

U.S. Department of Homeland Security
425 I Street, NW
Washington, DC 20536



U.S. Immigration
and Customs
Enforcement

January 23, 2008

Ms. Laura Rotolo
ACLU
211 Congress Street
Boston, MA 02110

Re: **07-FOIA-51278**

Dear Ms. Rotolo:

This is the final response to your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS) Immigration and Customs Enforcement (ICE), dated January 25, 2007, and received by this office on January 25, 2007. You are seeking information concerning the detention facilities in Massachusetts utilized by ICE. (See enclosed copy of original request.)

In a letter dated December 21, 2007 our office provided you with a fee estimate applicable to processing your request. We received a letter, via fax, dated January 2, 2008 confirming your willingness to pay the total estimated processing fee of \$1,288.00 for your FOIA request 07-FOIA-51278. (See enclosed copies of both letters)

A search of the Office of Acquisitions for documents responsive to your request produced a total of 33 pages responsive to Item 1 of your request. Of those pages, I have determined that 25 pages of the records are releasable in their entirety and eight pages are partially releasable.

Enclosed are eight pages responsive to Item 1 with certain information withheld as described below.

FOIA Exemption 2(low) protects information applicable to internal administrative personnel matters to the extent that the information is of a relatively trivial nature and there is no public interest in the document.

FOIA Exemption 2(high) protects information applicable to internal administrative and personnel matters, such as operating rules, guidelines, and manual of procedures of examiners or adjudicators, to the extent that disclosure would risk circumvention of an agency regulation or statute, impede the effectiveness of an agency's activities, or reveal sensitive information that may put the security and safety of an agency activity or employee at risk. Whether there is any

public interest in disclosure is legally irrelevant. Rather, the concern under high 2 is that a FOIA disclosure should not benefit those attempting to violate the law and avoid detection.

For Items 2 and 3 of your request we conducted a comprehensive search of files within the Office of Detention and Removal Operations (DRO) for records that would be responsive to your request. Unfortunately, we were unable to locate or identify any responsive records.

A search of the Office of Detention and Removal Operations for documents responsive to Item 4 of your request yielded the below information.

Total in Custody for all Massachusetts Detention facilities Housing ICE Detainees on August 22, 2007.

Facility Name	State	Total in Custody
Bristol County Jail	MA	252
Devens Federal Medical Center	MA	1
Greenfield House of Corrections	MA	81
Norfolk County Correctional Facility	MA	46
Plymouth County House of Corrections	MA	206
Suffolk County House of Corrections	MA	224
Total		810

A search of the Office of Detention and Removal Operations for documents responsive to Item 5 of your request produced a total of 29 pages. Of those pages, I have determined that 15 pages of the records are releasable in their entirety and 14 pages are partially releasable. Please note that prior to 2004 ICE did not track this statistical information in the same manner and to retrieve such information would require us to create a program to extract the data from multiple databases. Please be advised that the FOIA does not require federal agencies to create records or conduct research projects in response to a FOIA request, but rather is limited to requiring agencies to provide access to reasonably described, nonexempt records. NLRB v. Sears, Roebuck & Co., 421 U.S. 132, 162 (1975); Zemansky v. EPA, 767 F.2d 569, 574 (9th Cir. 1985).

Enclosed are 14 pages responsive to Item 5 with certain information withheld as described below.

FOIA Exemption 2(high) protects information applicable to internal administrative and personnel matters, such as operating rules, guidelines, and manual of procedures of examiners or adjudicators, to the extent that disclosure would risk circumvention of an agency regulation or statute, impede the effectiveness of an agency's activities, or reveal sensitive information that may put the security and safety of an agency activity or employee at risk. Whether there is any public interest in disclosure is legally irrelevant. Rather, the concern under high 2 is that a FOIA disclosure should not benefit those attempting to violate the law and avoid detection.

FOIA Exemption 6 exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a

A search of the Office of Detention and Removal Operations for documents responsive to Item 9 of your request produced a total of 1,181 pages. Of those pages, I have determined that 544 pages of the records are releasable in their entirety and 637 pages are partially releasable. Please note that Devens Federal Medical Center is a Federal Bureau of Prisons facility and ICE has no inspection reports concerning this facility. Inspection reports for Devens Federal Medical Center would likely be located with the Federal Bureau of Prisons.

Enclosed are 637 pages responsive to Item 9 with certain information withheld as described below.

FOIA Exemption 6 exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right privacy. *[The types of documents and/or information that we have withheld may consist of birth certificates, naturalization certificates, driver license, social security numbers, home addresses, dates of birth, or various other documents and/or information belonging to a third party that are considered personal.]* The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

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

For Items 10 and 13 of your request we conducted a comprehensive search of files within the Office of Detention and Removal Operations (DRO) for records that would be responsive to your request. Unfortunately, we were unable to locate or identify any responsive records.

A search of the Office of Detention and Removal Operations for documents responsive to Items 11 and 14 of your request revealed that information responsive to these Items would be located in the National Detention Standards. These standards are available to the public at the following website: <http://www.ice.gov/partners/dro/opsmanual/>

You have a right to appeal the above withholding determinations. Should you wish to do so, you must send your appeal and a copy of this letter, within 60 days of the date of this letter, to: Associate General Counsel (General Law), U.S. Department of Homeland Security, Washington, D.C. 20528, following the procedures outlined in the DHS regulations at 6 C.F.R. § 5.9. Your

www.ice.gov

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envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at www.dhs.gov/foia.


Provisions of the FOIA allow us to recover part of the cost of complying with your request. 6 CFR § 5.11. Please forward a check or money order for \$915.80 (19 hours search @\$41/hr, 1,368 pages @ \$.10/page) within 30 days from the date of this letter, payable to the Treasury of the United States. You should mail your check to:

Freedom of Information/Privacy Division
Immigration and Customs Enforcement
800 North Capitol Street, N.W.
5th Floor Suite 585
Washington, DC 20528

In order to be sure your account is credited, you must reference the ICE FOIA Number 07-FOIA-51278 on your check or money order and attach it to a copy of this letter. The Department may institute collection action pursuant to Federal debt collection statutes, which provide for recovery of interest, administrative and penalty charges for handling a delinquent debt owed to the government.

If you need to contact our office again about this matter, please refer to **07-FOIA-51278**. This office can be reached at (202) 732-0300.

Sincerely,



Catrina M. Pavlik-Keenan
FOIA Officer

Enclosure(s): Original FOIA request dated January 25, 2007
Cost Estimate dated December 21, 2007
Letter agreeing to pay cost estimate dated January 3, 2008
1,468 pages and two DVD's responsive to FOIA request