



U.S. Immigration  
and Customs  
Enforcement

September 7, 2012

Ms. Jennifer Lynch  
Electronic Frontier Foundation  
454 Shotwell Street  
San Francisco, CA 94110

**RE: ICE FOIA Case Number 2011FOIA13220**

Dear Ms. Lynch:

This is in further response to your Freedom of Information Act (FOIA) request to the U.S. Department of Justice, Federal Bureau of Investigation (FBI), dated September 28, 2010.

A search of the FBI for records responsive to your request produced twelve (12) pages of documents that originated from U.S. Immigration and Customs Enforcement (ICE). The FBI referred these documents to ICE for review and processing under the FOIA.

In a letter dated September 29, 2011, I informed you that ICE had reviewed these documents and had determined that they were partially releasable.

After further review of my initial determination, I have determined that these documents are fully exempt pursuant to Exemption 7(E) of the FOIA. Portions of these records are also exempt pursuant to Exemptions 6 and 7(C) of the FOIA. In addition, these records may be fully exempt pursuant to Exemption 7(A) of the FOIA.

ICE has applied FOIA Exemptions 6 and 7(C) to protect from disclosure the names, e-mail addresses, and phone numbers of DHS and ICE employees contained within the documents. In addition, ICE has withheld the names and other personally identifiable information of third parties within the documents.

**FOIA Exemption 6** exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right to privacy. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

**FOIA Exemption 7(C)** protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. This exemption takes particular note of the strong interests of individuals, whether they are suspects, witnesses, or investigators, in not being unwarrantably associated with alleged criminal activity. That interest extends to persons who are not only the subjects of the investigation, but those who may have their privacy invaded by having their identities and information about them revealed in connection with an investigation. Based upon the traditional recognition of strong privacy interest in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate. As such, I have determined that the privacy interest in

the identities of individuals in the records you have requested clearly outweigh any minimal public interest in disclosure of the information. Please note that any private interest you may have in that information does not factor into this determination.

ICE has applied FOIA Exemption 7(E) to protect from disclosure documents containing descriptions of sensitive law enforcement electronic surveillance techniques and procedures. These documents contain detailed descriptions of the investigative capabilities and technical limitations with regard to electronic surveillance used by law enforcement. The release of this information would reveal essential law enforcement techniques and investigative procedures and could adversely affect future investigations and operations by exposing the details and type of information law enforcement agencies use during electronic surveillance as well as revealing the technical capabilities and limitations of such electronic surveillance. The disclosure of these techniques, procedures, capabilities, and limitations could permit individuals or groups seeking to violate immigration and customs laws and regulations to circumvent the law by taking proactive steps to counter investigative actions, such as electronic surveillance, taken by law enforcement agencies during enforcement operations.

**FOIA Exemption 7(E)** protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or 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. I have determined that disclosure of certain law enforcement techniques and procedures contained within the responsive records could reasonably be expected to risk circumvention of the law. Additionally, the techniques and procedures at issue are not well known to the public.

ICE has applied FOIA Exemption 7(A) to protect records and information pertaining to open, ongoing or prospective law enforcement investigations. Information contained within these documents may be part of an ongoing law enforcement investigation(s).

**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. I have determined that the information you are seeking relates to an ongoing law enforcement investigations. Therefore, I am 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 5, 6, 7(C), 7(D), 7(E), and 7(F).

Please return any original copies of these documents to the ICE FOIA Office at the address below. If these records were provided to you on a disc, please return the original disc. You should also destroy any electronic or paper copies of these documents.

ICE FOIA Office  
500 12<sup>th</sup> Street, S.W., MS 5009  
Washington, D.C. 20536-5009

You have the right to appeal ICE's withholding determination. Should you wish to do so, send your appeal and a copy of this letter to: U.S. Immigration Customs Enforcement, Office of Principal Legal Advisor, U.S. Department of Homeland Security, Freedom of Information Office, 500 12<sup>th</sup> Street, S.W., Stop 5009 Washington, D.C. 20536-5009, following the procedures outlined in the

DHS regulations at 6 C.F.R. § 5.9. Your appeal must be received within 60 days of the date of this letter. 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).

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.

If you need to contact our office about this matter, please refer to FOIA case number **2011FOIA13220**. This office can be reached at (866) 633-1182.

Sincerely,

Handwritten signature in black ink, appearing to read "Maw" followed by "FOR" in a smaller, less distinct script.

Catrina M. Pavlik-Keenan  
FOIA Officer