

June 22, 2018

Michael Marquis
Freedom of Information Officer
Department of Health and Human Services
Hubert H. Humphrey Building, Room 729H
200 Independence Avenue, SW
Washington, D.C. 20201

Re: FOIA Request Regarding the Detention of Immigrant Children

Dear Mr. Marquis,

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 Health and Human Services¹ (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;
- (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

¹ This shall include all sub-agencies of the Department.

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.

- 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 45 CFR § 5.27(a), I respectfully request expedited consideration of this request.³ 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

³ In accordance with the regulation, I have attached a signed certificate stating these points.

significant media attention⁴ and was the subject of an Executive Order on June 20, 2018.⁵ 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.⁶ 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

⁴ 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>.

⁵ 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/>.

⁶ 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,

Ajmel Quereshi
Senior Counsel
NAACP Legal Defense Fund
1444 I Street, NW, 10th Floor
Washington, DC 20005
Phone: (202) 216-5574
Email: aquereshi@naacpldf.org

DECLARATION OF AJMEL QUERESHI

1. My name is Ajmel Quereshi and I serve as Senior Counsel at the NAACP Legal Defense Fund.
2. Pursuant to 45 CFR § 5.27(a), I respectfully request expedited consideration of this request.
3. 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 attention and was the subject of an Executive Order on June 20, 2018.
4. 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.
5. Additionally, this issue directly relates to LDF's work. 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.
6. Finally, I have an extensive background working on the rights of immigrants in the United States, having published articles in legal journals at the University of Wisconsin and the American University Schools of Law. I also served as Director of the Immigrants' Rights Project at the American Civil Liberties Union of Maryland. While there, I testified approximately 20 times before the Maryland legislature regarding the rights of immigrants.
7. So that LDF may work to ensure the reunification of these children with their families, we ask that the Department respond to our request as soon as possible.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

s/Ajmel A. Quereshi
Ajmel A. Quereshi

Executed: June 22, 2018