

June 22, 2018

Sam Kaplan
Chief Privacy Officer/Chief FOIA Officer
The Privacy Office
U.S. Department of Homeland Security
245 Murray Lane SW
STOP-0655
Washington, D.C. 20528-0655

Re: FOIA Request Regarding the Detention of Immigrant Children

Dear Mr. Kaplan,

On behalf of the NAACP Legal Defense Fund, I hereby request that, pursuant to the Freedom of Information Act, 5 U.S.C. § 552, the United States Department of Homeland Security¹ (Department) provide the following information:

- (1) All documents,² related to any current memoranda of agreement or any other agreement or understanding (whether formal or informal) between the Department and any jurisdiction in the States of Maryland, New York, and the District of Columbia providing for the detention of individuals and families, including those under the age of 18;
- (2) All documents, related to any current memoranda of agreement or any other agreement or understanding (whether formal or informal) between the Department and any public or private entity in the States of Maryland, New York, and the District of Columbia providing for the detention of individuals and families, including those under the age of 18;
- (3) All documents identifying or otherwise related to facilities or other locations in the States of Maryland, New York, and the District of Columbia, where individuals under the age of 18 are detained under the custody of, pursuant to an agreement with, or at the direction of the Department;

¹ This shall include all sub-agencies of the Department, including, but not limited to U.S. Immigration and Customs Enforcement (ICE) and U.S. Custom and Border Protection.

² The term “document” is to be interpreted in the broadest possible sense within the meaning of the Freedom of Information Act and shall include, without limitation, any written, printed, typed, spoken, computerized, or other graphic, phonic, or recorded matter of any kind or nature, however produced or reproduced, whether sent or received or neither, including drafts and copies bearing notations or marks not found on the original.

- (4) All documents related to the conditions of detention in facilities or other locations in the States of Maryland, New York, and the District of Columbia, where individuals under the age of 18 are detained under the custody of, pursuant to an agreement with, or at the direction of the Department;
- (5) All documents related to manuals, standards, or guidance concerning the treatment of detained persons that the Department has provided to, or received from any facilities or other locations in the States of Maryland, New York, and the District of Columbia, where individuals under the age of 18 are detained under the custody of, pursuant to an agreement with, or at the direction of the Department;
- (6) All documents related to manuals, standards, or guidance concerning contact between detained minors and their families that the Department has provided to, or received from any facilities or other locations in the States of Maryland, New York, and the District of Columbia, where individuals under the age of 18 are detained under the custody of, pursuant to an agreement with, or at the direction of the Department;
- (7) All documents related to manuals, standards, or guidance concerning contact between detained minors and other individuals that the Department has provided to, or received from any facilities or other locations in the States of Maryland, New York, and the District of Columbia, where individuals under the age of 18 are detained under the custody of, pursuant to an agreement with, or at the direction of the Department;
- (8) All documents related to the information the Department has provided to facilities or other locations in the States of Maryland, New York, and the District of Columbia, where individuals under the age of 18 are detained under the custody of, pursuant to an agreement with, or at the direction of the Department about the rights of detained individuals under federal, state, local, or international law; and
- (9) All documents related to or listing the age, gender, race, ethnicity, date of entry to the U.S., and location of entry to the U.S. of persons under the age of 18, under the custody of, at the direction of, or pursuant to an agreement with the Department, currently located in the States of Maryland, New York, and the District of Columbia.

Pursuant to 6 CFR § 5.5(e)(1)(iv), I respectfully request expedited consideration of this request. This request concerns the Department's detention and separation from their parents of children seeking asylum within the United States. The separation of these children from their parents, as well as the need for their prompt reunification, has drawn

significant media attention³ and was the subject of an Executive Order on June 20, 2018.⁴ For almost 80 years, LDF has used litigation and policy advocacy to protect the civil and human rights of African Americans and other people of color. We have a demonstrated commitment to ensuring that the nation's laws and policies are administered fairly and without regard to race, ethnicity or national origin.⁵ The Trump Administration's zero tolerance policy of prosecuting everyone who seeks entry into the U.S. without adequate immigration documentation and separating migrant children from their parents and legal guardians is a matter of widespread and exceptional interest and raises serious questions about the government's integrity.

If you determine that some portions of the requested records are exempt from disclosure, we will expect, as the Act provides in § 552(b)(9), that you provide us with "any reasonably segregable portion" of the records sought.

In order to determine the applicability of any fees, LDF is a non-profit, public interest organization and this request is not for commercial use. We request a waiver of all fees for this request because disclosure of the requested information is in the public interest. Disclosure is likely to contribute significantly to public understanding of the Department's activities because LDF will use such information to inform its public education and

³ See e.g. Richard Fausset, *Immigrant Children Cry Out in Audio Recorded at Detention Center*, N.Y. TIMES, Jun. 18, 2018, <https://www.nytimes.com/2018/06/18/us/immigrant-children-detention-center-audio.html>; Shane Harris, et al., *Democrats Intensify Fight for Immigrant Children — and Bludgeon Trump and Republicans Ahead of Midterms*, WASH POST, Jun. 17, 2018, https://www.washingtonpost.com/world/national-security/democrats-intensify-fight-for-immigrant-children--and-bludgeon-trump-and-republicans-ahead-of-midterms/2018/06/17/151266d2-7239-11e8-9780-b1dd6a09b549_story.html?noredirect=on&utm_term=.d081ecc3ec40; Miles Parks, *Trump's Decision To Separate Families Heats Up Immigration Debate*, NPR.com, Jun. 17, 2018, <https://www.npr.org/2018/06/17/620803399/trumps-decision-to-separate-families-heats-up-immigration-debate>.

⁴ President Donald J. Trump, Executive Order, *Affording Congress an Opportunity to Address Family Separation*, Jun. 20, 2018, <https://www.whitehouse.gov/presidential-actions/affording-congress-opportunity-address-family-separation/>.

⁵ See, e.g., *Smith v. Allwright*, 321 U.S. 649 (1944) (exclusion of Black voters from primary election); *Shelley v. Kraemer*, 334 U.S. 1 (1948) (racial covenants on real estate transfers); *Brown v. Board of Education*, 347 U.S. 483 (1954) (racial segregation of public schools); *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971) (unjustified disparate impact in employment discrimination); *McCleskey v. Kemp*, 481 U.S. 279 (1987) (challenge to discriminatory application of death penalty); *Shelby County v. Holder*, 133 S. Ct. 2612 (2013) (defense of constitutionality of Section 5 of the Voting Rights Act).

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advocacy efforts. In the event that a waiver of fees is not granted, we request a line item estimation of the fees and the basis for the fee request.

If all or any part of this request is denied, please provide us with a written statement of the grounds for the denial citing the law or regulation under which you believe you may deny access. If this is the case, we also request that you inform us of the available remedies for review of the denial.

It is essential that this request be responded to within 30 days, as required by § 552(a)(4)(B). If we do not receive a response within 30 days, we will treat your failure to respond as a denial and seek appropriate judicial relief.

If possible, we request that the information we request be provided in electronic format. Please address any responses to this FOIA request to Ajmel Quereshi. My contact information is below. We appreciate your attention to this matter.

Sincerely,

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