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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

AMERICAN CIVIL LIBERTIES UNION OF
NORTHERN CALIFORNIA,

Plaintiff,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY, IMMIGRATION AND
CUSTOMS ENFORCEMENT,

Defendant.

Case No. 3:18-cv-04105

**COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF UNDER THE
FREEDOM OF INFORMATION ACT,
5 U.S.C. § 552 *et seq.***

INTRODUCTION

1. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 *et seq.*, to obtain information about the treatment of immigration detainees by the U.S. Department of Homeland Security, Immigration and Customs Enforcement (“ICE”).

2. ICE’s activities, particularly with respect to its treatment of immigrant detainees, is of great public interest and concern. In California, ICE regularly subjects detained immigrants to burdensome and lengthy voyages fully shackled, with limited access to food, water, and toilets. Plaintiff is aware of several particularly egregious instances, including one in which detained immigrant women were subjected to a 24-hour journey that included traveling in a dark, windowless van in suffocating heat for several hours, causing some of them to vomit or faint. The women’s cries for help went unanswered, and several women thought they would die.

3. In many regions throughout the country, ICE subcontracts with G4S Secure Solutions, Inc. (“G4S”) for the transportation of immigration detainees. G4S is a highly-controversial private contractor that has been criticized internationally for its treatment of detainees in detention centers and during the provision of transportation services. G4S receives hundreds of complaints annually from immigration detainees, including complaints alleging acts of assault and racism by its employees.¹

4. People have died or been seriously injured as a result of G4S’s careless treatment during transport. For example, in Australia, a coroner deemed the death of a detained immigrant that resulted from extreme temperatures in the back of a G4S van to be “wholly unnecessary and avoidable.”² In another instance in 2014, just days before a transportee was beaten to death by

¹ See Stephen Matthews, *Scandal-hit security firm G4S receives ‘unprecedented levels’ of complaints after taking over a private ambulance service*, Daily Mail (Oct. 23, 2017, 12:13PM), <http://www.dailymail.co.uk/health/article-5008247/Security-firm-G4S-unprecedented-levels-complaints.html> (noting that detention centers run by G4S received more than 700 complaints in 2010 and that nine staff members at an immigration detention center were suspended in 2017 after claims of abuse and assault); Lizzie Dearden, *G4S Suspends Nine Staff for Alleged Abuse of Migrants at Brook House Immigration Removal Centre*, The Independent (Sept. 1, 2017, 9:30AM), <https://www.independent.co.uk/news/business/news/g4s-migrants-absue-staff-suspended-immigration-removal-centre-private-security-company-a7923731.html>.

² Melissa Fyfe, *Uproar Over New Prison Contract*, The Sydney Morning Herald (Oct. 4, 2009), <http://bit.ly/2u6nQ5I>; Exhibit 3, *infra*, at 6.

another transportee during a transport conducted by G4S, sheriff's deputies in Pinellas County, Florida, publicly stated that they had informed G4S supervisors that their workers needed more training, as G4S's employees were unfamiliar with the Pinellas County roads, had trouble with their vans, and had "awful" handcuffing techniques.³ The number and circumstances of deaths linked to conduct by G4S employees in England have also come under scrutiny, including the death of an immigrant in the custody of G4S employees on an airplane.⁴

5. In the United States, G4S holds a contract with ICE and another \$234 million contract with U.S. Customs and Border Protection for the transportation of immigrants.⁵ Little is known about the contracting process through which ICE retains G4S. Serious questions exist as to G4S's fitness to be a detainee transportation provider for ICE. For example, in addition to the incidents described above, G4S employed the man responsible for murdering 49 people in the 2016 Orlando Pulse nightclub shooting—and continued his employment even while he was under FBI investigation as a terrorist suspect.⁶ Further, reports from individuals in ICE custody that have been mistreated or hurt while being transported compel further inquiry into the instruction, oversight, and control ICE exercises over G4S in its provision of transportation services.

6. The federal government's concerted and ongoing efforts to detain individuals, to transport them to detention centers throughout the country, and to increase the use of private

³ See *infra* Exhibit 3, at 6.

⁴ See *infra* Exhibit 3, at 6.

⁵ See U.S. Immigration and Customs Enforcement, Detention Officer (Transportation) Services, Solicitation Number: HSCEDM-12-A-00002, Federal Business Opportunities (July 27, 2017), https://www.fbo.gov/index?s=opportunity&mode=form&id=7034138718ed7b79cb95ad2fb12ce309&tab=core&_cview=0; U.S. Customs & Border Protection, Southwest Border Transportation, Medical Escort and Guard Services, Solicitation Number: HSBP1012R0020, Federal Business Opportunities (Aug. 23, 2013), https://www.fbo.gov/index?s=opportunity&mode=form&id=91edd01479626bfc64a03d99649c3a&tab=core&_cview=1.

⁶ Alex Emmons, *Orlando Shooter Wasn't the First Murderer Employed by Global Mercenary Firm*, The Intercept (June 14, 2016, 1:44 PM), <https://theintercept.com/2016/06/14/orlando-shooter-wasnt-the-first-murderer-employed-by-global-mercenary-firm/>. G4S also admitted that the doctor listed as performing his psychological examination had not conducted an exam or even met the man. Rob Galbraith & Gin Armstrong, *Buffalo Police Commissioner Hired by Security Firm with a Checkered History and a City Hall Contract*, LittleSis.org (Jan. 25, 2018), <https://news.littlesis.org/2018/01/25/buffalo-police-commissioner-hired-by-security-firm-with-a-checkered-history-and-a-city-hall-contract/>.

1 contractors create an urgent need to obtain information and records about existing relationships
2 with those contractors, the policies and procedures they are subject to, and the detention and
3 transport practices of ICE and its private contractors.

4 7. On December 18, 2017, Plaintiff American Civil Liberties Union of Northern
5 California (“ACLU-NC”), a non-profit civil rights organization, submitted a FOIA request to ICE
6 seeking its contracts with G4S and any other contractors providing transportation services for
7 immigration detainees in the San Francisco region (the “First FOIA Request”). On April 6, 2018,
8 ACLU-NC and East Bay Express (“EBE”), a local independent newspaper, submitted a FOIA
9 request to ICE seeking records about policies, procedures, and guidelines for detaining and
10 transporting immigration detainees in the state of California; recent complaints about the
11 transportation of immigration detainees; records related to the retention of private transportation
12 providers; and records related to the vehicles, officers, and other individuals involved in the
13 transportation process (the “Second FOIA Request”).

14 8. ICE has not produced a single document in response to either the First FOIA
15 Request or the Second FOIA Request (collectively, the “FOIA Requests”).

16 9. ACLU-NC now brings this action to require production of the information
17 requested. ICE cannot simply ignore legitimate FOIA requests.

18 **PARTIES**

19 10. Plaintiff American Civil Liberties Union of Northern California is an affiliate of the
20 American Civil Liberties Union, a national, non-profit, non-partisan organization with the mission
21 of protecting civil liberties from government incursions, safeguarding basic constitutional rights,
22 and advocating for open government. ACLU-NC is established under the laws of the State of
23 California and is headquartered in San Francisco, California. ACLU-NC has over 169,000
24 members. In support of its mission, ACLU-NC uses its communications department to
25 disseminate information relating to its mission to the public, through its website, newsletters, in-
26 depth reports, and other publications.

27 11. ICE is an agency within the meaning of 5 U.S.C. § 552(f)(1). ICE has its
28 headquarters in Washington, D.C., and field offices all over the country, including in San

1 Francisco, California.

2 JURISDICTION

3 12. This Court has subject matter jurisdiction and personal jurisdiction over the parties
4 pursuant to 5 U.S.C. §§ 552(a)(4)(B) and 552(a)(6)(C)(i). This Court also has subject matter
5 jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1346.

6 VENUE AND INTRADISTRICT ASSIGNMENT

7 13. Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C.
8 §§ 1391(e) and 1402. Plaintiff has its principal place of business in this district.

9 14. Pursuant to Local Rule 3-2(c) and (d), assignment to the San Francisco division is
10 proper. Plaintiff ACLU-NC, which is a requestor for each of the FOIA requests at issue in this
11 case, is headquartered in San Francisco. ICE also has a field office located in San Francisco.

12 FACTUAL ALLEGATIONS

13 The Detention and Transportation of Immigration Detainees and the Use of Private Security 14 Contractors Are Matters of Significant Public Interest

15 15. The detention and transportation of immigration detainees has been a longstanding
16 issue of public interest. Media reports frequently scrutinize the government's handling of
17 detainees, often finding it deficient in its treatment of those in its care. Exposure to hazardous
18 conditions, deprivation of proper medical care, and abusive treatment are widely reported⁷ and
19 raise troubling questions about the operation and oversight of immigrant detention and
20 transportation. These issues continue to plague our nation and affect public confidence in
21 government operations. The federal government's ongoing plans to expand immigration
22 detention⁸ has accelerated the already-urgent need to better understand issues of immigration
23 detention and ensure those who administer detention meet appropriate detention standards.

24 16. ACLU-NC has received reports demonstrating that the government has not
25 managed to meet appropriate standards in its administration of detention programs. For example,
26 in a series of interviews over the past year, a group of women related a particularly brutal transport

27 ⁷ See *infra* Exhibit 3, at 5.

28 ⁸ See *infra* Exhibit 3, at 5–6.

1 that they survived in the summer of 2017. While being transported from one detention facility to
2 another in Northern California, these women were subjected to an unnecessarily long journey in
3 hazardous conditions that caused physical injury, medical complications, and severe psychological
4 trauma. The transport between the two facilities, which are less than 5 hours' driving distance
5 apart, took more than 24 hours and involved several stops and vehicle changes. The women were
6 deprived of adequate food and water. One of the women, in particular, was denied access to
7 critical diabetes medication. The women wore shackles throughout the lengthy journey, and the
8 shackles were not even removed during transfers between vehicles. This resulted in one woman
9 injuring her ankle as she stepped off one of the vehicles; the transporting officers ignored her
10 requests for help, and her injury was not addressed by a doctor. During one leg of the journey, the
11 women were shut into the back of a dark, windowless, and airless van that was so hot that some of
12 the women vomited and fainted. The driver ignored their cries of distress and was texting while
13 driving, twice veering off the road. All of the women reported feeling as though they were
14 suffocating and believing that they were going to die. As a result of this episode, the women
15 experienced—and continue to experience—anxiety, fear, and difficulty sleeping in the dark.

16 17. The federal government's retention of private contractors involved in the
17 transportation of immigration detainees and other detained populations—and the subsequent
18 conduct of those contractors—are also issues of significant public interest. Recent news stories
19 emphasize widespread failures of private contractors to ensure detainees' physical safety.⁹ This,
20 in turn, casts doubt on the adequacy of the government's oversight of these private contractors.
21 Many stories also emphasize the role profit motive plays in the conduct of private contractors,
22 who are often hired by government agencies to save money. For example, an April 2018 article
23 detailed one transportee's harrowing 18-day journey through the southeastern United States caged
24 in the back of a transport van.¹⁰ During what should have been a 20-hour drive, the man was

25 ⁹ See *infra* Exhibit 3, at 6.

26 ¹⁰ Tracy Jan, "Privately run prisoner transport company kept detainee shackled for 18 days in
27 human waste, lawsuit alleges," Washington Post (Apr. 24, 2018),
28 https://www.washingtonpost.com/news/wonk/wp/2018/04/24/privately-run-prisoner-transport-company-kept-detainee-shackled-for-18-days-in-human-waste-lawsuit-alleges/?noredirect=on&utm_term=.38b6b43d830a.

denied necessary medical attention; deprived of adequate food, water, and sleep; and packed into a sweltering metal cargo van with as many as 14 other people for days on end. Throughout the journey, the transportees were forced to sit in their own waste and filth, as drivers did not stop to provide bathroom breaks or clean up messes. The article and a related lawsuit¹¹ allege that abuse and neglect suffered by transportees is a direct result of private contractors skirting their obligations to those in their custody in order to maximize profit.¹² While the Justice Department is already investigating abuse allegations against the transportation provider from this case, other private contractors have escaped meaningful scrutiny.

18. In particular, a great deal of controversy surrounds private contractor G4S, which was under contract to transport the group of women described in paragraph 16. G4S is the world's largest private military and security company.¹³ It has been repeatedly accused of creating hazardous conditions for the populations it is charged with protecting and for failing to address acts of misconduct and brutality committed by its employees. For instance, in addition to the incidents referenced above in paragraphs 3–5, undercover footage from the UK showed G4S officers “mocking, abusing, and assaulting” people at an immigration and asylum center following reports of “widespread self-harm,” “drug use,” and “attempted suicide” there.¹⁴ The facilities were found to be unsanitary and “fundamentally unsafe,” and failed asylum seekers were roomed with dangerous foreign national criminals who could not be safely housed at less secure facilities.¹⁵ G4S is also infamous for its handling of a contract to provide security for the 2012 Olympics in London, in which it fell short on its commitment by thousands of personnel, and

¹¹ While the detainee involved in the 18-day journey was a U.S. citizen wanted on criminal charges, immigration detainees are often more vulnerable to abuse and bereft of legal remedies due to language and resource barriers.

¹² *Id.*; Complaint, *Kovari v. Brevard Extraditions, LLC*, No. 5:18-cv-00070, D.I. 1 (W.D. Va., Apr. 24, 2018).

¹³ See William Langewiesche, *The Chaos Company*, Vanity Fair (Apr. 2014), <https://www.vanityfair.com/news/business/2014/04/g4s-global-security-company>.

¹⁴ See Neal Baker, *Migrant ‘Abuse:’ G4S Suspends Nine Workers at Brook House Immigration Centre*, The Sun (Sept. 1, 2017, 8:08AM), <https://www.thesun.co.uk/news/4368715/g4s-suspends-immigration-staff-brook-house-abuse/>; *Detainees ‘mocked and abused’ at immigration centre*, BBC News (Sept. 1, 2017), <https://www.bbc.com/news/uk-41121692>.

¹⁵ *Id.*

1 whistleblowers made reports of hired guards that had not passed vetting or been trained.¹⁶

2 19. In addition to its contracts with ICE and U.S. Customs and Border Protection, G4S
3 has been a provider for “90 percent of U.S. nuclear facilities,” where guards have repeatedly been
4 found sleeping on the job;¹⁷ operated 27 for-profit juvenile detention facilities in the U.S., where
5 investigations have revealed physical, verbal, and sexual abuse against minors by G4S
6 employees;¹⁸ and held hundreds of millions of dollars’ worth of private prison and security
7 contracts with state and local governments.¹⁹

8 20. ICE has published Performance-Based National Detention Standards (“PBNDs”) that outline how immigration detainee transportation and transfers should occur, covering issues
9 such as shackling during transport; access to meals, water, and medication during transport; and
10 proper inspection and maintenance of vehicles used to transport individuals. There is little
11 information regarding how diligently private contractors operating detention facilities have
12 complied with the PBNDs; whether companies contracted to provide transportation services, such
13 as G4S, are required to comply with the PBNDs (or any other similar standard) at all; or whether
14 ICE monitors such compliance.
15

16 21. The information sought in Plaintiffs’ FOIA requests would reveal ICE’s procedures
17 for retaining and overseeing private transportation contractors, the standards governing private
18 contractors in their transportation of immigration detainees, and whether private contractors
19 actually comply with such standards when transporting immigration detainees. The public debate
20 regarding the treatment of immigration detainees and the role of for-profit contractors in the
21 immigration detention pipeline remains active; more information is needed to further this debate,
22

23 ¹⁶ See Robert Booth & Nick Hopkins, *Olympic security chaos: depth of G4S security crisis revealed*, The Guardian (July 13, 2012), <https://www.theguardian.com/sport/2012/jul/12/london-2012-g4s-security-crisis>.
24

25 ¹⁷ Eric Schlosser, *The Security Firm That Employed the Orlando Shooter Protects American Nuclear Facilities*, New Yorker (June 27, 2016), <https://www.newyorker.com/news/news-desk/the-security-firm-that-employed-the-orlando-shooter-protects-american-nuclear-facilities>.
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27 ¹⁸ See *Youth Detention: US*, G4S Facts, <http://g4sfacts.org/youth-detention-us/>.
28

¹⁹ See, e.g., *id.*; Galbraith & Armstrong, *supra* note 6; Alex Reed-Brown, *Private Prisons and Immigrant Detention*, Sustainalytics, at 4 (Mar. 2014), <http://afrikanblackcoalition.org/wp-content/uploads/2015/11/Sustainalytics-briefing.pdf>.

1 particularly as the federal government seeks to expand the scope of its immigration detention
2 program and its use of private contractors.

3 **ICE Has Failed to Produce Any Records in**
4 **Response to the First FOIA Request**

5 22. On December 18, 2017, ACLU-NC submitted the First FOIA request to ICE
6 seeking the contract awarded to G4S and any other private contractors for the transportation of
7 individuals within the ICE San Francisco Area of Responsibility (“AOR”), which extends from
8 the Bakersfield area north to the Oregon border and includes 49 counties. A copy of the First
9 FOIA Request is attached as Exhibit 1.

10 23. ICE acknowledged receipt of the First FOIA Request by letter dated January 3,
11 2018 and assigned it reference number 2018-ICFO-13572. ICE determined that it would not be
12 able to complete processing of the First FOIA Request within the typical 20 working day period
13 due to “the increasing number of FOIA requests received by this office” and because “[the]
14 request seeks numerous documents that will necessitate a thorough and wide-ranging search.” As
15 a result, ICE invoked a 10-day extension for processing the First FOIA Request. A copy of this
16 letter is attached as Exhibit 2.

17 24. As of the date of the filing of this Complaint, ACLU-NC has not received a
18 determination from ICE as to whether ICE will comply with the First FOIA Request. ACLU-NC
19 has not received any further information about the status of the First FOIA Request despite ICE
20 having exceeded the 30-day deadline it invoked.

21 25. As of the date of the filing of this Complaint, ACLU-NC has not received any
22 documents from ICE that are responsive to the First FOIA Request or any correspondence
23 indicating when ICE might provide any documents.

24 26. Under 5 U.S.C. § 552(a)(6)(C)(i), ICE has constructively denied the First FOIA
25 Request by failing to produce the requested records within 30 working days.

26 **ICE Has Failed to Produce Any Records in**
27 **Response to the Second FOIA Request**

28 27. On April 6, 2018, ACLU-NC and EBE submitted the Second FOIA Request to ICE

1 seeking information about the transportation of individuals within the ICE San Francisco AOR
2 and about records related to contracts between ICE and G4S. In particular, the Second FOIA
3 Request seeks records regarding the policies, procedures, and guidelines for detaining and
4 transporting immigration detainees in the state of California; recent complaints about the
5 transportation of immigration detainees; records related to the retention of private transportation
6 providers; and records related to the vehicles, officers, and other individuals involved in the
7 transportation process. A copy of the Second FOIA Request is attached as Exhibit 3.

8 28. USPS tracking indicates that the Second FOIA Request was delivered to the ICE
9 FOIA Office in Washington, D.C. on April 12, 2018.

10 29. On April 25, 2018, ICE provided an electronic acknowledgment of receipt of the
11 Second FOIA Request and assigned it reference number 2018-ICFO-31309. The acknowledgment
12 asserted that the Second FOIA Request had been sent on April 13, 2018 and received by the ICE
13 Freedom of Information Act Office (“FOIA Office”) on April 25, 2018. ICE determined that it
14 would not be able to complete processing of the request within the typical 20 working day period
15 due to “the increasing number of FOIA requests received by this office” and because “[the]
16 request seeks numerous documents that will necessitate a thorough and wide-ranging search.” As
17 a result, ICE invoked a 10-day extension for processing the Request. A copy of this
18 acknowledgment is attached as Exhibit 4.

19 30. As of the date of the filing of this Complaint, Plaintiff has not received a
20 determination from ICE as to whether ICE will comply with the Plaintiff’s Second FOIA Request.
21 The acknowledgment states that the FOIA Office has “queried the appropriate program offices
22 within ICE for responsive records” and that queried records “will be reviewed for determination of
23 reliability” after they are located. Nevertheless, Plaintiff has not received any further information
24 about the status of the Second FOIA Request despite ICE having exceeded its 30-day deadline.

25 31. As of the date of the filing of this Complaint, Plaintiff has not received any
26 documents from ICE that are responsive to the Second FOIA Request or any correspondence
27 indicating when ICE might provide any documents.

28 32. Under 5 U.S.C. § 552(a)(6)(C)(i), ICE has constructively denied the Second FOIA

Request by failing to produce the requested records within 30 working days.

FIRST CLAIM FOR RELIEF

**Violation of the Freedom of Information Act for
Wrongful Withholding of Agency Records**

33. Plaintiff incorporates by reference the above paragraphs as if fully set forth herein.

34. The FOIA Requests are legitimate requests for records relating to matters of great public concern. Defendant ICE has wrongfully withheld agency records requested by Plaintiff under FOIA in the FOIA Requests.

35. Plaintiff has exhausted the applicable administrative remedies with respect to ICE's wrongful withholding of the requested records.

36. Plaintiff has suffered irreparable injury from, and will continue to suffer irreparable injury from, ICE's illegal withholding of government documents pertaining to the subject of Plaintiff's FOIA Requests.

37. Plaintiff is entitled to declaratory relief because an actual controversy exists regarding ICE's failure to meet its obligations under FOIA.

38. Plaintiff has no adequate remedy at law other than injunctive and declaratory relief.

39. Accordingly, Plaintiff has a right under FOIA to injunctive and declaratory relief against ICE for its unlawful withholding of the requested records. 5 U.S.C. § 552(a)(4)(B); *see also, e.g., Oregon Natural Desert Ass'n v. Locke*, 572 F.3d 610, 612–14 (9th Cir. 2009).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Court:

A. Order Defendant ICE to promptly process and release all responsive records to the FOIA Requests, including, but not limited to, the contracts with G4S and other private contractors for the transport of detainees in the San Francisco AOR; the policies, procedures, and guidelines for detaining and transporting immigration detainees in the state of California; recent complaints about the transportation of immigration detainees; records related to the retention of private transportation providers; and records related to the vehicles, officers, and other individuals involved in the transportation process, as described more fully in Exhibits 1 and 3;

1 B. Declare that Defendant ICE's failure to disclose the records requested by Plaintiff
2 is unlawful;

3 C. Award Plaintiff its litigation costs and reasonable attorneys' fees incurred in this
4 action, as provided in 5 U.S.C. § 552(a)(4)(E) or any other law; and

5 D. Grant such other relief as the Court may deem just and proper.

6
7 Dated: July 10, 2018

Respectfully submitted,

8
9 By: /s/ Neel Chatterjee

10 Neel Chatterjee
Andrew Ong
Ian Chen
Hong-An Vu
Hayes Hyde
Andrea Scripa Els (*pro hac vice* forthcoming)
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FOUNDATION OF NORTHERN
15 **CALIFORNIA**

16 *Attorneys for Plaintiff*
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EXHIBIT 1



December 18, 2017

VIA U.S. POSTAL SERVICE, CERTIFIED MAIL
RETURN RECEIPT REQUESTED

VIA EMAIL ICE-FOIA@dhs.gov

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

Re: Freedom of Information Act Request
Expedited Processing Requested

Attention:

This is a request for records, made pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 522 *et seq.*, implementing regulations 6 C.F.R. § 5.1 *et seq.*, and any other applicable regulations.

I. REQUEST FOR INFORMATION

The American Civil Liberties Union of Northern California (the "ACLU-NC") hereby requests disclosure of all records in your possession relating to contracts by and between the U.S. Immigration and Customs Enforcement ("ICE") and G4S Secure Solutions, Inc. ("G4S") for the transportation of individuals within the ICE San Francisco Area of Responsibility ("AOR").¹

In particular, we request disclosure of records containing the following information:

¹ The term "records" as used herein includes all records or communications preserved in written or electronic form, including but not limited to: correspondence, documents, data, videotapes, audio tapes, emails, faxes, files, guidance, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, training manuals, other manuals, or studies. With respect to privacy concerns for members of the public, we will accept copies that are redacted to protect identifying information such as names, social security numbers, and alien numbers, but we would object to the redaction of birthdates and birthplaces that would interfere with our ability to determine the ages and countries of origin for members of the public. In addition, we request that members of the public whose identifying information is redacted be identified with an alphanumeric code so that multiple records related to the same individual will be recognized as such. This redaction agreement does not apply to identifying information such as names and badge numbers for federal agents.

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Page 2

1. Blanket Purchase Agreement (“BPA”) HSCEDM-12-A-00002 for transportation services provided by G4S in the San Francisco AOR and any addenda, attachments, and/or task orders thereunder.
2. Contract(s) by and between ICE and contractors relating to the transportation of individuals to and from the Contra Costa West County Detention Facility in Richmond, California, during the period of January 1, 2017 to the present.
3. Contract(s) by and between ICE and contractors relating to the transportation of individuals to and from the Mesa Verde Detention Facility in Bakersfield, California, during the period of January 1, 2017 to the present.

II. REQUEST FOR EXPEDITED PROCESSING

We request expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E) and the statute’s implementing regulations. There is a “compelling need” for these records, as defined in the statute and regulations, because the information requested is urgently needed by an organization primarily engaged in disseminating information in order to inform the public about actual or alleged government activity. 5 U.S.C. § 552(a)(6)(E)(v); *see also* 6 C.F.R. § 5.5(e)(1)(ii).

The ACLU-NC is “primarily engaged in disseminating information” within the meaning of the statute and relevant regulations. 5 U.S.C. § 552(a)(6)(E)(v)(II); 6 C.F.R. § 5.5(e)(1)(ii). *See ACLU v. Dep’t of Justice*, 321 F. Supp. 2d 24, 30 n.5 (D.D.C. 2004) (finding that a non-profit, public interest group that “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience” is “primarily engaged in disseminating information” (internal citation omitted)); *see also Leadership Conference on Civil Rights v. Gonzales*, 404 F. Supp. 2d 246, 260 (D.D.C. 2005) (finding Leadership Conference—whose mission is to “disseminate[] information regarding civil rights and voting rights to educate the public [and] promote effective civil rights laws”—to be “primarily engaged in the dissemination of information”).

The ACLU-NC is an affiliate of the ACLU, a national organization that works to protect civil liberties of all people, including the safeguarding of the basic constitutional rights to privacy, free expression, and due process of law. The ACLU-NC is responsible for serving the population of northern California. The communications department of the ACLU-NC is the division of the ACLU-NC that is responsible for disseminating information to the public about issues of concern to the ACLU-NC and to the general public.

Dissemination of information about actual or alleged governmental activity is a critical and substantial component of the ACLU’s mission and work. The ACLU of Northern California actively disseminates and frequently garners extensive media coverage of the information it obtains about actual or alleged government activity through FOIA and California’s statutory counterpart, the California Public Records Act. It does so through a heavily visited website (averaging between 10,000 and 20,000 visitors per week) and a paper newsletter distributed to its members, who now number over 80,000. In the past, FOIA requests, litigation over FOIA

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responses, and information obtained by the ACLU-NC through FOIA about the federal government's immigration enforcement, ethnic and racial profiling, and detention operations have been the subject of articles on the ACLU-NC's website.² They have also garnered coverage by other news media.³ ACLU-NC staff persons are frequent spokespersons in television and print media and make frequent public presentations at meetings and events.

The ACLU-NC plans to analyze and disseminate to the public the information gathered through this Request. The records requested are not sought for commercial use, and the Requesters plan to disseminate the information disclosed as a result of this Request to the public at no cost.

Further, the records sought are urgently needed to inform the public. They relate to matters in which there is "[a]n urgency to inform the public about an actual or alleged Federal Government activity," 6 C.F.R. § 5.5(e)(1)(ii), as well as matters "of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence," *id.* § (e)(1)(iv).

The ACLU-NC seeks the information requested in order to understand the relationship between ICE and private contractors, such as G4S, in the detention and treatment of civil immigration detainees. Detention of immigrants and conditions of their confinement, including transportation, is an issue that has garnered widespread public attention. *See, e.g.,* Kate Morrissey, *Women Temporarily Evacuated After Exposure to Noxious Chemical in Immigration Detention*, San Diego Union-Tribune, Nov. 15, 2017, <http://goo.gl/MCRF75>; Phillip Jankowski, *Woman at Hutto Immigration Detention Says Guard Sexually Assaulted Her*, Austin American-Statesman, Nov. 15, 2017, <http://goo.gl/AqRYdS>; Aline Barros, *Behind the Doors of Immigrant Detention*, Voice of America, Nov. 14, 2017, <http://goo.gl/rzi87P>; Laurel Wamsley, *As It Makes More Arrests, ICE Looks for More Detention Centers*, NPR News, Oct. 26, 2017, available at <http://goo.gl/RTdAV1>; Alan Gomez, *Trump Plans Massive Increase in Federal Immigration Jails*, USA Today, Oct. 17, 2017, <http://goo.gl/ax6yqY>; Charles Bethea, *A Medical Emergency, and the Growing Crisis at Immigration Detention Centers*, The New Yorker, Sept. 13, 2017, <http://goo.gl/bAMgbS>; Caitlin Dickerson, *Plan Would Limit Protections for Immigrants Held in*

² *See, e.g.,* <https://www.aclunc.org/news/aclu-northern-california-files-demands-documents-implementation-trump-s-muslim-ban> (FOIA request for CBP detention and deportation records); <https://www.aclunc.org/news/aclu-northern-california-files-lawsuit-demanding-documents-implementation-trumps-muslim-ban> (lawsuit challenging government's response to FOIA request for CBP records); <https://www.aclunc.org/news/aclu-seeks-records-immigration-enforcement-actions-northern-california> (FOIA request for ICE enforcement action records); <https://www.aclunc.org/news/lawsuit-seeks-documents-regarding-ice-raids> (lawsuit challenging government's response to FOIA request for ICE enforcement action records);

³ *See, e.g.,* Eric Tucker, *5 Men Sue Over Anti-Terror Info-Sharing Program*, Associated Press, July 9, 2014, <http://goo.gl/NYgF8p>; Hameed Aleaziz, *Lawsuit Against ICE Seeks Information on Asylum Seekers*, SFGate.com, Oct. 20, 2016, <http://goo.gl/VjBJYZ>; Luke Darby, *What Surveillance Looks Like Under the Trump Administration*, GQ Magazine, May 1, 2017, <http://goo.gl/oYvQfq>; Daisy Alioto, *How Taking a Photograph Can Land You a Visit from the FBI*, Artsy.com, June 20, 2017, <http://goo.gl/bGZvPh>; Nicole Narea, *ICE To Hand Over Asylum Seeker Detention Policy Data*, Law360.com, Aug. 9, 2017, <http://goo.gl/Q4y34D>.

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Jails, N.Y. Times, Apr. 14, 2017, at A1; Vivian Yee & Ron Nixon, *Memo Tells of U.S. Plan to Speed Up Border Hires*, N.Y. Times, Apr. 13, 2017, at A15.

Of particular interest to the public are existing public contracts with private companies, including G4S, the Geo Group and CoreCivic, to process, transport, and detain immigrants. Further, ICE's expanded enforcement priorities and operations has led to the initiation of new contracts with private detention companies, some of whom are documented to have placed detainees in substandard conditions. These issues have been the subject of recent news articles, reports, and public engagement and protest. See, e.g., Roger Schneider, *Prison Company Seeks C.R. 7 Property for Immigration Detention Facility*, The Goshen News, Nov. 17, 2017, <http://goo.gl/rqYwfZ>; Sarah Macaraeg, *Inside a Private Prison's \$150M Deal To Detain Immigrants in New Mexico*, Center for Investigative Reporting, Oct. 26, 2017, <http://goo.gl/Zg47mN>; Sean Collins Walsh, *ICE Plans New 1,000-bed Facility in South Texas "Detention Alley"*, Austin American-Statesman, Oct. 13, 2017, <http://goo.gl/h73pj5>; Roxana Asgarian, *Conroe Residents Protest Expansion of Immigration Detention Facility*, Houstonia Magazine, July 25, 2017, <http://goo.gl/BpKqfQ>; Madison Pauly, *In 3 Months, 3 Immigrants Have Died at a Private Detention Center in California*, Mother Jones, June 2, 2017, <http://goo.gl/SxH1Kp>; Ben Norton, *Privatized For-Profit Immigrant Detention Centers Are a 'Living Nightmare,' Investigation Shows*, AlterNet, May 16, 2017, <http://goo.gl/gmeaAY>; Spencer Woodman, *ICE Detainees Are Asking To Be Put in Solitary Confinement for Their Own Safety*, The Verge, Mar. 10, 2017, <http://goo.gl/V3i9mo>; Alene Tchekmedyian, *Thousands of Immigrant Detainees Sue Private Prison Firm over 'Forced' Labor*, L.A. Times, Mar. 5, 2017, <http://goo.gl/ce4cZV>; Jenny Jarvie, "This Industry Stands To Benefit from Trump's Crackdown on the Border," L.A. Times, Feb. 14, 2017, <http://goo.gl/qZsLwD>; American Civil Liberties Union, *Shutting Down the Profiteers: Why and How the Department of Homeland Security Should Stop Using Private Prisons* (Sept. 2016), <http://goo.gl/KVTtsC>.

As the news articles cited above demonstrate, there is sustained and extensive media interest in the issues of immigration detention, the use of privately-run detention facilities, and the conditions and standards of care for immigration detainees. Incidents of sexual assault, deprivation of proper medical care, and exposure to hazardous conditions raise troubling questions about government integrity in the operation and oversight of detention facilities. The federal government's imminent plans to expand immigration detention and contracts with private companies creates an urgent need to obtain records of existing government relationships with private contractors.

III. APPLICATION FOR WAIVER OR LIMITATION OF FEES

A. Release of the records is in the public interest.

We request a waiver of search, review, and reproduction fees on the grounds that disclosure of the requested records is in the public interest because it is likely to contribute significantly to the public understanding of the United States government's operations or activities and is not primarily in the commercial interest of the requester. 5 U.S.C. § 552(a)(4)(A)(iii); 6 C.F.R. § 5.11(k).

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As discussed above, numerous news accounts reflect the considerable public interest in the requested records. Given the ongoing and widespread media attention to this issue, the records sought by the Request will significantly contribute to the public understanding of the operations and activities of the Department of Homeland Security and ICE, and will be of interest to a broad interest. See 6 C.F.R. § 5.11(k)(1)(i), (k)(2)(iii). In addition, disclosure is not in the ACLU-NC's commercial interest. As described above, any information disclosed as a part of this FOIA Request will be available to the public at no cost. Thus, a fee waiver would fulfill Congress's legislative intent in amending FOIA. See *Judicial Watch Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) ("Congress amended FOIA to ensure that it be 'liberally construed in favor of waivers for noncommercial requesters.'") (citation omitted); OPEN Government Act of 2007, Pub. L. No. 110-175, § 2, 121 Stat. 2524 (finding that "disclosure, not secrecy, is the dominant objective of the Act," quoting *Dep't of Air Force v. Rose*, 425 U.S. 352, 361 (1992)).

B. The ACLU-NC qualifies as a representative of the news media.

A waiver of search and review fees is warranted because the ACLU-NC qualifies as a "representative of the news media" and the requested records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii); see also 6 C.F.R. §§ 5.11(b)(6), (k)(2)(iii). Accordingly, fees associated with the processing of this request should be "limited to reasonable standard charges for document duplication." The ACLU-NC meets the statutory and regulatory definitions of a "representative of the news media" because it is an "entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience." 5 U.S.C. § 552(a)(4)(A)(ii)(II); see also *Nat'l Sec. Archive v. Dep't of Def.*, 880 F.2d 1381, 1387 (D.C. Cir. 1989); cf. *ACLU v. Dep't of Justice*, 321 F. Supp. 2d 24, 30 n.5 (D.D.C. 2004) (finding non-profit public interest group to be "primarily engaged in disseminating information"). The ACLU-NC is a "representative of the news media" for the same reasons that it is "primarily engaged in the dissemination of information." See *Elec. Privacy Info. Ctr. v. Dep't of Def.*, 241 F. Supp. 2d 5, 10-15 (D.D.C. 2003) (finding nonprofit public interest group that disseminated an electronic newsletter and published books was a "representative of the news media" for FOIA purposes). The ACLU-NC recently was held to be a "representative of the news media." *Serv. Women's Action Network v. Dep't of Def.*, No. 3:11CV1534 (MRK), 2012 WL 3683399, at *3 (D. Conn. May 14, 2012); see also *ACLU of Wash. v. Dep't of Justice*, No. C09-0642RSL, 2011 WL 887731, at *10 (W.D. Wash. Mar. 10, 2011) (finding ACLU of Washington to be a "representative of the news media"), *reconsidered in part on other grounds*, 2011 WL 1900140 (W.D. Wash. May 19, 2011).

* * *

Pursuant to the applicable statute and regulations, we expect a determination regarding expedited processing within ten (10) calendar days. See 5 U.S.C. § 552(a)(6)(E)(ii)(I); 6 C.F.R. § 5.5(e)(4).

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If this request for information is denied in whole or in part, we ask that you justify all deletions by reference to specific exemptions to the Freedom of Information Act. We expect you to release all segregable portions of otherwise exempt material in accordance with 5 U.S.C. § 552(b). We reserve the right to appeal a decision to withhold any information.

Thank you for your prompt attention to this matter. Please furnish all applicable records to Vasudha Talla, American Civil Liberties Union of Northern California, 39 Drumm Street, San Francisco, California 94111, telephone (415) 621-2493 ext. 308.

I affirm that the information provided supporting the request for expedited processing is true and correct to the best of my knowledge and belief.

Executed on the 18th day of December, 2017.

Sincerely,



Vasudha Talla
Staff Attorney
American Civil Liberties Union of Northern California

EXHIBIT 2

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



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

January 03, 2018

Vasudha Talla
ACLU OF Northern California
39 DRUMM STREET
SAN FRANCISCO, CA 94111

RE: ICE FOIA Case Number 2018-ICFO-13572

Dear Vasudha Talla:

This acknowledges receipt of your Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), dated January 03, 2018, your request for a waiver of all assessable FOIA fees, and your request for expedited treatment. Your request was received in this office on January 03, 2018. Specifically, you have requested 1. Blanket Purchase Agreement ("BPA") HSCEDM-12-A-00002 for transportation services provided by G4S in the San Francisco AOR and any addenda, attachments, and/or task orders thereunder.
2. Contract(s) by and between ICE and contractors relating to the transportation of individuals to and from the Contra Costa West County Detention Facility in Richmond, California, during the period of January 1, 2017 to the present.
3. Contract(s) by and between ICE and contractors relating to the transportation of individuals to and from the Mesa Verde Detention Facility in Bakersfield, California, during the period of January 1, 2017 to the present.

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.

ICE evaluates fee waiver requests under the legal standard set forth above and the fee waiver policy guidance issued by the Department of Justice on April 2, 1987, as incorporated into the Department of Homeland Security's Freedom of Information Act regulations¹. These regulations set forth six factors to examine in determining whether the applicable legal standard for fee

¹ 6 CFR § 5.11(k).

waiver has been met. I have considered the following factors in my evaluation of your request for a fee waiver:

- (1) Whether the subject of the requested records concerns “the operations or activities of the government”;
- (2) Whether the disclosure is “likely to contribute” to an understanding of government operations or activities;
- (3) Whether disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requestor or a narrow segment of interested persons;
- (4) Whether the contribution to public understanding of government operations or activities will be "significant";
- (5) Whether the requester has a commercial interest that would be furthered by the requested disclosure; and
- (6) Whether the magnitude of any identified commercial interest to the requestor is sufficiently large in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requestor.

Upon review of your request and a careful consideration of the factors listed above, I have determined to grant your request for a fee waiver.

Your request for expedited treatment is hereby denied.

Under the DHS FOIA regulations, expedited processing of a FOIA request is warranted if the request involves “circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual,” 6 C.F.R. § 5.5(e)(1)(i), or “an urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information,” 6 C.F.R. § 5.5(e)(1)(ii). Requesters seeking expedited processing must submit a statement explaining in detail the basis for the request, and that statement must be certified by the requester to be true and correct. 6 C.F.R. § 5.5(e)(3).

Your request for expedited processing is denied because you do not qualify for either category under 6 C.F.R. § 5.5(e)(1). You have not established that lack of expedited treatment in this case will pose an imminent threat to the life or physical safety of an individual. While you may be primarily engaged in the dissemination of information, you have not detailed with specificity why you feel there is an urgency to inform the public about Blanket Purchase Agreement ("BPA") HSCEDM-12-A-00002. Qualifying urgency would need to exceed the public's right to know about government activity generally. You also did not offer sufficient supporting evidence of an interest of the public t greater than the public's general interest in Blanket Purchase Agreement ("BPA") HSCEDM-12-A-00002. Your letter was conclusory in nature and did not present any facts to justify a grant of expedited processing under the applicable standards.

If you deem the decision to deny expedited treatment of your request an adverse determination, you have the right to appeal. 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 § 5.5(e)(2)., 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.

ICE has 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.

If you have any questions or wish to discuss reformulation or an alternative time frame for the processing of your request, please contact FOIA office. You may send an e-mail to ice-foia@ice.dhs.gov, call 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; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Your request has been assigned reference number **2018-ICFO-13572**. 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.

Sincerely,

A handwritten signature in black ink, appearing to read "Catrina M. Pavlik-Keenan".

Catrina M. Pavlik-Keenan
FOIA Officer

EXHIBIT 3



Northern
California

April 6, 2018

VIA U.S. POSTAL SERVICE, CERTIFIED MAIL
RETURN RECEIPT REQUESTED

VIA EMAIL ICE-FOIA@dhs.gov

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

Re: Freedom of Information Act Request
Expedited Processing Requested

Attention:

I am a staff attorney at the American Civil Liberties Union Foundation of Northern California. I write on behalf of the American Civil Liberties Union of Northern California and the East Bay Express ("Requestors") to request records pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 522 *et seq.*, implementing regulations 6 C.F.R. § 5.1 *et seq.*, and any other applicable regulations.

I. REQUEST FOR INFORMATION

Requestors seek disclosure of all records in your possession relating to contracts by and between the U.S. Immigration and Customs Enforcement ("ICE") and G4S Secure Solutions, Inc. ("G4S") for the transportation of individuals within the ICE San Francisco Area of Responsibility ("AOR").¹

¹ The term "records" as used herein includes all records or communications preserved in written or electronic form, including but not limited to: correspondence, documents, data, videotapes, audio tapes, emails, faxes, files, guidance, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, training manuals, other manuals, or studies. With respect to privacy concerns for members of the public, we will accept copies that are redacted to protect identifying information such as names, social security numbers, and alien numbers, but we would object to the redaction of birthdates and birthplaces that would interfere with our ability to determine the ages and countries of origin for members of the public. In addition, we request that members of the public whose identifying information is redacted be identified with an alphanumeric code so that multiple records related to the same individual will be recognized as such. This redaction agreement does not apply to identifying information such as names and badge numbers for federal agents.

American Civil Liberties Union Foundation of Northern California

EXECUTIVE DIRECTOR Abdi Soltani • BOARD CHAIR Magan Pritam Ray
SAN FRANCISCO OFFICE: 39 Drumm St. San Francisco, CA 94111 • FRESNO OFFICE: PO Box 188 Fresno, CA 93707
TEL (415) 621-2493 • FAX (415) 255-1478 • TTY (415) 863-7832 • WWW.ACLUNC.ORG

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In particular, we request disclosure of records containing the following information:

- 1) Policies, procedures and guidelines for the transportation of individuals² within the San Francisco AOR, including but not limited to the transportation of individuals to and from the Contra Costa West County Detention Facility in Richmond, California and the transportation of individuals to and from the Mesa Verde Detention Facility in Bakersfield, California, and the transportation of individuals to and from the ICE San Francisco Field Office at 630 Sansome Street in San Francisco, California. Such policies, procedures and guidelines may have been implemented pursuant to Section 1.3(V)(A) of the ICE Performance-Based National Detention Standards 2011 (rev. Dec. 2016) (“PBNDS”).
- 2) Policies, procedures and guidelines for shackling, or using other means to restrain individuals during transportation within the San Francisco AOR, including during the loading-on and loading-off of individuals from vehicles.
- 3) List and/or descriptions or specifications of the types of vehicles and equipment used to transport individuals within the San Francisco AOR.
- 4) Annual vehicle inspections completed in the years 2015, 2016, and 2017 of vehicles used to transport individuals within the San Francisco AOR, including but not limited to the annual inspections made pursuant to PBDNS Section 1.3(V)(B).
- 5) Vehicle inspection reports and/or checklists completed during the period of January 1, 2017 to present of vehicles used to transport individuals within the San Francisco AOR, including but not limited to vehicle inspection reports and/or checklists completed pursuant to PBNDS 1.3(V)(D)(3)(c); 1.3(V)(D)(3)(g); and 1.3(V)(F).
- 6) Records relating to vehicles used for the transportation of individuals within the San Francisco AOR that were taken out of commission for safety-related issues during the period of January 1, 2017 to present, including but not limited to vehicles taken out of commission pursuant to PBNDS 1.3(V)(B).
- 7) Records related to incidents that occurred during the transportation of individuals within the San Francisco AOR, including loading-on and loading-off of individuals from vehicles, that resulted in physical injuries to those individuals or government staff or contractors during the period of January 1, 2017 to present.
- 8) Complaints by individuals relating to transportation within the San Francisco AOR, including loading-on and loading-off of individuals from vehicles, during the period of January 1, 2017 to present.

² Such individuals include, but are not limited to, individuals in removal proceedings in the San Francisco Immigration Court and individuals detained during the pendency of removal proceedings.

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- 9) Records documenting the need for the use of restraints on women and/or minors during their transportation within the San Francisco AOR, including during the loading-on and loading-off of women and/or minors from vehicles, pursuant to PBNDS 1.3(V)(R), during the period of January 1, 2017 to present.
- 10) Policies and procedures regarding the standards and processes by which ICE monitors and supervises private vendors, companies, or contractors engaged in the provision of services to ICE.
- 11) Policies and procedures regarding the standards and processes by which ICE monitors and supervises private vendors, companies, or contractors engaged in the provision of services to ICE relating to the transportation of individuals between facilities or detention centers.
- 12) Any quotations, bids, information, offers, proposals or other responses provided in response to a solicitation or request for quotations or proposals made by ICE for the transportation of individuals within the San Francisco Area of Responsibility ("AOR") from January 1, 2017 to present, including but not limited to those made during the process that culminated in Blanket Purchase Agreement ("BPA") HSCEDM-12-A-00002 with G4S Secure Solutions, Inc., along with related communications.
- 13) The names of the officers, G4S employees, or contractors who are involved in the transport of individuals within the San Francisco Area of Responsibility ("AOR") from January 1, 2017 to present.
- 14) For any individual identified in response to Request No. 13, a copy of that individual's employment, contractor, or other file relating to the work that individual has provided to ICE.
- 15) Policies, procedures regarding the screening performed by ICE of individuals and companies that provide services in the transport of individuals within the San Francisco Area of Responsibility ("AOR").
- 16) For any individual identified in response to Request No. 13, a copy of any information about background screening performed by ICE prior to hiring or engagement of that individual to provide services in the transport of individuals within the San Francisco Area of Responsibility ("AOR").
- 17) For any individual identified in response to Request No. 13, a copy of any information or records about misconduct, or about failure to comply with standards or restrictions related to the transport of individuals within the San Francisco AOR.

II. REQUEST FOR EXPEDITED PROCESSING

Requestors seek expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E) and the statute's implementing regulations. There is a "compelling need" for these records, as defined in

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the statute and regulations, because the information requested is urgently needed by an organization primarily engaged in disseminating information in order to inform the public about actual or alleged government activity. 5 U.S.C. § 552(a)(6)(E)(v); *see also* 6 C.F.R. § 5.5(e)(1)(ii).

- A. *Requestors are organizations primarily engaged in disseminating information in order to inform the public about actual or alleged government activity.*

Requestors East Bay Express and the American Civil Liberties Union of Northern California (“ACLU-NC”) are “primarily engaged in disseminating information” within the meaning of the statute and relevant regulations. 5 U.S.C. § 552(a)(6)(E)(v)(II); 6 C.F.R. § 5.5(e)(1)(ii).

The ACLU-NC is an affiliate of the ACLU, a national organization that works to protect civil liberties of all people, including the safeguarding of the basic constitutional rights to privacy, free expression, and due process of law. The ACLU-NC is responsible for serving the population of northern California. Dissemination of information about actual or alleged governmental activity is a critical and substantial component of the ACLU-NC’s mission and work. The organization actively disseminates and frequently garners extensive media coverage of the information it obtains about actual or alleged government activity through FOIA and California’s statutory counterpart, the California Public Records Act. It does so through a heavily visited website (averaging between 10,000 and 20,000 visitors per week) and a paper newsletter distributed to its members, who now number over 80,000. In the past, FOIA requests, litigation over FOIA responses, and information obtained by the ACLU-NC through FOIA about the federal government’s immigration enforcement, ethnic and racial profiling, and detention operations have been the subject of articles on the ACLU-NC’s website.³ They have also garnered coverage by other news media.⁴ ACLU-NC staff persons are frequent spokespersons in television and print media and make frequent public presentations at meetings and events. *See ACLU v. Dep’t of Justice*, 321 F. Supp. 2d 24, 30 n.5 (D.D.C. 2004) (finding that a non-profit, public interest group that “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience” is “primarily engaged in disseminating information” (internal citation omitted));

³ *See, e.g.*, <https://www.aclunc.org/news/aclu-northern-california-files-demands-documents-implementation-trump-s-muslim-ban> (FOIA request for CBP detention and deportation records); <https://www.aclunc.org/news/aclu-northern-california-files-lawsuit-demanding-documents-implementation-trumps-muslim-ban> (lawsuit challenging government’s response to FOIA request for CBP records) <https://www.aclunc.org/news/aclu-seeks-records-immigration-enforcement-actions-northern-california> (FOIA request for ICE enforcement action records); <https://www.aclunc.org/news/lawsuit-seeks-documents-regarding-ice-raids> (lawsuit challenging government’s response to FOIA request for ICE enforcement action records);

⁴ *See, e.g.*, Eric Tucker, *5 Men Sue Over Anti-Terror Info-Sharing Program*, Associated Press, July 9, 2014, <http://goo.gl/NYgF8p>; Hameed Aleaziz, *Lawsuit Against ICE Seeks Information on Asylum Seekers*, SFGate.com, Oct. 20, 2016, <http://goo.gl/VjBJYZ>; Luke Darby, *What Surveillance Looks Like Under the Trump Administration*, GQ Magazine, May 1, 2017, <http://goo.gl/oYvQfq>; Daisy Alioto, *How Taking a Photograph Can Land You a Visit from the FBI*, Artsy.com, June 20, 2017, <http://goo.gl/bGZvPh>; Nicole Narea, *ICE To Hand Over Asylum Seeker Detention Policy Data*, Law360.com, Aug. 9, 2017, <http://goo.gl/Q4y34D>.

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see also *Leadership Conference on Civil Rights v. Gonzales*, 404 F. Supp. 2d 246, 260 (D.D.C. 2005) (finding Leadership Conference—whose mission is to “disseminate[] information regarding civil rights and voting rights to educate the public [and] promote effective civil rights laws”—to be “primarily engaged in the dissemination of information”).

The East Bay Express is a newsweekly in northern California focusing on investigative long-form journalism, with a weekly print distribution of 40,000 issues and 71,000 weekly readers across Alameda and Contra Costa counties and a website (www.eastbayexpress.com). The paper is locally-owned, independent, and has been published since 1978.

The East Bay Express and the ACLU-NC plans to analyze and disseminate to the public the information gathered through this Request. The records requested are not sought for commercial use, and the Requestors plan to disseminate the information disclosed as a result of this Request to the public at no cost.

B. The records sought are urgently needed to inform the public about actual or alleged government activity.

Further, the records sought are urgently needed to inform the public. They relate to matters in which there is “[a]n urgency to inform the public about an actual or alleged Federal Government activity,” 6 C.F.R. § 5.5(e)(1)(ii), as well as matters “of widespread and exceptional media interest in which there exist possible questions about the government’s integrity which affect public confidence,” *id.* § (e)(1)(iv).

Requestors seek these records to understand the conditions and treatment of civil immigration detainees during their detention and transportation. These issues, including transportation specifically, have garnered widespread public attention within recent years and to this day. See, e.g., Robin Urevich, *Investigation Finds ICE Detention Center Cut Corners and Skirted Federal Detention Rules*, PRI, Mar. 15, 2018, <http://bit.ly/2FLDWqB>; Jacey Fortin, *U.S. Put 92 Somalis on a Deportation Flight, Then Brought Them Back*, N.Y. Times, Dec. 9, 2017, <http://nyti.ms/2ppCf77>; Kate Morrissey, *Women Temporarily Evacuated After Exposure to Noxious Chemical in Immigration Detention*, San Diego Union-Tribune, Nov. 15, 2017, <http://goo.gl/MCRF75>; Phillip Jankowski, *Woman at Hutto Immigration Detention Says Guard Sexually Assaulted Her*, Austin American-Statesman, Nov. 15, 2017, <http://goo.gl/AqRYdS>; Aline Barros, *Behind the Doors of Immigrant Detention*, Voice of America, Nov. 14, 2017, <http://goo.gl/rzi87P>; Laurel Wamsley, *As It Makes More Arrests, ICE Looks for More Detention Centers*, NPR News, Oct. 26, 2017, available at <http://goo.gl/RTdAV1>; Alan Gomez, *Trump Plans Massive Increase in Federal Immigration Jails*, USA Today, Oct. 17, 2017, <http://goo.gl/ax6yqY>; Charles Bethea, *A Medical Emergency, and the Growing Crisis at Immigration Detention Centers*, The New Yorker, Sept. 13, 2017, <http://goo.gl/bAMgbS>; Caitlin Dickerson, *Plan Would Limit Protections for Immigrants Held in Jails*, N.Y. Times, Apr. 14, 2017, at A1; Vivian Yee & Ron Nixon, *Memo Tells of U.S. Plan to Speed Up Border Hires*, N.Y. Times, Apr. 13, 2017, at A15.

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Of particular interest to the public is the conduct of private contractors who detain and transport immigrants, specifically G4S Secure Solutions, Inc. For example, sheriff deputies in Pinellas County, Florida, have publicly stated that they informed G4S supervisors that their workers need more training, noting that G4S was unfamiliar with the Pinellas County roads, had trouble with their vans, and had “awful” handcuffing techniques, days before a transportee was beaten to death by another transportee during a transport conducted by G4S. See Stephen Thompson, *Concerns preceded attack in sheriff’s van; Pinellas deputies thought G4S workers needed more training*, The Tampa Times, Apr. 27, 2014, <https://bit.ly/2pBqTgm>. In another example, an Australian coroner found that G4S had contributed to the “wholly necessary and avoidable” death of an immigrant detainee as a result of high temperatures in the back of a van operated by G4S. See Melissa Fyfe, *Uproar Over New Prison Contract*, The Sydney Morning Herald, Oct. 4, 2009, <http://bit.ly/2u6nQ5I>. The number of deaths linked to G4S employees in England, including the death of an immigrant in the custody of G4S employees on an airplane, have come under scrutiny. See Simon Hattenstone and Eric Allison, *G4S, The Company with No Convictions—But Does It Have Blood on Its Hands?*, The Guardian, Dec. 22, 2014, <http://bit.ly/2cbvTFK>.

The substandard conditions and abusive treatment of detainees in the care of private contractors is a subject of intense, and current, media attention, advocacy, public engagement, and protest. See, also Roger Schneider, *Prison Company Seeks C.R. 7 Property for Immigration Detention Facility*, The Goshen News, Nov. 17, 2017, <http://goo.gl/rqYwfZ>; Sarah Macaraeg, *Inside a Private Prison’s \$150M Deal To Detain Immigrants in New Mexico*, Center for Investigative Reporting, Oct. 26, 2017, <http://goo.gl/Zg47mN>; Sean Collins Walsh, *ICE Plans New 1,000-bed Facility in South Texas “Detention Alley,”* Austin American-Statesman, Oct. 13, 2017, <http://goo.gl/h73pj5>; Roxana Asgarian, *Conroe Residents Protest Expansion of Immigration Detention Facility*, Houstonia Magazine, July 25, 2017, <http://goo.gl/BpKqfQ>; Madison Pauly, *In 3 Months, 3 Immigrants Have Died at a Private Detention Center in California*, Mother Jones, June 2, 2017, <http://goo.gl/SxH1Kp>; Ben Norton, *Privatized For-Profit Immigrant Detention Centers Are a ‘Living Nightmare,’ Investigation Shows*, AlterNet, May 16, 2017, <http://goo.gl/gmeaAY>; Spencer Woodman, *ICE Detainees Are Asking To Be Put in Solitary Confinement for Their Own Safety*, The Verge, Mar. 10, 2017, <http://goo.gl/V3i9mo>; Alene Tchekmedyan, *Thousands of Immigrant Detainees Sue Private Prison Firm over ‘Forced’ Labor*, L.A. Times, Mar. 5, 2017, <http://goo.gl/ce4cZV>; Jenny Jarvie, “This Industry Stands To Benefit from Trump’s Crackdown on the Border,” L.A. Times, Feb. 14, 2017, <http://goo.gl/qZsLwD>; American Civil Liberties Union, *Shutting Down the Profiteers: Why and How the Department of Homeland Security Should Stop Using Private Prisons* (Sept. 2016), <http://goo.gl/KVTtsC>.

As the news articles cited above demonstrate, there is sustained and extensive media interest in the issues of immigration detention, the use of privately-run detention facilities, and the conditions and standards of care for immigration detainees. Incidents of sexual assault, deprivation of proper medical care, and exposure to hazardous conditions raise troubling questions about government integrity in the operation and oversight of detention facilities. The federal government’s imminent plans to expand immigration detention and contracts with private

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April 6, 2018

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companies creates an urgent need to obtain records of existing government relationships with private contractors.

III. APPLICATION FOR WAIVER OR LIMITATION OF FEES

A. Release of the records is in the public interest.

Requestors seek a waiver of search, review, and reproduction fees on the grounds that disclosure of the requested records is in the public interest because it is likely to contribute significantly to the public understanding of the United States government's operations or activities and is not primarily in the commercial interest of the requester. 5 U.S.C. § 552(a)(4)(A)(iii); 6 C.F.R. § 5.11(k).

As discussed above, numerous news accounts reflect the considerable public interest in the requested records. Given the ongoing and widespread media attention to this issue, the records sought by the Request will significantly contribute to the public understanding of the operations and activities of the Department of Homeland Security and ICE, and will be of interest to a broad audience. *See* 6 C.F.R. § 5.11(k)(1)(i), (k)(2)(iii). In addition, disclosure is not in Requestors' commercial interest. As described above, any information disclosed as a part of this FOIA Request will be available to the public at no cost. Thus, a fee waiver would fulfill Congress's legislative intent in amending FOIA. *See Judicial Watch Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) ("Congress amended FOIA to ensure that it be 'liberally construed in favor of waivers for noncommercial requesters.'") (citation omitted); OPEN Government Act of 2007, Pub. L. No. 110-175, § 2, 121 Stat. 2524 (finding that "disclosure, not secrecy, is the dominant objective of the Act," quoting *Dep't of Air Force v. Rose*, 425 U.S. 352, 361 (1992)).

B. Requestors qualify as representatives of the news media.

A waiver of search and review fees is warranted because Requestors qualify as "representative[s] of the news media" and the requested records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii); *see also* 6 C.F.R. §§ 5.11(b)(6), (k)(2)(iii). Accordingly, fees associated with the processing of this request should be "limited to reasonable standard charges for document duplication." Requestors meet the statutory and regulatory definitions of a "representative of the news media" because they are each an "entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience." 5 U.S.C. § 552(a)(4)(A)(ii)(II); *see also Nat'l Sec. Archive v. Dep't of Def.*, 880 F.2d 1381, 1387 (D.C. Cir. 1989); *cf. ACLU v. Dep't of Justice*, 321 F. Supp. 2d 24, 30 n.5 (D.D.C. 2004) (finding non-profit public interest group to be "primarily engaged in disseminating information"). Requestors are each a "representative of the news media" for the same reasons that they are "primarily engaged in the dissemination of information." *See Elec. Privacy Info.Ctr. v. Dep't of Def.*, 241 F. Supp. 2d 5, 10–15 (D.D.C. 2003) (finding nonprofit public interest group that disseminated an electronic newsletter and published books was a "representative of the news media" for FOIA purposes). The ACLU-NC recently was held to be a "representative of the news media." *Serv. Women's Action Network v. Dep't of Def.*, No. 3:11CV1534 (MRK), 2012 WL 3683399, at *3 (D. Conn.

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May 14, 2012); *see also* *ACLU of Wash. v. Dep't of Justice*, No. C09-0642RSL, 2011 WL 887731, at *10 (W.D. Wash. Mar. 10, 2011) (finding ACLU of Washington to be a "representative of the news media"), *reconsidered in part on other grounds*, 2011 WL 1900140 (W.D. Wash. May 19, 2011).

* * *

Pursuant to the applicable statute and regulations, we expect a determination regarding expedited processing within ten (10) calendar days. *See* 5 U.S.C. § 552(a)(6)(E)(ii)(I); 6 C.F.R. § 5.5(e)(4).

If this request for information is denied in whole or in part, we ask that you justify all deletions by reference to specific exemptions to the Freedom of Information Act. We expect you to release all segregable portions of otherwise exempt material in accordance with 5 U.S.C. § 552(b). We reserve the right to appeal a decision to withhold any information.

Thank you for your prompt attention to this matter. Please furnish all applicable records to the following addresses:

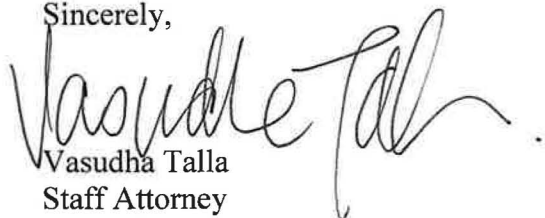
Vasudha Talla, American Civil Liberties Union Foundation of Northern California, 39 Drumm Street, San Francisco, California 94111, telephone (415) 621-2493 ext. 308.

Darwin BondGraham, East Bay Express, 318 Harrison Street, Suite 302, Oakland, CA 94607, or via email, darwin.bondgraham@eastbayexpress.com.

I affirm that the information provided supporting the request for expedited processing is true and correct to the best of my knowledge and belief.

Executed on the April 6, 2018.

Sincerely,

A handwritten signature in black ink, appearing to read "Vasudha Talla", with a stylized flourish at the end.

Vasudha Talla
Staff Attorney

American Civil Liberties Union Foundation of Northern California

Also on behalf of
East Bay Express

EXHIBIT 4

Vasudha Talla

From: ice-foia@dhs.gov
Sent: Wednesday, April 25, 2018 6:00 AM
To: Vasudha Talla
Cc: darwin.bondgraham@eastbayexpress.com
Subject: ICE FOIA Request 2018-ICFO-31309

April 25, 2018

Vasudha Talla
ACLU OF Northern California
39 DRUMM STREET
SAN FRANCISCO, CA 94111

RE: ICE FOIA Case Number 2018-ICFO-31309

Dear Talla:

This acknowledges receipt of your April 13, 2018, Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), for records relating to contracts by and between ICE and G4S Secure Solutions, Inc. for the transportation of individuals within the ICE San Francisco Area of Responsibility (AOR). See request letter for further details.. Your request was received in this office on April 25, 2018.

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 media requesters. As a media requester, you will be charged 10 cents per page for duplication; the first 100 pages are free. 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-31309**. 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 2017-ICFO-XXXXX or 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, 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; 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

CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

American Civil Liberties Union of Northern California

(b) County of Residence of First Listed Plaintiff San Francisco County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Goodwin Procter LLP, 601 Marshall Street, Redwood City,
California 94063, (650) 752-3100

DEFENDANTS

U.S. Department of Homeland Security, Immigration and Customs Enforcement

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff 3 Federal Question
(U.S. Government Not a Party)
- X 2 U.S. Government Defendant 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	1	1	Incorporated or Principal Place of Business In This State	4	4
Citizen of Another State	2	2	Incorporated and Principal Place of Business In Another State	5	5
Citizen or Subject of a Foreign Country	3	3	Foreign Nation	6	6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
110 Insurance	PERSONAL INJURY	625 Drug Related Seizure of Property 21 USC § 881	422 Appeal 28 USC § 158	375 False Claims Act
120 Marine	310 Airplane	690 Other	423 Withdrawal 28 USC § 157	376 Qui Tam (31 USC § 3729(a))
130 Miller Act	315 Airplane Product Liability	LABOR	PROPERTY RIGHTS	400 State Reapportionment
140 Negotiable Instrument	320 Assault, Libel & Slander	710 Fair Labor Standards Act	820 Copyrights	410 Antitrust
150 Recovery of Overpayment of Veteran's Benefits	330 Federal Employers' Liability	720 Labor/Management Relations	830 Patent	430 Banks and Banking
151 Medicare Act	340 Marine	740 Railway Labor Act	835 Patent—Abbreviated New Drug Application	450 Commerce
152 Recovery of Defaulted Student Loans (Excludes Veterans)	345 Marine Product Liability	751 Family and Medical Leave Act	840 Trademark	460 Deportation
153 Recovery of Overpayment of Veteran's Benefits	350 Motor Vehicle	790 Other Labor Litigation	SOCIAL SECURITY	470 Racketeer Influenced & Corrupt Organizations
160 Stockholders' Suits	355 Motor Vehicle Product Liability	791 Employee Retirement Income Security Act	861 HIA (1395ff)	480 Consumer Credit
190 Other Contract	360 Other Personal Injury	IMMIGRATION	862 Black Lung (923)	490 Cable/Sat TV
195 Contract Product Liability	362 Personal Injury—Medical Malpractice	462 Naturalization Application	863 DIWC/DIWW (405(g))	850 Securities/Commodities/Exchange
196 Franchise	CIVIL RIGHTS	465 Other Immigration Actions	864 SSID Title XVI	890 Other Statutory Actions
REAL PROPERTY	PRISONER PETITIONS		865 RSI (405(g))	891 Agricultural Acts
210 Land Condemnation	HABEAS CORPUS		FEDERAL TAX SUITS	893 Environmental Matters
220 Foreclosure	440 Other Civil Rights		870 Taxes (U.S. Plaintiff or Defendant)	X 895 Freedom of Information Act
230 Rent Lease & Ejectment	441 Voting		871 IRS—Third Party 26 USC § 7609	896 Arbitration
240 Torts to Land	442 Employment			899 Administrative Procedure Act/Review or Appeal of Agency Decision
245 Tort Product Liability	443 Housing/Accommodations			950 Constitutionality of State Statutes
290 All Other Real Property	445 Amer. w/Disabilities—Employment			
	446 Amer. w/Disabilities—Other			
	448 Education			
	OTHER			
	540 Mandamus & Other			
	550 Civil Rights			
	555 Prison Condition			
	560 Civil Detainee—Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- X 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) 6 Multidistrict Litigation—Transfer 8 Multidistrict Litigation—Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

5 U.S.C. section 552

Brief description of cause:

FOIA exemption

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P.

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes X No

VIII. RELATED CASE(S), IF ANY (See instructions):

JUDGE

DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

(Place an "X" in One Box Only)

X SAN FRANCISCO/OAKLAND

SAN JOSE

EUREKA-MCKINLEYVILLE

DATE 07/10/2018

SIGNATURE OF ATTORNEY OF RECORD

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

Authority For Civil Cover Sheet. The JS-CAND 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)."
- II. Jurisdiction.** The basis of jurisdiction is set forth under Federal Rule of Civil Procedure 8(a), which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
 - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 - (3) Federal question. This refers to suits under 28 USC § 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 - (4) Diversity of citizenship. This refers to suits under 28 USC § 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS-CAND 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- (1) Original Proceedings. Cases originating in the United States district courts.
 - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
 - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
 - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket.
- Please note that there is no Origin Code 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC § 553. Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Federal Rule of Civil Procedure 23.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: "the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated."

Date and Attorney Signature. Date and sign the civil cover sheet.