reports, citing an ICE official in charge of MS-13 related operations, confirmed that the agency is using gang enforcement as a method of carrying out its immigration enforcement purposes, regardless of known or suspected gang affiliations of the individuals taken into custody.<sup>1</sup> Given these statements and reports, and the rapid and aggressive manner in which ICE is carrying out immigration enforcement often at the expense of due process, it is urgent that the NYIC, its members, and allies, understand the manner in which gang enforcement targeting immigrant communities is carried out to ensure that they are not deprived of their rights

In addition, and as demonstrated above, the manner in which ICE carries out gang enforcement, particularly operations targeted at immigrant communities, are a “matter of widespread and exceptional media interest.” *See* 6 C.F.R. § 5.5(e)(3) (“The existence of numerous articles published on a given subject can be helpful to establishing the requirement of that there be an ‘urgency to inform’ the public on the topic”). The numerous news reports on Operation Matador and related operations have called into question the actual purpose of these publicly-funded operations, which have also resulted in a breakdown of trust between local communities and federal and local law enforcement.<sup>2</sup>

In order to ensure that the stated goal of enforcement against MS13 does not infringe upon our communities’ civil liberties and due process rights, it is imperative that information pertaining to Operation Matador, including information held by agencies partnering with Immigration and Customs Enforcement on Operation Matador such as CBP, be released as soon as practicable.

## C. REQUEST FOR FEE WAIVER

The NYIC requests that USCIS waive all fees in connection with this FOIA request in accordance with 5 U.S.C. § 552(a)(4)(A)(iii). Disclosure “is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government,” and the NYIC is non-profit organization without any commercial interest in the records.

---

<sup>1</sup> Julianne Hing, “Julianne Hing, “ICE Admits Gang Operations are Designed to Lock Up Immigrants”, The Nation (November, 2017) <https://www.thenation.com/article/ice-admits-gang-operations-are-designed-to-lock-up-immigrants/>

<sup>2</sup> *Id.*, See also Julianne Gage, “The US Government is Targeting MS13, But A Former Gang Member Says Arrests Alone Won’t Solve the Problem”, PRI’s The World (November 16, 2017) <https://www.pri.org/stories/2017-11-16/why-former-gang-member-joined-county-health-department>

**a) The records requested concern “operations or activities of the government.”**

The requested records concern the operations or activities of the government. Any operations created and run by USCIS, as an agency within the Department of Homeland Security, are fundamentally operations or activities of the government in its handling of immigration enforcement and carrying out its duties to protect the homeland from actual threats. Furthermore the requested documents are not protected from disclosure because they only pertain to the operations and policies of the agency, not to specific investigations or investigatory tactics.

**b) The records requested are likely to contribute significantly to public understanding.**

As stated above, the public has a significant interest in the disclosure of these documents. Both gang operations and immigration enforcement have a tremendous impact on our communities and it as the frequency and scope have greatly expanded in 2017, it is imperative that communities have a greater understanding of the purpose and goals of these operations, as well as what public resources are being used to carry them out.

**c) The NYIC has no commercial interest in the records requested.**

The NYIC is an umbrella policy and advocacy organization for nearly 200 groups in New York State working with immigrants and refugees. The NYIC researches, generates, and supports advocacy around issues related to immigration. It also works with national immigration advocacy groups to develop policy guidance and oversight in the ever-changing context of immigration law. Relevant to these pursuits, the requested information would provide invaluable insight into the needs of vulnerable immigrant populations in New York State and how the government is meeting those needs. This insight would enable targeted research and advocacy to legal service providers, community members, and policymakers to address as to the needs and gaps in services to immigrants living in New York State.

This information is not already available. However, the NYIC will make the disclosed information publicly available to serve the greater community. We will do this in the form of posting the responsive documents on our website, including an index of all available documents, and will synthesize the findings in a report to be distributed publicly and for free to all interested parties.

If it is your position that records exist that are responsive to this request, but that these records (or portions of these records) are exempt from disclosure, please identify the records that are being withheld and state the basis for the denial for each record being withheld. In addition, please provide the nonexempt portions of the records. Requester reserves the right to appeal a decision to withhold any information or a denial of fee waivers.

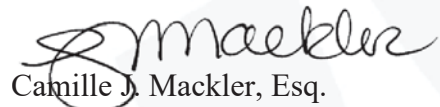
In order to avoid delays in receiving the records, Requester further ask that the records be produced as soon as practicable and on a rolling basis as soon as they become available.

All applicable records can be released to Camille J. Mackler, Esq.; c/o The New York Immigration Coalition; 131 W. 33<sup>rd</sup> Street, Suite 610; New York, NY 10001.

D. CERTIFICATION

I certify that the above information supporting the request for expedited processing is true and correct to the best of my knowledge. If you have any questions regarding the processing of this request, you may contact me by phone at 212-627-2227 ext. 226 or by email at [cmackler@nyic.org](mailto:cmackler@nyic.org). Thank you for your prompt attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "cmackler", written over a light gray circular background.

Camille J. Mackler, Esq.  
Director of Immigration Legal Policy  
New York Immigration Coalition

# **EXHIBIT C**

Official Website of the Department of Homeland Security



# ICE

Report Crimes: [Email](#) or Call 1-866-DHS-2-ICE

## ICE Newsroom

[News Releases](#)

[News Releases](#)

TOP STORY

Transnational Gangs

06/14/2017

### Operation Matador nets 39 MS-13 arrests in last 30 days



NEW YORK – U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) New York, along with ICE Enforcement and Removal Operations (ERO), announced their recent launch of Operation Matador and the DHS Transnational Organized Crime Initiative (DHS TOCI), which represents a unified effort dedicated to combat the proliferation of MS-13 and other transnational criminal gang activity in the New York City metropolitan area, including Long Island.

This joint initiative is comprised of: HSI special agents, ERO deportation officers, the ICE Office of the Principal Legal Advisor (OPLA), U.S. Customs and Border Protection (CBP), U.S. Citizenship and Immigration Services (USCIS), and state and local law enforcement partners to include Suffolk County Police Department (SCPD), Nassau County Police Department (NCPD) and the New York City Police Department (NYPD). The DHS TOCI is responsible for identifying, interdicting and investigating a wide variety of transnational border crime with a concentration on MS-13 gang activity.

“Transnational gangs like MS-13 bring nothing but violence and conflict to our communities and their presence will not be tolerated. Their vicious criminal activities present an ongoing challenge for law enforcement everywhere,” said Angel M. Melendez, special agent in charge of HSI New York. “It is with the efforts of our federal partners under DHS and the incredible assistance provided by our local law enforcement partnerships with Suffolk County and Nassau County Police Departments that we will continue to dismantle these gangs piece by piece to enhance the safety and security of our communities.”

“These individuals are members of a violent street gang actively wreaking havoc in the community. This unified effort is about keeping New York citizens safe,” said Thomas R. Decker, field office director for ERO New York. “ERO and HSI, along with our law enforcement partners, face no limitations in the apprehension and dismantling of transnational criminal organizations. We will not rest until our communities are safer and individuals like these are brought to justice.”

A total of 45 individuals were arrested during this ongoing enforcement effort, all of which were confirmed as gang members and affiliates – including 39 affiliated with MS-13, two with the Sureños, one with the 18th Street Gang, one with the Latin Kings, one with Los Niños Malos and one with Patria.

Of the gang members arrested during this ongoing enforcement action, 20 had additional criminal histories, including prior convictions for assault and weapons charges. One has pending felony grand larceny charges and a final order of removal. Others taken into custody during the operation included:

- An El Salvadoran national arrested in Suffolk County with a criminal history of felony assault
- A Honduran national arrested in Suffolk County with a criminal history of menacing with a weapon and disorderly conduct, fighting and violent behavior
- A Mexican national arrested in Suffolk County with a felony possession of a weapon, carrying a loaded weapon and misdemeanor menacing with a weapon
- A Honduran national arrested in Nassau county with a prior conviction of criminal possession of weapon
- An El Salvadoran national arrested in Nassau County with a criminal history of felony attempted assault, disorderly conduct and misdemeanor harassment
- An El Salvadoran national arrested in Suffolk County with a prior felony conviction of criminal possession of a loaded firearm.

The arrestees, all male, included nationals from 4 countries : El Salvador (27), Honduras (11), Mexico (5), and Guatemala (2).

Suffolk County accounted for 33 arrests, the largest number of arrests during this operation to date, but DHS TOCI personnel conducted enforcement actions in multiple communities throughout Long Island and New York City.

## Area Arrest Totals

Suffolk	33
Nassau	8
Queens	3
Brooklyn	1

Individuals are confirmed as gang members if they admit membership in a gang, have been convicted of violating Title 18 USC 521 or any other federal or state law criminalizing or imposing civil consequences for gang-related activity, or if they meet certain other criteria such as having tattoos identifying a specific gang or being identified as a gang member by a reliable source.

Twelve individuals arrested during this operation crossed the border as unaccompanied minors, all of which were confirmed as MS-13 gang members. Three individuals arrested during this operation entered the United States with Special Immigrant Juvenile Status (SIJ), all of which were confirmed as MS-13 gang members. Of the 12 UACs, two had SIJ status.

Some of the individuals arrested during the enforcement action will be presented for federal prosecution for re-entry after deportation; a federal felony. Those not criminally prosecuted will be processed for removal from the country. Individuals who have outstanding orders of deportation, or who returned to the United States illegally after being deported, are subject to immediate removal from the country on federal charges. The remaining arrestees are entered into immigration proceedings and will go before an immigration judge.

The investigation was led by HSI special agents working jointly with ERO officers out of New York and was conducted under the auspices of Operation Community Shield with support from the United States Attorney's Office for the Eastern District of New York and Southern District of New York, OPLA, USCIS, CBP, SCPD, NCPD and NYPD.

### About Operation Community Shield

Operation Matador is the latest example of ICE's ongoing efforts, begun in 2005 under [Operation Community Shield](#), to target violent gang members and their associates, eradicate the violence they inflict upon our communities and stop the cash flow to transnational organized crime groups. Since 2005, HSI special agents working in conjunction with federal, state and local law enforcement agencies have made more than 47,000 gang-related arrests.

Operation Community Shield is a global initiative in which HSI collaborates with federal, state and local law enforcement partners to combat the growth and proliferation of transnational criminal street gangs, prison gangs and outlaw motorcycle gangs in the United States and abroad. Through its domestic and international Operation Community Shield task forces, HSI leverages its worldwide presence and expansive statutory and civil enforcement authorities to mitigate the threats posted by these global networks, often through the tracing and seizing of cash, weapons and other illicit proceeds.

Partnerships with state, local, federal and international law enforcement agencies are critical to the success of HSI gang enforcement operations. Law enforcement partners provide actionable intelligence which is critical in the targeting of gangs and their membership for enforcement actions. HSI special agents use intelligence gathered from surge operations to pursue complex criminal enterprise investigations and federal prosecutions.

### MS-13

As part of Operation Community Shield, HSI has affected more than 4,300 criminal arrests and nearly 3,000 civil immigration arrests of MS-13 leaders, members and associates, including criminal arrests for Racketeering Influence Corrupt Organizations (RICO), Violent Crime in Aid of Racketeering (VICAR) and gang conspiracy violations investigated by HSI New York, HSI Long Island, HSI Baltimore, HSI DC, HSI Charlotte, HSI Newark, HSI Boston, HSI San Francisco, HSI San Jose, HSI Los Angeles, HSI Detroit, HSI Nashville, HSI Houston, and our state and local law enforcement partners.

In October 2012, HSI worked with the U.S. Department of Treasury's Office of Foreign Assets Control to designate MS-13 as the first transnational criminal street gang as a TCO. As a result of the designation, any property or property interests in the United States, or in the possession or control of U.S. persons in which MS-13 has an interest, are blocked.

### HSI MS-13 Gang Arrests National FY 2005 - FY 2017 (as of Apr. 23, 2017)

Fiscal Year	Criminal Arrests	Administrative Arrests
2005	325	*No data collected
2006	437	*No data collected
2007	419	861
2008	689	452
2009	306	428
2010	351	291
2011	431	314

Fiscal Year	Criminal Arrests	Administrative Arrests
2012	156	135
2013	302	187
2014	152	64
2015	232	90
2016	363	66
2017	194	59
Total	4,357	2,947

Share

- 
- 
- 
- 

Last Reviewed/Updated: 06/19/2017

# **EXHIBIT D**

 Official Website of the Department of Homeland Security



# ICE

Report Crimes: [Email](#) or Call 1-866-DHS-2-ICE

## ICE Newsroom

[News Releases](#)

[News Releases](#)

TOP STORY

Transnational Gangs

03/29/2018

Share

- 
- 
- 
- 

### Joint Operation nets 24 transnational gang members, 475 total arrests under Operation Matador





*For still photos and B-roll for the operation, visit [DVIDS](#).*

NEW YORK — Twenty-four were arrested Thursday under Operation Matador, the intelligence driven, unified effort to combat the proliferation of MS-13 and other transnational criminal gang activity in Long Island, the New York City metropolitan area and Hudson Valley. This brings the total arrested under this initiative to 475.

Operation Matador, operating under the U.S. Department of Homeland Security (DHS) Transnational Organized Crime Initiative (DHS TOCI), was launched by U.S. Immigration and Customs Enforcement's (ICE) Homeland Security Investigations (HSI) New York along with ICE Enforcement and Removal Operations (ERO). This joint initiative is comprised of HSI special agents, ERO deportation officers and the ICE Office of Principal Legal Advisor (OPLA); U.S. Customs and Border Protection (CBP); U.S. Citizenship and Immigration Services (USCIS), and state and local law enforcement partners to include Suffolk County Police Department (SCPD), Nassau County Police Department (NCPD) and the Hempstead Police Department. The DHS TOCI is responsible for identifying, interdicting and investigating a wide variety of transnational border crime with a concentration on MS-13 gang activity.

"Operation Matador sends a clear message to violent street gangs that there are consequences for their actions. Since this operation began last year, we have seen a decrease in the amount of violent crime directly related to MS-13 and other transnational gangs," said ICE Deputy Director Thomas D. Homan. "That is a direct result of the strong partnerships between ICE Homeland Security Investigations, local law enforcement, and our community partners in support of a common goal: targeting and dismantling transnational criminal organizations. We will not rest until our communities are safe and these dangerous individuals are brought to justice."

"U.S. Customs and Border Protection is extremely proud to have assisted in this operation," said Leon Hayward, Acting Director New York Field Office. "It is through our interagency partnerships and collaborative approaches like the one leading to today's arrests, that law enforcement successfully combats modern criminal organizations."

"U.S. Citizenship and Immigration Services' New York District and New York Asylum Offices are proud of the role we played in investigations leading to the arrests of violent gang members who have plagued Nassau and Suffolk Counties," said Thomas M. Cioppa, USCIS New York District Director. "We will continue to support Immigration and Customs Enforcement and our other state and local partners in any issues concerning public safety or national security."

"I would like to congratulate all of the associated agencies and their investigators on their dedication and relentless pursuit to ensure that all of our residents and communities are safe from the violence that these gangs promote," said Patrick Ryder, Commissioner of Police for NCPD. "The arrests should send a strong message to all gangs that we will not tolerate their unlawfulness and intimidation. Our agencies will continue to collaborate to decrease the violence that is associated with these gangs".

## **Operation Matador results since May 2017**

A total of 475 individuals were arrested during this ongoing enforcement effort, most of which were confirmed as gang members and affiliates. The most prominent gangs with arrests during this operation were MS-13 with 274 arrests and the 18th street gang with 15 arrests. This operation yielded 227 total criminal arrests and 248 administrative arrests.

Of the gang members arrested during this ongoing enforcement action, 80 had additional criminal histories, including prior convictions for assault and weapons charges. 5 are facing serious criminal charges. Others taken into custody during the operation included:

- An MS-13 member from El Salvador who admitted to killing rival gang members at the age of 12 in his home country and assimilated to the gang on Long Island, involved in criminal activity was arrested and deported.
- An El Salvador national wanted, pursuant to an Interpol Red Notice for killing law enforcement in El Salvador.
- An MS-13 member arrested in Brentwood admitted to killing three gang members in El Salvador at the age of 13.
- An 18th Street Gang Member as part of this enforcement operation yielded a handgun that was likely going to be used against a rival gang.

The arrestees, 462 male and 13 female, included nationals from 10 countries – El Salvador (199); Honduras (56); Mexico (31); Guatemala (27); Ecuador (05), Dominican Republic (21) and St. Lucia (1).

Nassau County accounted for 210 arrests, the largest number of arrests during this operation to date, but DHS TOCI personnel conducted enforcement actions in multiple communities throughout Long Island, New York City and the Hudson Valley area.

### Area Arrest Totals

Nassau County	210
Suffolk County	177
Queens	36
Brooklyn	12
Bronx	18
Spring Valley	19
Other States	3

Ninety-nine individuals arrested during this operation crossed the border as unaccompanied minors, all of which were confirmed as MS-13 gang members. 64 individuals arrested during this operation obtained Special Immigrant Juvenile Status (SIJ) after entering the country, all of which were confirmed as MS-13 gang members. Of the 99 UACs, 64 had SIJ status.

Of those arrested during this ongoing operation, 65 have been ordered released from ICE detention by an immigration judge. 4 have been re-arrested for local criminal charges.

It is important to note that not all evidence is presented before an immigration judge for a detention hearing. Some evidence is withheld in order to safeguard the integrity of law enforcement's investigative techniques and protect concurrent or future investigations.

Some of the individuals arrested during the enforcement action will be presented for federal prosecution for re-entry after deportation, a federal felony. Those not being criminally prosecuted will be processed for removal from the country. Individuals who have outstanding orders of deportation, or who returned to the United States illegally after being deported, are subject to immediate removal from the country on federal charges. The remaining arrestees are entered into immigration proceedings and will go before an immigration judge. To date, a total of 70 have received a final order of removal issued by an immigration judge and have been removed from the United States to their home countries.

Partnerships are key to this ongoing effort in combating transnational gangs. Special thanks to the Hempstead Police Department, New York National Guard (NYNG) Counter Drug Taskforce, Drug Enforcement Administration's (DEA) Long Island District Office, U.S. Border Patrol Westchester County District Attorney's Office, Rockland County Sheriff, Rockland County Intelligence Center, Piermont Police Department, Ulster County Sheriff, and Sullivan County Sheriff.

Operation Matador in New York is conducted under the auspices of the national gang enforcement effort, Operation Community Shield.

## About Operation Community Shield and MS-13

As part of [Operation Community Shield](#), HSI has effected nearly 5,000 criminal arrests and more than 3,200 civil immigration arrests of MS-13 leaders, members and associates, including criminal arrests for Racketeering Influence Corrupt Organizations (RICO), Violent Crime in Aid of Racketeering (VICAR) and gang conspiracy violations investigated by HSI New York, HSI Long Island, HSI Baltimore, HSI DC, HSI Charlotte, HSI Newark, HSI Boston, HSI San Francisco, HSI San Jose, HSI Los Angeles, HSI Detroit, HSI Nashville, HSI Houston, and our state and local law enforcement partners.

In October 2012, HSI worked with the U.S. Department of Treasury's Office of Foreign Assets Control to designate MS-13 as the first transnational criminal street gang as a TCO. As a result of the designation, any property or property interests in the United States, or in the possession or control of U.S. persons in which MS-13 has an interest, are blocked.

## HSI's National Gang Unit

HSI's [National Gang Unit](#) oversees HSI's expansive transnational gang portfolio and enables special agents to bring the fight to these criminal enterprises through the development of uniform enforcement and intelligence-sharing strategies.

To report suspicious activity, call ICE's 24-hour toll-free hotline at: 1-866-DHS-2-ICE or visit [www.ice.gov](http://www.ice.gov).

Share

- 
- 
- 
- 

Last Reviewed/Updated: 04/03/2018

# **EXHIBIT E**

Menu

IconA

vertical

stack

# The New York crackdown on MS-13 that Trump touted in his State of the Union speech remains shrouded in secrecy

of three evenly spaced horizontal lines.



Tom Hays and Colleen Long, Associated Press

□ Feb. 21, 2018, 2:39 PM □ 56

NEW YORK (AP) — A sweep of suspected MS-13 and other gang members on New York's Long Island that was praised by President Donald Trump has also been shrouded in secrecy. Federal and state authorities have refused repeated requests from The Associated Press to release even the most basic information, including the names of the suspects and the charges against them. They say that could endanger the suspect and compromise ongoing investigations.



President Donald Trump pumps his fists after speaking to law-enforcement officials about MS-13, in Brentwood, New York, July 28, 2017. [AP Photo/Evan Vucci](#)

NEW YORK (AP) — It was a tally so impressive that President Donald Trump touted it at his State of the Union address: Since May, agents cracking down on the violent gangs terrorizing the working-class suburbs of Long Island had swept up 428 gang suspects, including 220 members of the notorious MS-13.

But the sweep, Operation Matador, also has been shrouded in secrecy. Federal and state authorities have declined repeated requests from The Associated Press for even basic information made public in most law enforcement operations, such as the names of those arrested and the crimes they are accused of committing.

They won't divulge their ages, immigration statuses or current whereabouts. And while they say 44 of those arrested have been deported, they refuse to say what happened to the rest, including whether they are even still in custody. They say releasing more details could endanger the suspects and jeopardize ongoing investigations.

The lack of transparency comes amid accusations by immigration rights groups that the government is using unsubstantiated rumors of gang affiliations to detain innocent people. Federal immigration judges have already ordered the release of some detainees arrested on suspicion of being MS-13 members when the government couldn't produce any evidence of gang activity.



An Immigration and Customs Enforcement (ICE) agent waits with other agents outside of the home of a suspect before dawn as part of a nationwide immigration sweep in San Diego, March 30, 2012. AP Photo/Gregory Bull

Some parents and activists say some of those included in the tally are innocent teenagers who came to the US as unaccompanied minors, spending weeks locked in maximum-security detention centers based on flimsy and false allegations of gang activity. Civil liberties lawyers say that in some cases their alleged "activity" was wearing a black T-shirt or making a hand gesture.

---

"They said we have a warrant for your arrest and we don't have to explain anything to you now. We will tell you when you come with us," one teenager, who asked not to be named because she is afraid of being deported, told the AP in Spanish. "Later, they told me I had

been associated with gangs."

The teenager said she was not a member of MS-13. She said she knew of people in MS-13, as do most people at Brentwood High School, a large school 45 miles east of New York City. Maybe she's talked with some of them in the hallway.

Although she was released after two months in detention, she remains worried.

"I can't defend myself," she said. "I can't explain what happened because I don't even know who is accusing me."

Immigration attorney Dawn Guidone said she represented about seven teenagers detained on gang allegations and at least two were deported. One student said all he did was wear blue, the color of the gang. Officials said he was associating with "known gang members."

---

A blue banner with white text. On the left, "MARKETS INSIDER" is written in a bold, sans-serif font. To its right, the text "WHAT ARE THE EXPERTS SAYING ABOUT \$MSFT?" is displayed in a smaller, all-caps, sans-serif font. On the far right, there is a green rectangular button with the text "GO NOW >" in white, all-caps, sans-serif font.

MARKETS  
INSIDER

WHAT ARE THE EXPERTS  
SAYING ABOUT \$MSFT?

GO NOW >

---

"But the gang member he was associating with sat next to him in math class," Guidone said. "If that's associating, then I don't know how to even deal with that."



A policeman detains a suspected MS-13 member at a checkpoint in Apopa, El Salvador, July 28, 2015. REUTERS/Jose Cabezas

The federal agency leading the crackdown, Homeland Security Investigations, said that of the 428 gang suspects mentioned in the Republican president's speech, 216 faced criminal charges, but it wouldn't say whether those charges had anything to do with gang activity or violence. It said the remaining 212 were detained for suspected immigration law violations but refused to disclose their names, citing privacy concerns.

Suffolk County District Attorney Tim Sini has refused to answer questions about MS-13 arrests for more than a year.

In neighboring Nassau County, prosecutors said they "took down the alleged kingpin of MS-13 for the entire Eastern region of the United States," but they refused to name the suspect, who's awaiting extradition from Maryland. A spokesman for prosecutors said the man's identity is being withheld because an indictment naming several co-defendants is sealed as it pertains to him.

MS-13, or La Mara Salvatrucha, recruits young teenagers from El Salvador and Honduras, though many gang members were born in the US.

Long Island has a large population of unaccompanied minors from Central America, including many who were fleeing the violence in their home nations.

The gang has been blamed for at least 25 killings since January 2016 across a wide swath of Long Island. And many other people are missing.

In a July visit to Suffolk County, Trump [promised his administration](#) would "dismantle, decimate and eradicate" MS-13.

"They're going to jails, and then they're going back to their country, or they're going back to their country period," he said.

Last year, the American Civil Liberties Union filed a class action lawsuit in California claiming some teenagers arrested in the gang crackdown were being wrongly held at detention centers.



Women and their children wait to register at the Honduran Center for Returned Migrants after being deported from Mexico, in San Pedro Sula, Honduras, June 20, 2014. REUTERS/Jorge Cabrera

MARKETS  
INSIDER

WHAT ARE THE EXPERTS  
SAYING ABOUT \$MSFT?

GO NOW >

A federal judge overseeing the case ruled the plaintiffs deserve prompt hearings and released at least nine. The judge ordered the government to disclose how many were being held. The government has not done so.

---

Associated Press writer Michael Balsamo in Los Angeles contributed to this report.

SEE ALSO: [Trump says he's going to 'destroy' MS-13 — here's how the gang got its sinister name »](#)

NOW WATCH: [Asian-American groups are saying affirmative action hurts their chances to get into Ivy League schools](#)

More: [Associated Press](#) [Donald Trump](#) [ms 13](#) [MS13](#) [□](#)



FACEBOOK



LINKEDIN



TWITTER



# **EXHIBIT F**

From: <[ice-foia@dhs.gov](mailto:ice-foia@dhs.gov)>  
Date: Tue, Dec 12, 2017 at 11:26 AM  
Subject: ICE FOIA Request 2018-ICFO-10954  
To: [cmackler@nyic.org](mailto:cmackler@nyic.org)

December 12, 2017

Camille Mackler  
The New York Immigration Coalition  
131 W. 33rd St., Ste. 610  
New York, NY 10001

**RE: ICE FOIA Case Number 2018-ICFO-10954**

Dear Ms. Mackler:

This acknowledges receipt of your November 22, 2017, Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), for all ICE Homeland Security Investigations (HSI) and Enforcement and Removal Operations (ERO) records pertaining to Operation Matador. (see request for further details). Your request was received in this office on November 22, 2017.

Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Per Section 5.5(a) of the DHS FOIA regulations, 6 C.F.R. Part 5, ICE processes FOIA requests according to their order of receipt. Although ICE's goal is to respond within 20 business days of receipt of your request, the FOIA does permit a 10- day extension of this time period. As your request seeks numerous documents that will necessitate a thorough and wide-ranging search, ICE will invoke a 10-day extension for your request, as allowed by Title 5 U.S.C. § 552(a)(6)(B). If you care to narrow the scope of your request, please contact our office. We will make every effort to comply with your request in a timely manner.

Provisions of the FOIA allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the DHS Interim FOIA regulations as they apply to non-commercial requesters. As a non-commercial requester, you will be charged 10 cents per page for duplication; the first 100 pages are free, as are the first two hours of search time, after which you will pay the per quarter-hour rate (\$4.00 for clerical personnel, \$7.00 for professional personnel, \$10.25 for managerial personnel) of the searcher. We will construe the submission of your request as an agreement to pay up to \$25.00. You will be contacted before any further fees are accrued.

We have queried the appropriate program offices within ICE for responsive records. If any responsive records are located, they will be reviewed for determination of releasability. Please be assured that one of the processors in our office will respond to your request as expeditiously as possible. We appreciate your patience as we proceed with your request.

Your request has been assigned reference number **2018-ICFO-10954**. Please refer to this identifier in any future correspondence. To check the status of an ICE FOIA/PA request, please visit <http://www.dhs.gov/foia-status>. Please note that to check the status of a request, you must enter the 2018-ICFO-XXXXX tracking number. If you need any further assistance or would like to discuss any aspect of your request, please contact the FOIA office. You may send an e-mail to [ice-foia@ice.dhs.gov](mailto:ice-foia@ice.dhs.gov), call toll free (866) 633-1182, or you may contact our FOIA Public Liaison, Fernando Pineiro, in the same manner. Additionally, you have a right to right to seek dispute resolution services from the Office of Government Information Services (OGIS) which 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. You may contact OGIS as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Regards,

ICE FOIA Office

Immigration and Customs Enforcement  
Freedom of Information Act Office  
500 12th Street, S.W., Stop 5009  
Washington, D.C. 20536-5009  
Telephone: 1-866-633-1182  
Visit our FOIA website at [www.ice.gov/foia](http://www.ice.gov/foia)

# **EXHIBIT G**

*Office of Information Governance and Privacy*

**U.S. Department of Homeland Security**  
500 12<sup>th</sup> St., SW  
Washington, D.C. 20536



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

January 12, 2018

Camille Mackler  
The New York Immigration Coalition  
131 W. 33rd St., Ste. 610  
New York, NY 10001

**RE: ICE FOIA Case Number 2018-ICFO-10954**

Dear Ms. Mackler:

This letter is the final response to your Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), dated November 22, 2017. You have requested all ICE Homeland Security Investigations (HSI) and Enforcement and Removal Operations (ERO) records pertaining to Operation Matador.

Due to the open status of ongoing criminal investigations, ICE has determined that the information you are requesting is withholdable in its entirety pursuant to Title 5 U.S.C. § 552 (b)(7)(A). FOIA Exemption 7(A) protects from disclosure records or information compiled for law enforcement purposes, the release of which could reasonably be expected to interfere with enforcement proceedings. ICE has determined that the information you are seeking relates to ongoing criminal law enforcement investigations. Therefore, ICE is withholding all records, documents, and/or other material, which if disclosed prior to completion, could reasonably be expected to interfere with law enforcement proceedings and final agency actions related to those proceedings. Please be advised that once all pending matters are resolved and FOIA Exemption 7(A) is no longer applicable, there may be other exemptions which could protect certain information from disclosure, such as FOIA Exemptions 6, 7(C), 7(D), 7(E) and/or 7(F).

You have a right to appeal the above withholding determination. Should you wish to do so, you must send your appeal and a copy of this letter, within 90 days of the date of this letter following the procedures outlined in the DHS FOIA regulations at 6 C.F.R. Part 5 § 5.8, to:

U.S. Immigration and Customs Enforcement  
Office of the Principal Legal Advisor  
U.S. Department of Homeland Security  
500 12th Street., S.W., Mail Stop 5900  
Washington, D.C. 20536-5900

Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at [www.dhs.gov/foia](http://www.dhs.gov/foia).

Provisions of FOIA allow DHS to charge for processing fees, up to \$25, unless you seek a waiver of fees. In this instance, because the cost is below the \$25 minimum, there is no charge.

If you need any further assistance or would like to discuss any aspect of your request, please contact the FOIA office and refer to FOIA case number **2018-ICFO-10954**. You may send an e-mail to [ice-foia@ice.dhs.gov](mailto:ice-foia@ice.dhs.gov), call toll free (866) 633-1182, or you may contact our FOIA Public Liaison, Fernando Pineiro, in the same manner. Additionally, you have a right to seek dispute resolution services from the Office of Government Information Services (OGIS) which 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. You may contact OGIS as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,



*for* Catrina M. Pavlik-Keenan  
FOIA Officer

# **EXHIBIT H**



131 West 33<sup>rd</sup> Street  
Suite 610  
New York, NY 10001  
(212) 627-2227  
www.nyic.org

February 27, 2018

U.S. Immigration and Customs Enforcement  
Office of the Principal Legal Advisor  
U.S. Department of Homeland Security  
500 12th Street, S.W., Mail Stop 5900  
Washington, D.C. 20536-5900

Re: Freedom of Information Act Request Appeal (2018-ICFO-10954)

Dear FOIA Appeals Officer:

I write in reference to U.S. Immigration and Customs Enforcement's ("ICE") letter denying the New York Immigration Coalition's ("NYIC") request for records under the Freedom of Information Act, 5 U.S.C. § 552. Ex. A. ICE's blanket denial is contrary to precedent and NYIC hereby appeals.

### **Background**

On November 22, 2017, NYIC submitted a request pursuant to the Freedom of Information Act ("FOIA"). Ex. B. In that request, NYIC requested the following documents from ICE:

#### **Homeland Security Investigations ("HSI")**

1. All documents related to the initial conception of Operation Matador, including the plan submitted for approval and any comments, objections, or reservations related to the plan.
2. The authorization memorandum approving Operation Matador.
3. All documents, regulations, and guidelines relating to the operation plans for carrying out Operation Matador.
4. All documents, regulations, and guidelines relating to operation approval plans for carrying out Operation Matador.
5. All documents, regulations, and guidelines relating to Operation Matador's funding and any funding requests.
6. All documents and guidelines relating to Operation Matador's budget.
7. All documents relating to HSI's agreements with other government agencies, state or federal, involving Operation Matador including, but not limited to, ICE Enforcement and Removal Operations, U.S. Citizenship and Immigration Services, U.S. Customs and

Border Protection, the Suffolk County Police Department, the Nassau County Police Department, and the New York City Police Department.

8. All documents reflecting communication and coordination between government agencies, state or federal, involving Operation Matador including, but not limited to, ICE Enforcement and Removal Operations, U.S. Citizenship and Immigration Services, U.S. Customs and Border Protection, the Suffolk County Police Department, the Nassau County Police Department, and the New York City Police Department.
9. All training materials distributed to or communicated with any governmental agency, state or federal, that participated in Operation Matador including, but not limited to, ICE Enforcement and Removal Operations, U.S. Citizenship and Immigration Services, U.S. Customs and Border Protection, the Suffolk County Police Department, the Nassau County Police Department, and the New York City Police Department.
10. All documents, regulations, and guidelines defining or outlining the groups or profiles of individuals targeted by Operation Matador.

**Enforcement and Removal Operations (“ERO”)**

1. All documents related to the initial conception of Operation Matador, including the plan submitted for approval and any comments, objections, or reservations related to the plan.
2. The authorization memorandum approving Operation Matador.
3. All documents, regulations, and guidelines relating to the operation plans for carrying out Operation Matador.
4. All documents, regulations, and guidelines relating to operation approval plans for carrying out Operation Matador.
5. All documents, regulations, and guidelines relating to Operation Matador’s funding and any funding requests.
6. All documents and guidelines relating to Operation Matador’s budget.
7. All documents relating to ERO’s agreements with other government agencies, state or federal, involving Operation Matador including, but not limited to, ICE Homeland Security Investigations, U.S. Citizenship and Immigration Services, U.S. Customs and Border Protection, the Suffolk County Police Department, the Nassau County Police Department, and the New York City Police Department.
8. All documents reflecting communication and coordination between government agencies, state or federal, on Operation Matador including, but not limited to, ICE Homeland Security Investigations, U.S. Citizenship and Immigration Services, U.S. Customs and Border Protection, the Suffolk County Police Department, the Nassau County Police Department, and the New York City Police Department.

9. All training materials distributed to or communicated with any governmental agency, state or federal, that participated in Operation Matador including, but not limited to, ICE Homeland Security Investigations, U.S. Citizenship and Immigration Services, U.S. Customs and Border Protection, the Suffolk County Police Department, the Nassau County Police Department, and the New York City Police Department.
10. All documents, regulations, and guidelines defining or outlining the groups or profiles of individuals targeted by Operation Matador.

ICE responded to these requests on January 12, 2018. Ex. A. The letter stated that,

Due to the open status of ongoing criminal investigations, ICE has determined that the information you are requesting is withholdable in its entirety pursuant to Title 5 U.S.C. § 552(b)(7)(A). FOIA Exemption 7(A) protects from disclosure records or information compiled for law enforcement purposes, the release of which could reasonably be expected to interfere with enforcement proceedings. ICE has determined that the information you are seeking relates to ongoing criminal law enforcement investigations. Therefore, ICE is withholding all records, document, and/or other material, which if disclosed prior to completion, could reasonably be expected to interfere with law enforcement proceedings and final agency actions related to those proceedings. Please be advised that once all pending matters are resolved and FOIA Exemption 7(A) is no longer applicable, there may be other exemptions which could protect certain information from disclosure, such as FOIA Exemptions 6, 7(C), 7(D), 7(E) and/or 7(F). Id.

This response is insufficient because it fails to detail the reasons why or how the requested information is related to an enforcement proceeding. ICE has also impermissibly withheld *all* documents from the twenty categories requested, without providing NYIC access to the portions of the responsive records that would not be reasonably expected to interfere with enforcement proceedings.

### **Blanket Exemptions Are Disfavored**

“FOIA strongly favors a policy of disclosure and requires the government to disclose its records unless its documents fall within one of the specific, enumerated exemptions set forth in the Act. The government bears the burden of establishing that any claimed exemption applies.” Wood v. FBI, 432 F.3d 78, 82-83 (2d Cir. 2005). Disclosure requirements are to be construed “broadly” while the FOIA exemptions are to be construed “narrowly.” Department of Air Force v. Rose, 425 U.S. 352, 366 (1976). Therefore, all doubts are to be resolved in favor of disclosure. Wood, 432 F.3d at 83.

ICE may not summarily declare that the requested records are withholdable in their entirety. Even a document that contains exempt material is not necessarily exempt in its entirety. The FOIA statute has a segregability provision which mandates that, “[a]ny reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection.” 5 U.S.C. § 552(b).

### **The Law Enforcement Exemption Does Not Apply**

Exemption 7(A) was written to exempt information in investigatory files that needed to be kept confidential for a contemplated enforcement proceeding. See NLRB v. Robbins Tire & Rubber Co., 437 U.S. 214, 230 (1978). For this exemption to apply, ICE must show that (1) a law enforcement proceeding is pending or expected, and (2) release of the information could reasonably be expected to cause some articulable harm. New York Times Company v. United States Department of Justice, 2016 WL 5946711, at \*7 (S.D.N.Y. Aug. 18, 2016). Information supporting the application of this exemption must be sufficient for a court to “trace a rational link between the nature of the document and the alleged likely interference.” Id.

Here, ICE has not sufficiently detailed why *all* of the information sought will interfere with and harm a pending law enforcement proceeding. “FOIA strongly favors a policy of disclosure . . . . The government bears the burden of establishing that any claimed exemption applies.” Wood v. FBI, 432 F.3d 78, 82-83 (2d Cir. 2005). It is not readily apparent why NYIC’s requests for innocuous documents such as those relating to Operation Matador’s funding, initial conception, and approval will cause harm to a law enforcement proceeding.

### **The Search Was Inadequate**

Finally, NYIC challenges the adequacy of ICE’s search for records. ICE has not detailed the number of documents deemed responsive, nor has it outlined the procedures taken to locate those documents. In fact, ICE has not even confirmed whether such a search was even conducted. ICE’s blanket denial without so much as describing its search is improper. See Oglesby v. U.S. Dept. of Army, 920 F.2d 57, 68 (D.C. Cir. 1990) (An “agency must show that it made a good faith effort to conduct a search . . . using methods which can be reasonably expected to produce the information requested.”).

Please respond within the twenty business day statutory period, 5 U.S.C. § 552(a)(6)(A)(ii), informing NYIC of the decision on appeal, including whether a search of responsive records has been completed or commenced.

Sincerely,



Camille J. Mackler, Esq.  
Director of Immigration Legal Policy

*Office of Information Governance and Privacy*

U.S. Department of Homeland Security  
500 12<sup>th</sup> St., SW  
Washington, D.C. 20536



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

January 12, 2018

Camille Mackler  
The New York Immigration Coalition  
131 W. 33rd St., Ste. 610  
New York, NY 10001

**RE: ICE FOIA Case Number 2018-ICFO-10954**

Dear Ms. Mackler:

This letter is the final response to your Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), dated November 22, 2017. You have requested all ICE Homeland Security Investigations (HSI) and Enforcement and Removal Operations (ERO) records pertaining to Operation Matador.

Due to the open status of ongoing criminal investigations, ICE has determined that the information you are requesting is withholdable in its entirety pursuant to Title 5 U.S.C. § 552 (b)(7)(A). FOIA Exemption 7(A) protects from disclosure records or information compiled for law enforcement purposes, the release of which could reasonably be expected to interfere with enforcement proceedings. ICE has determined that the information you are seeking relates to ongoing criminal law enforcement investigations. Therefore, ICE is withholding all records, documents, and/or other material, which if disclosed prior to completion, could reasonably be expected to interfere with law enforcement proceedings and final agency actions related to those proceedings. Please be advised that once all pending matters are resolved and FOIA Exemption 7(A) is no longer applicable, there may be other exemptions which could protect certain information from disclosure, such as FOIA Exemptions 6, 7(C), 7(D), 7(E) and/or 7(F).

You have a right to appeal the above withholding determination. Should you wish to do so, you must send your appeal and a copy of this letter, within 90 days of the date of this letter following the procedures outlined in the DHS FOIA regulations at 6 C.F.R. Part 5 § 5.8, to:

U.S. Immigration and Customs Enforcement  
Office of the Principal Legal Advisor  
U.S. Department of Homeland Security  
500 12th Street., S.W., Mail Stop 5900  
Washington, D.C. 20536-5900

Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at [www.dhs.gov/foia](http://www.dhs.gov/foia).

Provisions of FOIA allow DHS to charge for processing fees, up to \$25, unless you seek a waiver of fees. In this instance, because the cost is below the \$25 minimum, there is no charge.

If you need any further assistance or would like to discuss any aspect of your request, please contact the FOIA office and refer to FOIA case number **2018-ICFO-10954**. You may send an e-mail to [ice-foia@ice.dhs.gov](mailto:ice-foia@ice.dhs.gov), call toll free (866) 633-1182, or you may contact our FOIA Public Liaison, Fernando Pineiro, in the same manner. Additionally, you have a right to right to seek dispute resolution services from the Office of Government Information Services (OGIS) which 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. You may contact OGIS as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,



*for* Catrina M. Pavlik-Keenan  
FOIA Officer



131 West 33<sup>rd</sup> Street  
Suite 610  
New York, NY 10001  
(212) 627-2227  
www.nyic.org

November 22, 2017

U.S. Immigration and Customs Enforcement  
Freedom of Information Act Office  
500 12th Street SW, Stop 5009  
Washington, D.C. 20536-5009  
(202) 732-0660

**Re: Freedom of Information Act Request – Operation Matador  
(Expedited Processing Requested)**

Dear Freedom of Information Officer:

On behalf of the New York Immigration Coalition (NYIC), we request the following pursuant to the Freedom of Information Act, 5 U.S.C. § 552:

**A. REQUEST FOR DOCUMENTATION**

**I. Homeland Security Investigations (“HSI”)**

1. All documents related to the initial conception of Operation Matador, including the plan submitted for approval and any comments, objections, or reservations related to the plan.
2. The authorization memorandum approving Operation Matador.
3. All documents, regulations, and guidelines relating to the operation plans for carrying out Operation Matador.
4. All documents, regulations, and guidelines relating to operation approval plans for carrying out Operation Matador.
5. All documents, regulations, and guidelines relating to Operation Matador’s funding and any funding requests.
6. All documents and guidelines relating to Operation Matador’s budget.
7. All documents relating to HSI’s agreements with other government agencies, state or federal, involving Operation matador including, but not limited to, ICE Enforcement and Removal Operations, U.S. Citizenship and Immigration Services, U.S. Customs and Border Protection, the Suffolk County Police Department, the Nassau County Police Department, and the New York City Police Department.
8. All documents reflecting communication and coordination between government agencies, state or federal, on Operation Matador including, but not limited to, ICE Enforcement and Removal Operations, U.S. Citizenship and Immigration Services, U.S. Customs and Border

Protection, the Suffolk County Police Department, the Nassau County Police Department, and the New York City Police Department.

9. All training materials distributed to or communicated with any governmental agency, state or federal, that participated in Operation Matador including, but not limited to, ICE Enforcement and Removal Operations, U.S. Citizenship and Immigration Services, U.S. Customs and Border Protection, the Suffolk County Police Department, the Nassau County Police Department, and the New York City Police Department.
10. All documents, regulations, and guidelines defining or outlining the groups or profiles of individuals targeted by Operation Matador.

## **II. Enforcement and Removal Operations (ERO)**

1. All documents related to the initial conception of Operation Matador, including the plan submitted for approval and any comments, objections, or reservations related to the plan.
2. The authorization memorandum approving Operation Matador.
3. All documents, regulations, and guidelines relating to the operation plans for carrying out Operation Matador.
4. All documents, regulations, and guidelines relating to operation approval plans for carrying out Operation Matador.
5. All documents, regulations, and guidelines relating to Operation Matador's funding and any funding requests.
6. All documents and guidelines relating to Operation Matador's budget.
7. All documents relating to ERO's agreements with other government agencies, state or federal, involving Operation Matador including, but not limited to, ICE Homeland Security Investigations, U.S. Citizenship and Immigration Services, U.S. Customs and Border Protection, the Suffolk County Police Department, the Nassau County Police Department, and the New York City Police Department.
8. All documents reflecting communication and coordination between government agencies, state or federal, on Operation Matador including, but not limited to, ICE Homeland Security Investigations, U.S. Citizenship and Immigration Services, U.S. Customs and Border Protection, the Suffolk County Police Department, the Nassau County Police Department, and the New York City Police Department.
9. All training materials distributed to or communicated with any governmental agency, state or federal, that participated in Operation Matador including, but not limited to, ICE Homeland Security Investigations, U.S. Citizenship and Immigration Services, U.S. Customs and Border Protection, the Suffolk County Police Department, the Nassau County Police Department, and the New York City Police Department.

10. All documents, regulations, and guidelines defining or outlining the groups or profiles of individuals targeted by Operation Matador.

**B. REQUEST FOR EXPEDITED PROCESSING**

We are requesting expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E) and 22 C.F.R. § 171.11(f).

The NYIC is a state-wide advocacy and policy coalition representing over 200 non-profit members and partners serving immigrant communities throughout New York State. As MS-13 enforcement efforts have increasingly centralized on Long Island in 2017, the NYIC and its members have paid particular attention to the intersection between gang enforcement and immigration enforcement operations in that part of the state. Earlier this month media reports, citing an ICE official in charge of MS-13 related operations, confirmed that the agency is using gang enforcement as a method of carrying out its immigration enforcement purposes, regardless of known or suspected gang affiliations of the individuals taken into custody.<sup>1</sup> Given these statements and reports, and the rapid and aggressive manner in which ICE is carrying out immigration enforcement often at the expense of due process, it is urgent that the NYIC, its members, and allies, understand the manner in which gang enforcement targeting immigrant communities is carried out to ensure that they are not deprived of their rights.

In addition, and as demonstrated above, the manner in which ICE carries out gang enforcement, particularly operations targeted at immigrant communities, are a “matter of widespread and exceptional media interest.” See 6 C.F.R. § 5.5(e)(3) (“The existence of numerous articles published on a given subject can be helpful to establishing the requirement of that there be an ‘urgency to inform’ the public on the topic”). The numerous news reports on Operation Matador and related operations have called into question the actual purpose of these publicly-funded operations, which have also resulted in a breakdown of trust between local communities and federal and local law enforcement.<sup>2</sup>

In order to ensure that the stated goal of enforcement against MS13 does not infringe upon our communities’ civil liberties and due process rights, it is imperative that this information be released as soon as practicable.

**C. REQUEST FOR FEE WAIVER**

The NYIC requests that ICE waive all fees in connection with this FOIA request in accordance with 5 U.S.C. § 552(a)(4)(A)(iii). Disclosure “is in the public interest because it is likely to contribute

<sup>1</sup> Julianne Hing, “Julianne Hing, “ICE Admits Gang Operations are Designed to Lock Up Immigrants”, The Nation (November, 2017) <https://www.thenation.com/article/ice-admits-gang-operations-are-designed-to-lock-up-immigrants/>

<sup>2</sup> *Id.*, See also Julianne Gage, “The US Government is Targeting MS13, But A Former Gang Member Says Arrests Alone Won’t Solve the Problem”, PRI’s The World (November 16, 2017) <https://www.pri.org/stories/2017-11-16/why-former-gang-member-joined-county-health-department>

significantly to public understanding of the operations or activities of the government,” and the NYIC is non-profit organization without any commercial interest in the records.

**a) The records requested concern “operations or activities of the government.”**

The requested records concern the operations or activities of the government. Any operations created and run by ICE, as an agency within the Department of Homeland Security, are fundamentally operations or activities of the government in its handling of immigration enforcement and carrying out its duties to protect the homeland from actual threats. Furthermore the requested documents are not protected from disclosure because they only pertain to the operations and policies of the agency, not to specific investigations or investigatory tactics.

**b) The records requested are likely to contribute significantly to public understanding.**

As stated above, the public has a significant interest in the disclosure of these documents. Both gang operations and immigration enforcement have a tremendous impact on our communities and it as the frequency and scope have greatly expanded in 2017, it is imperative that communities have a greater understanding of the purpose and goals of these operations, as well as what public resources are being used to carry them out.

**c) The NYIC has no commercial interest in the records requested.**

The NYIC is an umbrella policy and advocacy organization for nearly 200 groups in New York State working with immigrants and refugees. The NYIC researches, generates, and supports advocacy around issues related to immigration. It also works with national immigration advocacy groups to develop policy guidance and oversight in the ever-changing context of immigration law. Relevant to these pursuits, the requested information would provide invaluable insight into the needs of vulnerable immigrant populations in New York State and how the government is meeting those needs. This insight would enable targeted research and advocacy to legal service providers, community members, and policymakers to address as to the needs and gaps in services to immigrants living in New York State.

This information is not already available. However, the NYIC will make the disclosed information publicly available to serve the greater community. We will do this in the form of posting the responsive documents on our website, including an index of all available documents, and will synthesize the findings in a report to be distributed publicly and for free to all interested parties.

If it is your position that records exist that are responsive to this request, but that these records (or portions of these records) are exempt from disclosure, please identify the records that are being withheld and state the basis for the denial for each record being withheld. In addition, please provide the nonexempt portions of the records. Requester reserves the right to appeal a decision to withhold any information or a denial of fee waivers.

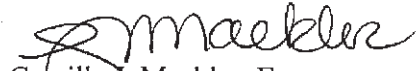
In order to avoid delays in receiving the records, Requester further ask that the records be produced as soon as practicable and on a rolling basis as soon as they become available.

All applicable records can be released to Camille J. Mackler, Esq.; c/o The New York Immigration Coalition; 131 W. 33<sup>rd</sup> Street, Suite 610; New York, NY 10001.

D. CERTIFICATION

I certify that the above information supporting the request for expedited processing is true and correct to the best of my knowledge. If you have any questions regarding the processing of this request, you may contact me by phone at 212-627-2227 ext. 226 or by email at [cmackler@nyic.org](mailto:cmackler@nyic.org). Thank you for your prompt attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "cmackler", written over the printed name.

Camille J. Mackler, Esq.  
Director of Immigration Legal Policy  
New York Immigration Coalition

# **EXHIBIT I**

U.S. Department of Homeland Security

500 12<sup>th</sup> ST. SW; STOP 5009

Washington, DC 20536-5009



U.S. Immigration  
and Customs  
Enforcement

March 09, 2018

Camille Mackler  
The New York Immigration Coalition  
131 W. 33rd St., Ste. 610  
New York, NY 10001

Dear Ms. Mackler:

The Department of Homeland Security has received your letter appealing the adverse determination of your Freedom of Information Act/Privacy Act (FOIA/PA) request by U.S. Immigration and Customs Enforcement. Your appeal, **postmarked or electronically transmitted on February 27, 2018**, was received on **March 09, 2018**.

The Government Information Law Division acknowledges your appeal request of **2018-ICFO-10954** and is assigning it number **2018-ICAP-00184** for tracking purposes. Please reference this number in any future communications about your appeal.

A high number of FOIA/PA requests have been received by the Department. Accordingly, we have adopted the court-sanctioned practice of generally handling backlogged appeals on a first-in, first-out basis.<sup>1</sup> While we will make every effort to process your appeal on a timely basis, there may be some delay in resolving this matter. Should you have any questions concerning the processing of your appeal, please contact the ICE FOIA Office/Public Liaison at (866) 633-1182, or by email at [ice-foia@dhs.gov](mailto:ice-foia@dhs.gov).

Sincerely,

*/s/MCuestas* for

Erin Clifford  
Chief  
Government Information Law Division  
ICE Office of the Principal Legal Advisor  
U.S. Department of Homeland Security

---

<sup>1</sup> Appeals of expedited treatment denials will be handled on an expedited basis.

# **EXHIBIT J**

*Office of the Principal Legal Advisor*

**U.S. Department of Homeland Security**  
500 12th Street, SW  
Washington, D.C. 20536



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

April 6, 2018

Camille J. Mackler, Esq.  
Director of Immigration Legal Policy  
The New York Immigration Coalition  
131 W. 33<sup>rd</sup> St., Ste. 610  
New York, NY 10001

**RE: 2018-ICAP-00184, 2018-ICFO-10954**

Dear Ms. Mackler:

This is in response to your letter dated February 27, 2018, received March 9, 2018, appealing the U.S. Immigration and Customs Enforcement (ICE) Freedom of Information Act (FOIA) Office's response to your FOIA request, dated November 22, 2017, seeking all ICE Homeland Security Investigations (HSI) and Enforcement and Removal Operations (ERO) records pertaining to Operation Matador.

In response to your request, HSI and ERO searched for responsive records. By letter dated January 12, 2018, the ICE FOIA Office issued its final response. The ICE FOIA Office withheld all records in their entirety pursuant to Exemption (b)(7)(A). You have appealed the withholdings applied to the responsive records. You have also appealed the adequacy of the search.

Upon a complete review of the administrative record, the search was adequate in all respects and was reasonably calculated to uncover all relevant documents. Therefore, ICE affirms the adequacy of the search conducted on your FOIA request.

With regard to the withholding of records, as was explained in the ICE FOIA Office's letter dated March 5, 2018, your request was considered under the FOIA, 5 U.S.C. §552. The ICE FOIA Office applied FOIA Exemption (b)(7)(A) because of the open status of an ongoing criminal investigation and the nature of the documents, specifically, that they are records or information compiled for a law enforcement purpose, the disclosure of which could reasonably be expected to interfere with ongoing enforcement proceedings. ICE has confirmed that as of April 6, 2018, the investigation is still ongoing. Therefore, the original application of FOIA Exemption (b)(7)(A) to withhold the records from disclosure was proper in all respects. ICE reserves the right to assert FOIA Exemptions (b)(5), (b)(6), (b)(7)(C), (b)(7)(D), (b)(7)(E), and (b)(7)(F) when FOIA Exemption (b)(7)(A) no longer applies.

Camille J. Mackler  
2018-ICAP-00184, 2018-ICFO-10954  
Page 2

This decision is the final action of ICE concerning your FOIA request. Inasmuch as you consider this to be a denial of your appeal, you may obtain judicial review 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 have a principal place of business, 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 wish to contact OGIS, you may email them at [ogis@nara.gov](mailto: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](mailto:ice-foia@dhs.gov). In the subject line of the email, please include the word “appeal,” the appeal number, which is **2018-ICAP-00184**, and the FOIA case number, which is **2018-ICFO-10954**.

\ Sincerely,

*Anne M. Rose*

*for* Erin J. Clifford  
Chief  
Government Information Law Division  
ICE Office of the Principal Legal Advisor  
U.S Department of Homeland Security

cc: The ICE FOIA Office

# **EXHIBIT K**

**From:** CBPFOIA@cbp.dhs.gov <CBPFOIA@cbp.dhs.gov>

**Date:** Dec 8, 2017, 09:02 -0500

**To:** cmackler@nyic.org <cmackler@nyic.org>

**Subject:** Final Disposition, Request CBP-2018-012787

This acknowledges receipt of your Freedom of Information Act (FOIA) request to U.S. Customs & Border Protection (CBP), dated November 22, 2017, and seeking: 1. All documents relating to Custom and Border Protection (CBP) agreements with other government agencies, state or federal involving Operation Matador, including, but not limited to, ICE Homeland Security Investigations, ICE Enforcement and Removal Operations, U.S. Citizenship and Immigration Services, the Suffolk County Police Department, the Nassau County Police Department, and the New York City Police Department. 2. All documents reflecting communication and coordination between government agencies, state or federal, on Operation Matador including, but not limited to, ICE Homeland Security Investigations, ICE Enforcement and Removal Operations, U.S. Citizenship and Immigration Services, the Suffolk County Police Department, the Nassau County Police Department, and the New York City Police Department. 3. All training materials distributed to or communicated with any governmental agency, state or federal that participated in Operation Matador, including, but not limited to, ICE Homeland Security Investigations, ICE Enforcement and Removal Operations, U.S. Citizenship and Immigration Services, the Suffolk County Police Department, the Nassau County Police Department, and the New York City Police Department. 4. All documents, regulations, and guidelines defining or outlining the groups or profiles of individuals targeted by Operation Matador. 5. All documents and guidance relating to CBP resources committed or contributed to Operation Matador, including any personnel or equipment used in Operation Matador.

After a careful review of your FOIA request, we determined that the information you are seeking is not under the purview of CBP. Requests for information regarding Operation Matador, should be made to Immigration and Customs Enforcement (ICE). In an effort to assist you on this matter, please follow the following steps to file a FOIA request with ICE:

- The request must include a daytime phone number so you can be contacted if necessary.
- Provide as much information as possible about the subject matter of the records you are requesting. This will help expedite the search process.
- You may mail your request to:

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

- Requests can also be faxed to (202) 732-4265.
- Requests or questions may also be emailed to ICE-FOIA@dhs.gov
- Whether you are submitting your request electronically, by mail, or by fax, a signed Verification of Identity, Verification of Guardianship, Accompanying Persons, and/or PA Amendment Request forms are requirements for making a PA request. PA requests should be marked "Privacy Act Request."

This completes the CBP response to your request. You may contact a FOIA Public Liaison by sending an email via your FOIAonline account, or call 202-325-0150. Please notate file number CBP-2017-075002 on any future correspondence to CBP related to this request.

If you are not satisfied with the response to this request, you have a right to appeal the final disposition. Should you wish to do so, you must file your appeal within 90 days of the date of this letter following the procedures outlined in the DHS regulations at Title 6 C.F.R.

§5.9. Please include as much information as possible to help us understand the grounds for your appeal. You should submit your appeal via FOIAonline by clicking on the "Create Appeal" button that appears when you view your initial request. If you do not have computer access, you may send your appeal and a copy of this letter to: FOIA Appeals, Policy and Litigation Branch, U.S. Customs and Border Protection, 90 K Street, NE, 10th Floor, Washington, DC 20229-1177. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at www.dhs.gov/foia.

# **EXHIBIT L**



131 West 33<sup>rd</sup> Street  
Suite 610  
New York, NY 10001  
(212) 627-2227  
[www.nyic.org](http://www.nyic.org)

January 2, 2018

FOIA Appeals Officer  
Policy and Litigation Branch  
U.S. Customs and Border Protection  
90 K Street, NE, 10th Floor  
Washington, DC 20229-1177

Re: Freedom of Information Act Request Appeal (#CBP-2018-012787)<sup>1</sup>

Dear FOIA Appeals Officer:

I write in reference to U.S. Customs and Border Protection's ("CBP") email indicating that CBP would not produce documents requested by the New York Immigration Coalition's ("NYIC") request for records under the Freedom of Information Act, 5 U.S.C. § 552. Ex. A. To the extent that CBP has possession of the requested documents, CBP's denial is improper and NYIC hereby appeals.

### **Background**

On November 22, 2017, NYIC submitted an online request pursuant to the Freedom of Information Act ("FOIA"). Ex. B. In that online request, NYIC requested the following documents from CBP:

1. All documents relating to Custom and Border Protection (CBP) agreements with other government agencies, state or federal involving Operation Matador, including, but not limited to, ICE Homeland Security Investigations, ICE Enforcement and Removal Operations, U.S. Citizenship and Immigration Services, the Suffolk County Police Department, the Nassau County Police Department, and the New York City Police Department.
2. All documents reflecting communication and coordination between government agencies, state or federal, on Operation Matador including, but not limited to, ICE Homeland Security Investigations, ICE Enforcement and Removal Operations, U.S. Citizenship and Immigration Services, the Suffolk County Police Department, the Nassau County Police Department, and the New York City Police Department.
3. All training materials distributed to or communicated with any governmental agency, state or federal that participated in Operation Matador, including, but not limited to, ICE Homeland Security Investigations, ICE Enforcement and Removal Operations, U.S. Citizenship and Immigration Services, the Suffolk County Police

---

<sup>1</sup> The body of the December 8, 2017 CBP response email included a different tracking number: CBP-2017-075002. However, the subject line of that email as well as the other emails received from CBP all used CBP-2018-012787.

Department, the Nassau County Police Department, and the New York City Police Department.

4. All documents, regulations, and guidelines defining or outlining the groups or profiles of individuals targeted by Operation Matador.
5. All documents and guidance relating to CBP resources committed or contributed to Operation Matador, including any personnel or equipment used in Operation Matador.

CBP responded on December 8, 2017 via email. Ex. A. The email stated that, “[a]fter a careful review of your FOIA request, we determined that the information you are seeking is not under the purview of CBP. Requests for information regarding Operation Matador, should be made to Immigration and Customs Enforcement (ICE).” Id.

This response is insufficient, as it does not state whether CBP actually has any of the requested documents. Accordingly, please confirm whether CBP’s position is that, despite the participation of its officers in Operation Matador,<sup>2</sup> it has conducted a thorough search of its databases and has found no responsive documents. If a search has been completed and no records were found, please describe the search method used. See Oglesby v. U.S. Dept. of Army, 920 F.2d 57, 68 (D.C. Cir. 1990) (An “agency must show that it made a good faith effort to conduct a search . . . using methods which can be reasonably expected to produce the information requested.”).

If CBP has not actually searched and made that finding, however, NYIC appeals CBP’s denial of the FOIA request. Indeed, it is impermissible to summarily deny NYIC’s requests regarding Operation Matador and refer the NYIC to ICE if CBP has responsive records. Documents are “agency records” which must be made available under FOIA when they are (1) created or obtained by the agency; and (2) the agency is in control of the requested materials at the time the request is made. U.S. Dept. of Justice v. Tax Analysts, 492 U.S. 136, 145 (1989). If CBP has any documents related to Operation Matador in its possession, or had any as of November 22, 2017, it must make copies of such documents available to NYIC. “FOIA strongly favors a policy of disclosure and requires the government to disclose its records unless its documents fall within one of the specific, enumerated exemptions set forth in the Act. . . . The government bears the burden of establishing that any claimed exemption applies.” Wood v. FBI, 432 F.3d 78, 82-83 (2d Cir. 2005). CBP has not claimed that a statutory exemption applies. See Ex. A. Therefore, all responsive documents in CBP’s possession must be disclosed to NYIC.

NYIC also appeals the CBP’s denial of NYIC’s request for a fee waiver. See Ex. C. Under 5 U.S.C. § 552(a)(4)(A)(iii), a requester is entitled to reduced or waived fees when “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” The public has a significant interest in the disclosure of these documents. Both gang operations and immigration enforcement have a tremendous impact on our communities. As the frequency and scope of these operations have greatly expanded in 2017, it is imperative that communities have a greater understanding of the purpose and goals of these operations, as well as

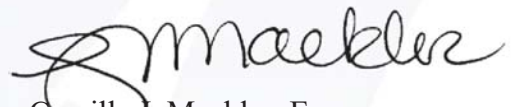
---

<sup>2</sup> See U.S. Immigration and Customs Enforcement, “Operation Matador nets 39 MS-13 arrests in last 30 days,” <https://www.ice.gov/news/releases/operation-matador-nets-39-ms-13-arrests-last-30-days> (June 14, 2017).

what public resources are being used to carry them out. Further, the NYIC is a non-profit organization without any commercial interest in the records. The NYIC therefore renews its request for a fee waiver.

Please respond within the twenty business day statutory period, 5 U.S.C. § 552(a)(6)(A)(ii), informing NYIC of the decision on appeal, including whether a search of responsive records has been completed or commenced.

Sincerely,

A handwritten signature in black ink, appearing to read "Camille J. Mackler". The signature is fluid and cursive, with the first letter of the first name being a large, stylized 'C'.

Camille J. Mackler, Esq.  
Director of Immigration Legal Policy

# **EXHIBIT M**



U.S. Department of Homeland Security  
Washington, DC 20229

U.S. Customs and Border  
Protection

DIS-3 OT:RR:RDL:FAPL  
CBP-AP-2018-022716 MMC

April 20, 2018

Ms. Camille J. Mackler  
New York Immigration Coalition  
131 W. 33<sup>rd</sup> Street, Suite 610  
New York, New York 10001

RE: Freedom of Information Act Appeal; Operation Matador; CBP-2018-012787

Dear Ms. Mackler:

This is in response to your January 11, 2018 appeal, received by CBP on January 16, 2018 indicating your intent to appeal the December 8, 2017 actions of the U.S. Customs and Border Protection (CBP) Freedom of Information Act (hereinafter "FOIA") Division, Privacy and Diversity Office.

In your initial request you sought:

1. All documents relating to Custom and Border Protection (CBP) agreements with other government agencies, state or federal involving Operation Matador, including, but not limited to ICE Homeland Security Investigations (HSI), ICE Enforcement and Removal Operations (ERO), U. S. Citizenship and Immigration Services (USCIS), the Suffolk County Police Department (SCPD), the Nassau County Police Department (NCPD) and the New York City Police Department (NYPD).
2. All documents reflecting communication and coordination between government agencies, state or federal on Operation Matador including, but not limited to, ICE HSI & ERO, USCIS, SCPD, NCPD and NYPD.
3. All training material distributed to or communicated with a governmental agency, state or federal that participated in Operation Matador, including but not limited to, ICE HSI & ERO, USCIS, SCPD, NCPD and NYPD.

4. All documents, regulations, and guidelines defining or outlining the groups or profiles of individuals targeted by Operation Matador.
5. All documents and guidance relating to CBP resources committed or contributed to Operation Matador, including any personnel or equipment used in Operation Matador.

In reply to your request, the CBP FOIA Division indicated that pursuant to your request if records existed they would be available at the public I-94 website. An I-94 is a CBP record. Specifically it records an individual's Arrival/Departure to and from the United States<sup>1</sup>.

It appears that the CBP FOIA Division deduced that because Operation Matador's mission concerned undocumented individuals who were the focus of a criminal investigation, said individuals may, in fact, have been deported and therefore required an I-94 departure record. As such, the CBP FOIA Division directed you to the I-94 website. After reading your initial and appellate requests it is our understanding that in fact you are seeking records about the planning and execution of the Operation itself. Therefore, we have conducted a new appellate search, seeking any CBP records, if they exist, about the planning and execution of Operation Matador.

Concerning your first request, no information sharing agreements or the like exist between CBP and ICE because the adoption of "One DHS Rule" supplanted any need for them. According to the One DHS Rule,<sup>2</sup> components (CBP, ICE, USCIS, etc.) within DHS share information as one Department, rather than as separate entities. As such, a written agreement outlining the terms of agreement for the sharing of information is unnecessary.

In an effort to obtain any records CBP may have about "Operation Matador", we contacted the CBP office that was geographically closest to the sight(s) of the operation. We specifically requested from them any CBP records they had about CBP's role in the planning and execution of Operation Matador. In reply, that office provided us with ten (10) pages of e-mails. For the reasons stated below we are releasing all ten (10) pages with redactions made pursuant to FOIA Exemptions (b)(6), (b)(7)(C), and (b)(7)(E).

Invoking Exemption (b)(6) permits the government to withhold information about an individual in "personnel and medical and similar files" when the disclosure "would constitute a clearly unwarranted invasion of personal privacy."<sup>3</sup> The information we are withholding in these records concern CBP Officers and third parties. We are withholding

---

<sup>1</sup> See also the I-94 W: A non-immigrant Visa Waiver Arrival/Departure Record.

<sup>2</sup> DHS Policy Directive 262-05 **Information Sharing and Safeguarding**, dated September 4, 2014.

<sup>3</sup> 5 U.S.C. §552(b)(6)

personal information such as CBP officers' and third-parties' first and last names and direct telephone numbers.

Information subject to exemption pursuant to (b)(6), must fall within the category of "personnel, medical files and similar files."<sup>4</sup> Once that threshold is met, Exemption (b)(6) requires a balancing test of the public's right to know the personal information against an individual's right to privacy to determine whether the information in question should be disclosed to the public.<sup>5</sup>

Concerning the first prong of the test, the "category of record" prong, personnel and medical files are easily identified, but what constitutes a "similar file" requires further analysis. In *United States Department of State v. Washington Post Co.*,<sup>6</sup> the United States Supreme Court held that based upon a review of the legislative history of the FOIA, Congress intended the term "similar files" to be interpreted broadly, rather than narrowly.<sup>7</sup> The Court stated that the protection of an individual's privacy "surely was not intended to turn upon the label of the file which contains the damaging information."<sup>8</sup> Rather, the Court made clear that all information that "applies to a particular individual" meets the threshold requirement for Exemption 6 protection.

The records at issue are considered investigative records because they were created to engage in a law enforcement action(s) concerning undocumented persons and those persons' engagement in criminal acts or their membership in a group committing criminal acts. As such, the first prong of the Exemption 6 test is met as the subject records are records that contain personal information and these types of records fall within the broad definition of "similar files".

As the "category of record" threshold has been met, we must examine whether disclosure of the identified information in the records at issue would constitute a clearly unwarranted invasion of personal privacy. Making that decision requires a balancing of the privacy interest that would be compromised by disclosure, against any public interest in the requested information.

The burden of establishing that disclosure would serve the public interest is on the requester.<sup>9</sup> You have not demonstrated any genuine and significant interest in CBP officers' and third parties first and last names or phone numbers. Neither have you

---

<sup>4</sup>*U.S. Dep't of Justice v. Reporters Committee for Freedom of the Press*, 489 U.S. 749 (1989).

<sup>5</sup>*Dep't of the Air Force v. Rose*, 425 U.S. 352 (1976).

<sup>6</sup>456 U.S. 595 (1982).

<sup>7</sup>*Id.* at 599-603 (citing H.R. Rep. No. 89-1497, at 11 (1966); S. Rep. No. 89-813, at 9 (1965); S. Rep. No. 88-1219, at 14 (1964)).

<sup>8</sup>*Id.* at 601 (citing H.R. Rep. No. 89-1497, at 11 (1966)); see *Judicial Watch, Inc. v. FDA*, 449 F.3d 141, 152 (D.C. Cir. 2006) ("The Supreme Court has read Exemption 6 broadly, concluding the propriety of an agency's decision to withhold information does not 'turn upon the label of the file which contains the damaging information.'" (quoting *Wash. Post*, 456 U.S. at 601)).

<sup>9</sup>*Associated Press v. DOD*, 549 F.3d 62, 66 (2d Cir. 2008) ("The requesting party bears the burden of establishing that disclosure of personal information would serve a public interest cognizable under FOIA.")

articulated how the disclosure of this information will advance the primary goal of the FOIA (to shed light on the operation of the federal government). As such, we are invoking the (b)(6) exemption for this type of information in the records we are releasing to you.

Exemption (b)(7)(C) was also employed to withhold CBP officers' and third parties names and phone numbers from disclosure. Exemption (b)(7) is subdivided into six subparts, (A) through (F). The initial requirement for the use of all the (b)(7) exemptions is that the records or information subject to disclosure consideration have been "compiled for law enforcement purposes."<sup>10</sup> Additionally the (b)(7) exemptions apply to civil, criminal and administrative law enforcement proceedings.<sup>11</sup> The subject records have been compiled for law enforcement purposes as they concern a specific enforcement operation relevant to the law enforcement mission of CBP.

Specifically, Exemption (b)(7)(C) exempts from disclosure "records and information compiled for law enforcement purposes" the disclosure of which "could reasonably be expected to constitute an unwarranted invasion of personal privacy."<sup>12</sup> This exemption protects, among other information, the identity of law enforcement personnel and third-parties referenced in files compiled for law enforcement purposes. This exemption is designed to protect law enforcement personnel conducting their official duties from harassment and annoyance in their private lives that could conceivably result from public disclosure of their identity.<sup>13</sup> Exemption (b)(7)(C) is also intended to protect third-parties identities in law enforcement files. Specifically, it is meant to protect a third party from comment, speculation and stigmatizing connotation associated with being identified in a law enforcement record.

The application of Exemption (b)(7)(C), to specific information requires the user to perform a balancing test regarding an individual's privacy interest versus the public interest of, in this instance, third parties' and CBP officers' first and last names and phone numbers..<sup>14</sup> The privacy interests of the third parties—being protected from comment, speculation and stigmatizing connotation associated with being identified in a law enforcement record--- far outweigh whatever public interest, if any, exists in the release of their personally identifiable information. The same can be said for the privacy interests of the CBP officers (being protected from public disclosure of the identity of a law enforcement officer who, because of the conduct of his/her official duties, could conceivably be subject to harassment and annoyance in his/her private life) far outweigh whatever public interest, if any, exists in having CBP officers' information released. As

---

<sup>10</sup>5 U.S.C. 552 (b)(7).

<sup>11</sup>See generally *Center for National Policy Review v. Weinberger*, 502 F.2d 370 (D.C. Cir. 1974); *Detroit Free Press, Inc. v. Department of Justice*, 73 F.3d 93 (6th Cir. 1996); *Oritz v. Health and Human Services*, 70 F.3d 729 (2d Cir. 1995).

<sup>12</sup>5 U.S.C. 552 (b)(7)(C).

<sup>13</sup>*Nix v. United States*, 572 F.2d 998, 1006 (4th Cir. 1978).

<sup>14</sup>See *Castenada v. United States*, 757 F.2d 1010, 1012 (9th Cir. 1985).

such we are invoking the (b)(7)(C) exemption for this type of information that appears in the records we are releasing to you.

Exemption (b)(7)(E) exempts from disclosure information that would disclose techniques and procedures for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law.<sup>15</sup> Where the agency has a clear law enforcement mandate it only need establish a rational nexus between enforcement of a federal law and the information withheld based on a (b)(7) exemption.<sup>16</sup>

Pursuant to Exemption (b)(7)(E), the redacted information in the e-mails concerns the number and type of CBP employees provided to the ICE Operation as well as the length of time CBP could provide them, and the resources relied upon to conduct an analysis of the assets CBP could provide to the operation. Were CBP to release this information, it would enable potential violators to design strategies to circumvent the law enforcement procedures developed and employed by CBP because it would allow potential violators to better prepare themselves to evade and exploit U.S. immigration and other laws.

The Freedom of Information Act, particularly Title 5 U.S.C. § 552 (a)(4)(B), provides you with the opportunity to seek judicial review of this administrative appeal. You may institute judicial review in the United States District Court in the district in which you reside, have a principal place of business, where the agency records are located, or in the United States District Court for the District of Columbia.

As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue 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.

---

<sup>15</sup>See *Fisher v. U.S. Dep't of Justice*, 772 F. Supp. 7 (D.D.C. 1991) (explicitly recognizing categorical protection for law enforcement techniques and procedures), *aff'd* 968 F.2d 92 (1992); and, *Hammes v. U.S. Customs Serv.*, 1994 WL 693717 (S.D.N.Y. 1994) (protecting criteria used to determine which passengers to stop and examine).

<sup>16</sup>See, *Costal Delivery Corp. v. U.S. Customs Serv.*, 272 F. Supp.2d 958, 963 (C.D.Cal. 2003) (Customs has a clear law enforcement mandate; Exemption (b)(7)(E) used to withhold techniques or guidelines for law enforcement investigations); *Pons v. U.S. Customs Serv.*, 1998 U.S. Dist. LEXIS 6084 (D.C.C. 1998) (protecting cooperative arrangements between Customs and other law enforcement agencies to keep them effective); and, *Judicial watch, Inc. v. FBI*, 2001 U.S. Dist. LEXIS 25732 (D.D.C. 2001)(protecting the "identities of two types of [FBI] records concerning prison inmates, "the release of which would enable inmates "to alter their activities[,] thus hindering the effectiveness of the technique").

You may contact OGIS in any of the following ways:

Office of Government Information Services  
National Archives and Records Administration  
Room 2510  
8601 Adelphi Road  
College Park, MD 20740-6001  
E-mail: [ogis@nara.gov](mailto:ogis@nara.gov)  
Telephone: 301-837-1996  
Facsimile: 301-837-0348  
Toll-free: 1-877-684-6448

Sincerely,

*Shari Suzuki*

Shari Suzuki, Chief  
FOIA Appeals, Policy, and Litigation  
Regulations and Rulings  
Office of International Trade

(b)(6)&(b)(7)(C)

**From:** (b)(6)&(b)(7)(C)  
**Sent:** Thursday, March 22, 2018 12:39 PM  
**To:** (b)(6)&(b)(7)(C)  
**Subject:** FW: FOIA Appeal Request: Operation Matador  
**Attachments:** FW: CONOPS OP MATADOR; FW: CBPO Assistance - MS-13; FW: Operation in Long Island

Good afternoon,

Please see attached emails that were collected. Please contact me if there are any questions.

Thank You,

(b)(6)&(b)(7)(C)

FOIA Program Manager

(b)(6)&(b)(7)(C)

Newark, NJ 07102

(b)(6)&(b)(7)(C) (office)

(b)(6)&(b)(7)(C) (cell)

(b)(6)&(b)(7)(C)

**From:** b(6) & b(7)(C)

**Sent:** Wednesday, March 21, 2018 3:41 PM

**To:** b(6) & b(7)(C)

**Cc:** b(6) & b(7)(C)  
b(6) & b(7)(C)

**Subject:** RE: FOIA Appeal Request: Operation Matador

b(6) & b(7)(C)

Here is what we have been able to piece together. The majority of requests have been by phone between HSI and the (b) (7)(E) (b) (7)(E) requests via email are attached.

Let me know if you need anything else.

b(6) & b(7)(C)

New York Field Office

U.S. Customs and Border Protection

Office: b(6) & b(7)(C)

Mobile:

b(6) & b(7)(C)

**From:** b(6) & b(7)(C)  
**Sent:** Tuesday, March 20, 2018 6:27 PM  
**To:** b(6) & b(7)(C)  
**Subject:** FW: CONOPS OP MATADOR  
**Attachments:** DHS CONOPS v2 Final.docx

Fyi

b(6) & b(7)(C)  
New York Field Office  
b(6)&(b)(7)(C)  
U.S. Customs & Border Protection  
(C) b(6) & b(7)(C)

**From:** b(6) & b(7)(C)  
**Sent:** Monday, May 22, 2017 4:24 PM

**To:** b(6) & b(7)(C)  
**Cc:** b(6) & b(7)(C)

b(6) & b(7)(C)

b(6) & b(7)(C)

**Subject:** RE: CONOPS OP MATADOR

Sir,

Correct. I have already communicated this to HSI as well today. We are able to assist Operation Matador by providing (b) (7)(E) resources (b) (7)(E) but need to keep (b) (7)(E) for the other operations we have going on and for availability to the ports. I have also advised HSI (b)(6) &(b)(7)(C) that I require an (b) (7)(E) (b) (7)(E) so that I can provide this to CBP management. At all times the team is checking in with me on their (b) (7)(E) (b) (7)(E) as required.

Absolutely on the Hierarchy

(b) (7)(E)

Thanks

(b)(6) &(b)(7)(C)

**From:** (b)(6) &(b)(7)(C)

**Sent:** Monday, May 22, 2017 3:43 PM

**To:** (b)(6) &(b)(7)(C)

**Cc:** (b)(6) &(b)(7)(C)

(b)(6) &(b)(7)(C)

(b)(6) &(b)(7)(C)

**Subject:** RE: CONOPS OP MATADOR

(b)(6) &(b)(7)(C) – as discussed, the (b) (7)(E) cannot be (b) (7)(E) detailed to OPERATION MATADOR for (b) (7)(E) (b) (7)(E). I am not sure if and/or how that level of commitment was conveyed to HSI. Regardless, given the high level of interest in this operation, we should provide as much support as possible, taking into consideration (b) (7)(E) and (b) (7)(E). Also, keep in mind (b) (7)(E).

Regards,

(b)(6) &(b)(7)(C)

U.S. Customs and Border Protection  
New York Field Office  
O (b)(6) &(b)(7)(C)  
M (b)(6) &(b)(7)(C)

**From:** (b)(6) &(b)(7)(C)  
**Sent:** Monday, May 22, 2017 1:45 PM  
**To:** (b)(6) &(b)(7)(C)  
(b)(6) &(b)(7)(C)  
**Cc:** NYFO-SRT (b)(6) &(b)(7)(C)  
**Subject:** FW: CONOPS OP MATADOR

FYI

(b)(6) &(b)(7)(C)  
New York Field Office  
(b)(6) &(b)(7)(C)  
U.S Customs & Border Protection  
(C) (b)(6) &(b)(7)(C)

---

**From:** (b)(6) &(b)(7)(C)  
**Sent:** Monday, May 22, 2017 12:10:34 PM  
**To:** (b)(6) &(b)(7)(C)  
**Subject:** CONOPS OP MATADOR

(b)(6) &(b)(7)(C)

(b)(6) &(b)(7)(C)

Desk: (b)(6) &(b)(7)(C)  
Mobile: (b)(6) &(b)(7)(C)

Sent with BlackBerry Work ([www.blackberry.com](http://www.blackberry.com))

(b)(6) &(b)(7)(C)

---

**From:** (b)(6) &(b)(7)(C)  
**Sent:** Saturday, May 20, 2017 11:36 PM  
**To:** (b)(6) &(b)(7)(C)  
**Cc:** (b)(6) &(b)(7)(C)  
**Subject:** FW: (b) (7)(E) long Island

Sir,

These are the (b) (7)(E) on (b) (7)(E) with HSI's task force. I will be (b) (7)(E) (b) (7)(E) for this (b) (7)(E) the Task Force. We will have (b) (7)(E) his operation. If there are any (b) (7)(E) do you mind having (b) (7)(E) (b) (7)(E) as we will be (b) (7)(E) ?

I will be (b) (7)(E) for HSI on (b) (7)(E). More info to follow

**From:** (b)(6) &(b)(7)(C)  
**Sent:** Saturday, May 20, 2017 4:21 PM  
**To:** (b)(6) &(b)(7)(C)  
**Subject:** (b) (7)(E)

(b)(6) &(b)(7)(C)

As discussed, please (b) (7)(E) for (b) (7)(E), such as (b) (7)(E) that we can give to (b) (7)(E) as they are (b) (7)(E).

They do not have to (b) (7)(E), although that would be helpful. Just looking at (b) (7)(E).

Thanks!

(b)(6) &(b)(7)(C)

(b)(6) &(b)(7)(C)

(b)(6) &(b)(7)(C)

Desk: (b)(6) &(b)(7)(C)  
Mobile: (b)(6) &(b)(7)(C)

Sent with BlackBerry Work ([www.blackberry.com](http://www.blackberry.com))

---

**From:** (b)(6) &(b)(7)(C)  
**Sent:** Friday, May 19, 2017 2:23:30 PM  
**To:** (b)(6) &(b)(7)(C)  
**Subject:** (b)(6) &(b)(7)(C)

(b)(6) & (b)(7)(C)

On (b) (7)(E) the New York Field Office (b) (7)(E) will be assisting HSI during Operation (b) (7)(E) on apprehension of (b) (7)(E).

**The role of (b) (7)(E) will be:**

In conjunction with HSI (b) (7)(E)

**The plan for (b) (7)(E) is:**

- The (b) (7)(E) will be assigned (b) (7)(E) HSI teams: (b) (7)(E)
- The (b) (7)(E) teams will (b) (7)(E) in the assigned (b) (7)(E) in order to (b) (7)(E).
- (b) (7)(E) (b) (7)(E) (b) (7)(E) the subjects via (b) (7)(E) depending on the situation development.

Should the (b) (7)(E), notification will be made to (b) (7)(E) when it is safe to do so.

(b) (7)(E)

Operation Type: (b) (7)(E)  
(b)(6) & (b)(7)(C)

**Team** (b)(6) (b)(7)(C) & (b)(7)(E)

Target: (b)(6) (b)(7)(C) & (b)(7)(E)

Location: (b)(6) (b)(7)(C) & (b)(7)(E)

Offense: (b)(6) (b)(7)(C) & (b)(7)(E)

Criminal History: (b)(6) (b)(7)(C) & (b)(7)(E)

(b) (7)(E) Operators Participating: (b)(6) (b)(7)(C) & (b)(7)(E)

(b) (7)(E) POC: (b)(6) (b)(7)(C) & (b)(7)(E)

HSI Point of Contact: (b)(6) (b)(7)(C) & (b)(7)(E)

Nearest Hospital: (b) (7)(E)

Nearest Trauma Center: (b) (7)(E)

(b)(6) (b)(7)(C) & (b)(7)(E)

(b)(6) (b)(7)(C) & (b)(7)(E)



**Team** (b)(6) (b)(7)(C) & (b)(7)(E)

**Target:** (b)(6) (b)(7)(C) & (b)(7)(E)

**Location:** (b)(6) (b)(7)(C) & (b)(7)(E)

**Offense:** (b)(6) (b)(7)(C) & (b)(7)(E)

**Criminal History:** (b)(6) (b)(7)(C) & (b)(7)(E)

(b)(6) (b)(7)(C) & (b)(7)(E)

(b)(7)(E) **Operators Participating:** (b)(6) (b)(7)(C) & (b)(7)(E)

(b)(7)(E) **POC:** (b)(6) (b)(7)(C) & (b)(7)(E)

**HSI Point of Contact:** (b)(6) (b)(7)(C) & (b)(7)(E)

**Nearest Hospital:** (b)(7)(E)

**Nearest Trauma Center:** (b)(7)(E)

(b)(6) (b)(7)(C) & (b)(7)(E)



(b)(6) (b)(7)(C) & (b)(7)(E)

**Team** (b)(6) (b)(7)(C) & (b)(7)(E)

**Target:** (b)(6) (b)(7)(C) & (b)(7)(E)

**Location:** (b)(6) (b)(7)(C) & (b)(7)(E)

**Offense:** (b)(6) (b)(7)(C) & (b)(7)(E)

**Criminal History:** (b)(6) (b)(7)(C) & (b)(7)(E)

(b)(6) (b)(7)(C) & (b)(7)(E)

(b)(7)(E) **Operators Participating:** (b)(6) (b)(7)(C) & (b)(7)(E)

(b)(7)(E) **POC:** (b)(6) (b)(7)(C) & (b)(7)(E)

**HSI Point of Contact:** (b)(6) (b)(7)(C) & (b)(7)(E)

**Nearest Hospital:** South (b)(7)(E)

**Nearest Trauma Center:** (b)(7)(E)

(b)(7)(E)

(b)(6) (b)(7)(C) & (b)(7)(E)

(b)(6) (b)(7)(C) & (b)(7)(E)

(b)(6) (b)(7)(C) & (b)(7)(E)



(b)(6) (b)(7)(C) & (b)(7)(E)

(b)(6)&(b)(7)(C)

**From:** (b)(6)&(b)(7)(C)  
**Sent:** Wednesday, March 21, 2018 12:31 PM  
**To:** (b)(6)&(b)(7)(C)  
**Cc:**  
**Subject:** FW: CBPO Assistance - MS-13  
**Attachments:** FW: (b)(7)(E) long Island

(b)(6)&(b)(7)(C) - While OIT continues to figure out my archive issue, here is one email that might be useful, and attached is another one that is more (b)(7)(E) related.

(b)(6)&(b)(7)(C)

U.S. Customs and Border Protection  
JFK Airport  
Office: (b)(6)&(b)(7)(C)  
Cell: (b)(6)&(b)(7)(C)

**From:** b(6) & b(7)(C)  
**Sent:** Tuesday, May 09, 2017 9:24 AM  
**To:** b(6) & b(7)(C)  
**Cc:** b(6) & b(7)(C)  
**Subject:** CBPO Assistance

(b)(6) & b(7)(C)

As discussed, we have (b) (7)(E)

(b) (7)(E)

(b) (7)(E)

Would it be possible to (b) (7)(E)

(b) (7)(E)

Any assistance would be greatly appreciated.

Thank you,

b(6) & b(7)(C)

b(6) & b(7)(C)

**From:** b(6) & b(7)(C)  
**Sent:** Tuesday, March 20, 2018 6:25 PM  
**To:** b(6) & b(7)(C)  
**Subject:** FW: Operation in Long Island

FYI

b(6) & b(7)(C)  
New York Field Office  
b(6) & b(7)(C)  
U.S. Customs & Border Protection  
b(6) & b(7)(C)

**From:** b(6) & b(7)(C)  
**Sent:** Friday, May 05, 2017 12:49 PM  
**To:** b(6) & b(7)(C)  
**Cc:** b(6) & b(7)(C); b(6) & b(7)(C)  
**Subject:** Operation in Long Island

b(6) & b(7)(C) - I got your voice mail yesterday. We appreciate the (b) (7)(E)  
b(6) & b(7)(C) Our (b) (7)(E) for this. I have copied b(6) & b(7)(C)  
b(6) & b(7)(C) and b(6) & b(7)(C) to see if they are (b) (7)(E). Feel free to  
reach out to them (b) (7)(E)

Thanks,

b(6) & b(7)(C)  
(b)(6)&(b)(7)(C)  
U.S. Customs and Border Protection  
b(6) & b(7)(C)