



**n a t i o n a l**  
**IMMIGRATION**  
**p r o j e c t**  
of the National Lawyers Guild

September 21, 2020

Fernando Pineiro  
FOIA Officer  
U.S. Immigration and Customs Enforcement  
Freedom of Information Act Office  
500 12th Street, S.W., Stop 5009  
Washington, D.C. 20536-5009  
ICE-FOIA@dhs.gov

*Sent via US Postal Service and Electronic Mail*

Dear Mr. Pineiro:

This letter constitutes a request pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, submitted on behalf of the National Immigration Project of the National Lawyers Guild (NIPNLG) and Project South. This request seeks information pertaining to gynecological procedures performed on individuals in ICE custody.

NIPNLG and Project South (hereinafter the Requestors) seek the expedited processing of this request, pursuant to 5 U.S.C. § 552(a)(6)(E) and agency regulations, and a fee waiver, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii).

## **I. Records Requested**

Requestors seek release of any and all records<sup>1</sup> prepared, received, transmitted, collected and/or maintained by U.S. Immigration and Customs Enforcement (ICE) which describe, refer

---

<sup>1</sup> The term “records” as used herein includes all records or communications preserved in electronic or written form, including but not limited to correspondence, documents, data, videotapes, audiotapes, e-mails, faxes, files, guidance, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, manuals, bills, contracts, technical specifications, training manuals, and studies.

or relate to policies, guidelines, or procedures regarding gynecological procedures<sup>2</sup> performed on individuals in ICE custody, including but not limited to, hysterectomies, oophorectomies, salpingo-oophorectomies, or the administration of drugs that may induce infertility.

The above records include, but are not limited to:

1. Records relevant to ICE protocols or decision-making pertaining to gynecological procedures for individuals in ICE custody.
2. Records explaining the protocol or guidelines authorizing gynecological procedures that may result in sterilization or diminished fertility for individuals in ICE custody.
3. Records pertaining to informed consent protocols for individuals in ICE custody who undergo gynecological procedures.
4. Any other records related to gynecological procedures on individuals in ICE custody, including, but not limited to directives, policies, protocols, communications, reports, emails, letters, and trainings.
5. Records related to any gynecological procedure conducted on any individual in ICE custody, with identifying information redacted, including communications between ICE employees and contractors, and employees of third-party contractors at immigration detention facilities, including, but not limited to authorization forms, medical billing, reimbursement forms, and medical reports.
6. Records related to any complaint filed with the Office of Inspector General pertaining to gynecological procedures on individuals in ICE custody.
7. Records pertaining to the provision of gynecological procedures by Dr. Mahendra Amin.
8. Records pertaining to the provision of gynecological procedures on any individual detained at any of the facilities listed in Attachment A.

The time period for this search is from January 1, 2018 to the present, and includes records existing at the time of your response to this request as well as records existing at the time of any supplemental response that you provide.

Requestors ask that any records that exist in electronic form be provided electronically in their native file format, if possible. Alternatively, Requestors request that records be provided electronically in a text-searchable, static-image format (PDF), in the best image quality in the agency's possession, and that the records be provided in separate, Bates-stamped files. Please

---

<sup>2</sup> The term "gynecological procedure" as used herein includes but is not limited to any gynecological activity directed at or performed on an individual purportedly with the object of improving health, treating disease or injury, or making a diagnosis.

produce with the records any metadata and load files. If codes are employed, please also produce any documents in your possession explaining the codes employed, and what they signify.

If under applicable law any of the information is considered exempt, please describe in detail the nature of the information withheld, the specific exemption or privilege upon which the information is withheld, and whether the portions of withheld documents containing non-exempt or non-privileged information have been provided. Requestors seek the release of all portions of otherwise exempt material that can be segregated.

## **II. The Requestors**

The National Immigration Project of the National Lawyers Guild is a national non-profit that provides technical and litigation support to immigrant communities, legal practitioners, and all advocates seeking to advance the rights of noncitizens. The NIPNLG provides training to the bar and the bench on immigration consequences of criminal conduct, and is the author of four treatises on immigration law published by Thomson Reuters. In addition, NIPNLG staff present, and regularly publish practice advisories, on immigration law topics, which are disseminated to its members as well as to a large public audience through its website, [www.nationalimmigrationproject.org](http://www.nationalimmigrationproject.org). Finally, NIPNLG has contact with national print and news media and plans to share information gleaned from FOIA disclosures with interested media.

Project South is a social justice organization based in Atlanta, Georgia. Project South works with grassroots organizations and directly-impacted communities in the U.S. South. Project South has been documenting conditions in immigration detention centers and published several human rights reports. Project South has also engaged in impact litigation as well as advocacy with the United Nations and the Inter-American Commission.

## **III. Expedited Processing**

The Requestors seek expedited treatment for this FOIA request. This request qualifies for expedited treatment pursuant to 5 U.S.C. § 552(a)(6)(E) and applicable regulations.

The information sought is significant given recent wide-spread reporting that individuals in ICE custody have been subjected to gynecological procedures without their consent. The records sought will assist the Requestors and the general public in understanding the scope of these practices.

As set forth above, there is a “compelling need” for expedited processing of this request, *see* 5 U.S.C. § 552(a)(6)(E)(i)(I), namely, an “urgency to inform the public concerning the actual or alleged Federal Government activity,” *see* 5 U.S.C. § 552(a)(6)(E)(v)(II). *See also* 6 C.F.R. § 5.5(d)(1)(ii) (same). The Requestors are therefore entitled to expedited processing of this request.

#### **IV. Request for Waiver of All Costs**

Requestors are organizations that work on behalf of immigrant communities. They ask that the agency waive all fees associated with this request.

Requestors are entitled to a waiver of all costs because disclosure of the information 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.” 5 U.S.C. § 552(a)(4)(A)(iii). *See also* 6 C.F.R. § 5.11 (k) (records furnished without charge or at a reduced rate if the information is in the public interest, and disclosure is not in commercial interest of institution). A fee waiver also would fulfill Congress’ intent in amending the FOIA. *Judicial Watch, Inc. v. Rossoti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (discussing that Congress intended the FOIA to be construed broadly to favor fee waiver for noncommercial requests). In addition, Requestors have the ability to widely disseminate the requested information. *Judicial Watch*, 326 F.3d at 1301 (finding a fee waiver appropriate when the requester explained, in detailed and non-conclusory terms, how and to whom it would disseminate the information it received).

##### **a. Disclosure of the Information Is in the Public Interest**

Disclosure of the requested information will contribute significantly to the public understanding of the medical treatment of individuals in ICE custody. In light of reports in national media concerning the potential forced sterilization and other gynecological procedures performed without consent on individuals in ICE custody, access to this information is fundamental to the public’s ability to become informed about these government activities. The information will provide more details to the public about how migrants are treated in ICE custody and shed light on the extent of these practices and the number of individuals who may have been subjected to unconsented gynecological procedures.

Requestors have the capacity and intent to disseminate widely the requested information to the public. Requestors will review, analyze and and/or summarize the information obtained through this FOIA. In addition, Requestors’ staff will speak publicly and publish related written materials to be shared with the public, organizational members and the academic community. Requestors will make the information available through their websites, which are accessible by any member of the public. Finally, Requestors have frequent contact with national print and news media and plans to share information gleaned from FOIA disclosures with interested media.

##### **b. Disclosure of the Information Is Not Primarily in the Commercial Interest of the Requester**

Requestors are tax-exempt, not-for-profit educational and charitable organizations. NIPNLG and Project South are 501(c)(3) organizations. Attorneys, noncitizens and any other interested members of the public may obtain information about immigration-related issues through their distribution of written materials, including their individual websites, and through public and educational appearances. The requested information is sought for the purpose of disseminating it to members of the public, including through posting it on Requestors’ websites and other

publications, and not for the purpose of commercial gain.

**V. Address for Productions**

Thank you for your consideration of this request. We look forward to your response to our request for expedited processing within ten (10) business days, as required under 5 U.S.C. § 552(a)(6)(E)(ii)(I). Notwithstanding our request for expedited processing, we alternatively look forward to your reply to this request within twenty (20) business days, as required by statute. 5 U.S.C. § 552(a)(6)(A)(i). Please furnish records as soon as they are identified via email to [khaled@nipnlg.org](mailto:khaled@nipnlg.org) and by mail to:

Khaled Alrabe  
National Immigration Project of the National Lawyers Guild  
2201 Wisconsin Ave. NW, Suite 200  
Washington, DC 20007

Thank you in advance for your prompt response to this request. If you have any questions regarding this request, please contact Khaled Alrabe at [khaled@nipnlg.org](mailto:khaled@nipnlg.org) or 510-679-3994.

Sincerely,



Khaled Alrabe  
Cristina Velez  
Sirine Shebaya

/s/Azadeh Shahshani

Azadeh Shahshahani  
Priyanka Bhatt

National Immigration Project of the  
National Lawyers Guild

Project South

## **Attachment A**

- SOUTH TEXAS FAMILY RESIDENTIAL CENTER
- ELOY FEDERAL CONTRACT FACILITY
- SOUTH LOUISIANA DETENTION CENTER
- T DON HUTTO RESIDENTIAL CENTER
- ADAMS COUNTY DET CENTER
- EL VALLE DETENTION FACILITY
- EL PASO SERVICE PROCESSING CENTER
- IRWIN COUNTY DETENTION CENTER
- ADELANTO ICE PROCESSING CENTER
- LASALLE ICE PROCESSING CENTER (JENA)
- LAREDO PROCESSING CENTER
- JACKSON PARISH CORRECTIONAL CENTER
- SOUTH TEXAS ICE PROCESSING CENTER
- TACOMA ICE PROCESSING CENTER (NORTHWEST DET CTR)
- OTAY MESA DETENTION CENTER (SAN DIEGO CDF)
- MONTGOMERY ICE PROCESSING CENTER
- BROWARD TRANSITIONAL CENTER
- HOUSTON CONTRACT DETENTION FACILITY
- KARNES COUNTY RESIDENTIAL CENTER
- KAY COUNTY JUSTICE FACILITY
- GLADES COUNTY DETENTION CENTER
- NEVADA SOUTHERN DETENTION CENTER
- IMPERIAL REGIONAL DETENTION FACILITY
- MESA VERDE ICE PROCESSING CENTER
- PRAIRIELAND DETENTION FACILITY
- ROLLING PLAINS DETENTION CENTER
- BUFFALO (BATAVIA) SERVICE PROCESSING CENTER
- JOE CORLEY PROCESSING CTR
- YORK COUNTY PRISON
- CAROLINE DETENTION FACILITY
- BLUEBONNET DETENTION FACILITY
- DENVER CONTRACT DETENTION FACILITY (CDF) II
- MCHENRY COUNTY CORRECTIONAL FACILITY
- CALHOUN COUNTY CORRECTIONAL CENTER
- HENDERSON DETENTION CENTER