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11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA
13

14 Social Justice Legal Foundation, a non-
15 profit corporation,

16 Plaintiff,

17 vs.

18 U.S. Immigration and Customs
Enforcement,

19 Defendant.
20

Case No. 25-2078

**COMPLAINT FOR VIOLATION OF
FREEDOM OF INFORMATION ACT
5 U.S.C. § 552**

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INTRODUCTION

1. On August 16, 2024, Plaintiff Social Justice Legal Foundation (“SJLF” or “Plaintiff”) filed a Freedom of Information Act (“FOIA”) request with Defendant U.S. Immigration and Customs Enforcement (“ICE”) seeking nine discrete categories of information relevant to SJLF’s ongoing litigation challenging the dangerous spraying of an overconcentrated solution of a pesticide called HDQ Neutral on and near persons detained at the Adelanto Detention Facility (“Adelanto”) during the COVID-19 Pandemic. The FOIA statute, 5 U.S.C. § 552 (a)(6)(A)(i), (a)(6)(B), gave ICE a maximum of 30 business days to issue what is referred to as a “determination letter,” stating whether it located responsive records and intends to produce or withhold portions thereof. ICE is woefully delinquent in those obligations here.

2. As of the date of this filing, 134 business days have elapsed since SJLF submitted its Request, and ICE has yet to issue its determination letter and produce responsive documents. SJLF therefore brings this action to compel ICE’s compliance with FOIA’s plain and clear language, 5 U.S.C. § 552 et seq.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331, because this is a civil action arising under 5 U.S.C. § 552(a)(4)(B).

4. Because Defendant failed to comply with the requirements to respond, as set forth in 5 U.S.C. § 552(a)(6)(A), Plaintiff has constructively exhausted its administrative remedies and is entitled to proceed with this judicial action pursuant to 5 U.S.C. § 552(a)(6)(C)(i).

5. Venue is proper in the Central District of California under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

PARTIES

6. Plaintiff SJLF is a 501(c)(3) nonprofit corporation incorporated under

1 the laws of California and headquartered in Los Angeles, California. SJLF provides
2 pro bono legal representation to individuals who have suffered violations of their
3 civil rights, civil liberties, and basic human dignity by government actors and
4 systems. Its mission is to bring strategic and innovative trial litigation in both state
5 and federal courts to further social justice. One of SJLF’s top priorities is
6 challenging unconstitutional and dangerous conditions of criminal and immigration
7 confinement.

8 7. Defendant ICE is an agency of the United States of America under 5
9 U.S.C. § 552(f)(1) and 5 U.S.C. § 551(1).

10 8. Defendant ICE is the federal agency with possession, custody, and
11 control of the requested records and is responsible for responding to Plaintiff’s FOIA
12 Request.

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14 **STATUTORY FRAMEWORK**

15 9. FOIA, 5 U.S.C. § 552, mandates disclosure of records held by a federal
16 agency in response to a request for such records by a member of the public unless
17 they fall within certain narrow statutory exemptions.

18 10. As the Supreme Court has recognized, “the basic purpose of [FOIA] is
19 ‘to open agency action to the light of public scrutiny,’” which improves the public’s
20 understanding of governmental operations and thus enables a vibrant and functioning
21 democracy. *Dep’t of Air Force v. Rose*, 425 U.S. 352, 372 (1976).

22 11. To ensure the government provides access to public records, Congress
23 embedded within the FOIA statute an explicit timeline in which a federal agency
24 must respond to a FOIA request. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), federal
25 agencies must “determine within 20 [business] days ... after the receipt of any such
26 request whether to comply with such request,” and provide immediate notice to the
27 requester of that determination. In “unusual circumstances,” agencies are permitted
28 to unilaterally extend that timeline by ten business days, giving them a maximum of

1 thirty business days to issue a determination letter.

2
3 **FACTS**

4 12. On August 16, 2024, Plaintiff submitted a FOIA request (hereinafter
5 referred to as “Request”) to ICE pursuant to 8 U.S.C. § 552, via ICE’s Secure
6 Release Portal, located at <https://www.securerelease.us/>. Attached hereto as Exhibit
7 A is a true and correct copy of Plaintiff’s FOIA Request.

8 13. SJLF’s Request sought three categories of information. First, it
9 requested a May 2011 contract between ICE and The GEO Group, Inc.—a private-
10 prison corporation that ICE contracts with to detain immigrants in removal
11 proceedings—and related intergovernmental service agreements with the City of
12 Adelanto. *See* Exh. A at 2. Second, it requested two categories of information
13 related to the use of HDQ Neutral at Adelanto: (i) all documents and
14 communications relating to the use of HDQ Neutral held by a single custodian from
15 January 1, 2020, through December 31, 2020, and (ii) all documents relating to a
16 single letter from an immigrant rights advocacy group. *See id.* Third, and finally, it
17 sought six narrow categories of information and data related to ICE’s sanitation
18 practices and detainee health and grievance information. *See id.* at 2–3. Pursuant to
19 5 U.S.C. § 552(a)(6)(A)(i), ICE was required to issue a determination letter no later
20 than twenty business from August 16, 2024—i.e., September 17, 2024.

21 14. One week later, on August 23, 2024, ICE acknowledged receipt of
22 SJLF’s FOIA Request via email. Attached hereto as Exhibit B is a true and correct
23 copy of the August 23, 2024, Confirmation of Receipt. In that correspondence, ICE
24 acknowledged its statutory obligation to provide a determination letter within 20
25 business days of receipt of the Request, but it stated that, “due to increasing number
26 of FOIA requests received by [ICE],” it must invoke the 10-day extension of the
27 otherwise 20-day timeline pursuant to 5 U.S.C. § 552(a)(6)(B). It also granted
28 SJLF’s request for a fee waiver and assigned the Request the reference number 2024-

1 ICFO-52101. With its 10-day extension, ICE was required to issue a determination
2 no later than October 1, 2024.

3 15. On September 25, 2024, ICE notified SJLF via email that the Request
4 “as written [was] too broad in scope,” and that ICE needed clarification, namely
5 “which detention facilities you are specifically wanting records for.” Attached
6 hereto as Exhibit C is a true and correct copy of the September 25, 2024, email from
7 Defendant. ICE demanded a response within thirty days or else the Request would
8 be administratively closed. *See id.*

9 16. On October 23, 2024, SJLF responded to ICE’s September 25, 2024,
10 email with a letter clarifying the scope of its Request. Attached hereto as Exhibit D
11 is a true and correct copy of Plaintiff’s response letter dated October 23, 2024.
12 Because sections I and II of the Request were expressly limited to Adelanto—and
13 thus did not suffer from the overbreadth mentioned in ICE’s September 24 email—
14 SJLF clarified the scope of each request in Section III. To that end, SJLF pointed
15 ICE to a 2022 report by the United States Government Accountability Office (GAO),
16 titled Immigration Detention: ICE Needs to Strength Oversight of Information
17 Consent in Medical Care-23-105196, and two third-party inspection reports
18 conducted by Nakamoto Group, Inc., each of which referenced the information and
19 data that SJLF sought in requests III.1, III.2, and III.4. *See* Exh. D at 1–2. SJLF also
20 pointed ICE to certain provisions of the 2011 Performance-Based National Detention
21 Standards (PBNDS 2011) that created an obligation for ICE to collect and review
22 data, which was the subject of requests III.5 and III.6. *See* Exh. D at 2. Finally,
23 SJLF offered to narrow the scope of request III.3 to operators of the Adelanto
24 Detention Facility. *See id.* SJLF invited ICE to contact them via email or phone
25 with any questions.

26 17. In the more than four months that have since passed, SJLF has received
27 no correspondence from ICE. As of the date of this filing, ICE describes the “request
28 status” on the Secure Release website as “Searching for Records.” Attached hereto

1 as Exhibit E is a true and accurate copy of the current status of Plaintiff’s FOIA
2 Request on the Secure Release portal as of March 7, 2025. ICE is therefore currently
3 104 business days delinquent in its obligation to provide a determination letter in
4 response to SJLF’s August 16, 2024, FOIA Request.

5
6 **COUNT ONE**

7 **(Violation Of 5 U.S.C. § 552(a)(6)(A)(i) For Failure to Comply with Statutory**
8 **Deadlines)**

9 18. Plaintiff incorporates each of the foregoing paragraphs of this
10 Complaint.

11 19. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i) & B(i), Defendant had 20 or, at
12 most, 30 business days from receipt of the FOIA Request to notify Plaintiff of
13 Defendant’s determination of whether to comply with the Request and the reasons
14 for that determination.

15 20. To date, Defendant has not provided any notice to Plaintiff of its
16 determination whether to comply with the FOIA Request and the reasons for such
17 determination.

18 21. Defendant has failed to comply with the requirements to respond as set
19 forth in 5 U.S.C. § 552(a)(6)(A)(i).

20 22. Because Defendant has failed to comply with the requirements to
21 respond as set forth in 5 U.S.C. § 552(a)(6)(A)(i) & B(i), Plaintiff has constructively
22 exhausted its administrative remedies and is entitled to proceed with this judicial
23 action pursuant to 5 U.S.C. § 552(a)(6)(C)(i).

24 23. 5 U.S.C. § 552(a)(4)(B) provides that, when an agency “improperly
25 with[o]ld[s]” records, this Court may “enjoin the agency from withholding agency
26 records” and “order the[ir] production.”

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COUNT TWO

(Violation Of 5 U.S.C. § 552(a)(3) for

Failure To Conduct an Adequate Search for Responsive Records)

24. Plaintiff incorporates each of the foregoing paragraphs of this Complaint.

25. Pursuant to FOIA, 5 U.S.C. § 552(a), Plaintiff has a statutory right to access the requested agency records.

26. Pursuant to FOIA, 5 U.S.C. § 552(a)(3)(C), Defendant must “make reasonable efforts to search” for the information requested.

27. Upon information and belief, Defendant possesses records responsive to Plaintiff’s FOIA Request that it has failed to produce without justification.

28. Upon information and belief, Defendant’s failure to produce responsive records is a result of their failure to make reasonable efforts to search for the information requested.

29. Under 5 U.S.C. § 552(a)(4)(B), when an agency “improperly with[o]ld[s]” records, this Court may “enjoin the agency from withholding agency records” and “order the[ir] production.”

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

A. Injunctive relief, ordering Defendant to respond to the FOIA Request by a date or dates certain, by (a) immediately notifying Plaintiff whether it will comply with the FOIA Request and the reasons for its determination; (b) conducting a search using “reasonable effort[s]” “for the purpose of locating those records which are responsive” to the FOIA Request, as required by 5 U.S.C. §§ 552(a)(3)(C)–(D); (c) demonstrating that it has conducted an adequate search; (d) producing to Plaintiff all non-exempt records or portions of records responsive to the FOIA Request, as well as a Vaughn index of any records or portions of records withheld due to a claim of

1 exemption;

2 B. An award to Plaintiff of its costs and attorney fees reasonably incurred
3 in this action, pursuant to 5 U.S.C. § 552(a)(4)(E); and

4 C. Such other and further relief as the Court may deem just and proper.
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8 Dated: March 7, 2025

SOCIAL JUSTICE LEGAL
FOUNDATION

9 /s/ Hannah K. Comstock

10 Hannah K. Comstock

11 Sara Haji

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13 HUESTON HENNIGAN LLP

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15 /s/ Vicki Chou

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17 *Attorneys for Plaintiff Social Justice*
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