

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

BLACK ALLIANCE FOR JUST
IMMIGRATION and AMERICAN
IMMIGRATION COUNCIL,

Plaintiffs,

v.

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

Defendants.

Civil Action No. 21-cv-6239

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

INTRODUCTION

1. Plaintiffs Black Alliance for Just Immigration (“BAJI”) and American Immigration Council (“the Council”) (collectively “Plaintiffs”) bring this action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 *et seq.*, to compel Defendants U.S. Immigration and Customs Enforcement (“ICE”) and U.S. Department of Homeland Security (“DHS”) (collectively “Defendants”) to respond to Plaintiffs’ FOIA requests for records related to the abusive and discriminatory treatment of Black immigrants in immigration detention facilities throughout the southern United States.

2. While all immigration detention is inhumane, Black immigrants detained by ICE face some especially egregious mistreatment. They experience physical and verbal abuse, violent attempts to force them to consent to their own removal, the denial of necessary medical care, and other serious harm. Reports and studies suggest and even outright show that detained Black

immigrants face these abuses at disproportionately high rates and often as a result of explicit racism.

3. These accounts of racial discrimination and abuses in detention coincide with reports of discriminatory treatment fueled by racial animus in other aspects of immigration enforcement, a phenomenon of increasing public scrutiny and concern.

4. Despite these reports, ICE has attempted to hide this racism and neglect from the public's view and historically taken few steps to acknowledge and rectify the grave harms that result from these practices. Only by revealing information about how Black immigrants have been treated in ICE detention centers can the United States take meaningful action toward eliminating the abuse, mistreatment, and violence perpetrated against detained Black immigrants.

5. To shed light on these conditions, Plaintiffs submitted eight FOIA requests to ICE—each focused on different immigration detention centers identified as sites of particular abuse—seeking records about ICE's use of force, solitary confinement, access to medical treatment, and other conditions that impact Black immigrants in ICE detention.

6. Plaintiffs filed the FOIA requests with ICE on April 16, 2021. Despite Plaintiffs' efforts to facilitate the agency's production of responsive records, ICE has not responded to Plaintiffs' requests.

7. The requested records are critical to inform the public and support advocacy to redress the systemic racism and abuse that occurs in these ICE detention centers. Without such transparency and oversight, these ICE detention centers will remain unaccountable, and the discrimination and abuse detained Black immigrants face will continue.

JURISDICTION AND VENUE

8. This Court has jurisdiction pursuant to 5 U.S.C. § 552(a)(4)(B). Because this action arises under FOIA against an agency of the United States, this Court also has jurisdiction over this action pursuant to 28 U.S.C. § 1331.

9. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e) because BAJI's principal place of business is in Brooklyn, New York.

10. This Court has jurisdiction to grant declaratory and further necessary or proper relief pursuant to 5 U.S.C. § 552(a)(4)(B), 28 U.S.C. §§ 2201–2202, and Federal Rules of Civil Procedure 57 and 65.

11. Plaintiffs have exhausted any and all administrative remedies in connection with these FOIA requests. 5 U.S.C. § 552(a)(6)(C)(i).

PARTIES

12. Plaintiff BAJI is a not-for-profit human rights organization that works to ensure that the U.S. immigration system is fair, humane, and prioritizes the civil and human rights of Black immigrants and asylum-seekers. BAJI's work includes identifying, documenting, and reporting on racist abuse in the immigration enforcement system in order to support community organizations fighting immigration enforcement and racial profiling.

13. Plaintiff Council is a tax-exempt, not-for-profit educational and charitable organization under Internal Revenue Code § 501(c)(3). The Council was established to increase public understanding of immigration law and policy, advocate for the fair and just administration of our immigration laws, protect the legal rights of noncitizens and citizens, and educate the public about the enduring contributions of America's immigrants. The Council seeks to hold the government accountable for unlawful conduct and restrictive interpretations of the law and for

failing to ensure that the immigration laws are implemented and executed in a manner that comports with due process through the pursuit of transparency and impact litigation.

14. Defendant DHS is a federal agency responsible for the enforcement of immigration law in the United States. DHS is comprised of several subcomponents and offices, including ICE. DHS is an agency within the meaning of 5 U.S.C. § 552(f)(1).

15. Defendant ICE is a subcomponent of DHS responsible for interior immigration enforcement, including immigration detention within the United States. ICE is an agency within the meaning of 5 U.S.C. § 552(f)(1).

STATEMENT OF FACTS

RACISM WITHIN THE U.S. IMMIGRATION DETENTION SYSTEM

16. The U.S. immigration system embodies systemic and targeted racism. Racial disparities and discrimination exist in all facets of immigration policy and enforcement, including high-level disparaging remarks about majority-Black Haitian and African nations,¹ discriminatory enforcement against Black immigrants at the border,² and disproportionately costly bond determinations.³

17. Immigration detention is fraught with examples of racist treatment of detained individuals. Black individuals detained by ICE frequently report that they are disproportionately impacted by these abusive conditions, even explicitly targeted because of their race. For instance, Black immigrants in detention report being subject to overtly racist harassment by guards,

¹ Ali Vitali et al., *Trump Referred to Haiti and African Nations as ‘Shithole’ Countries*, NBC NEWS (Jan. 11, 2018), <https://www.nbcnews.com/politics/white-house/trump-referred-haiti-african-countries-shithole-nations-n836946>.

² Cindy Carcamo et al., *Biden Calls Haitian Migrant Crisis ‘an Embarrassment.’ Advocates Say Racism at Root*, L.A. TIMES (Sept. 24, 2021), <https://www.latimes.com/politics/story/2021-09-24/biden-haitian-migrants-border-critics-claim-racism>.

³ *Black Immigrant Lives Are Under Attack*, RAICES (last visited Oct. 6, 2021), <https://www.raicestexas.org/2020/07/22/black-immigrant-lives-are-under-attack/>.

including being referred to as a “monkey,” “stupid motherfucking Africans,” and a “terrorist.”⁴ As another example, the warden at one immigration detention facility reportedly told one African man that he should “shut [his] black ass up” and that he “belong[s] at the back of that cage.”⁵

18. The racism that Black immigrants experience in detention goes far beyond hateful verbal attacks. Some commonly reported forms of harm perpetrated against Black immigrants include physical abuse; the use of violence, restraints, and threats of harm to force individuals to sign deportation paperwork; the denial of adequate medical care; and the abusive use of solitary confinement.

19. In some cases, this abuse was directed against Black immigrants after they requested necessities such as medical care and clothing.⁶

Physical Abuse

20. Physical abuse is, all too often, a fact of life for detained Black immigrants. They report being threatened with pepper spray and assaulted. For example, after a group of more than forty Black, majority-Cameroonian asylum-seekers detained at the Pine Prairie ICE Processing Center organized hunger strikes to peacefully protest the prolonged detention of African and other Black individuals at that facility, guards threatened the immigrants with tear gas and pepper spray, and—without any provocation—climbed on top of several of them, attempting to force them into chokeholds.⁷ One of the peaceful protestors who held his hands in the air in demonstration of his

⁴ TEXAS A&M UNIV. SCH. L. IMMIGR. RTS. CLINIC ET AL., “I WAS TREATED LIKE AN ANIMAL”: ABUSES AGAINST AFRICAN DETAINEES AT THE WEST TEXAS DETENTION FACILITY 12 (Mar. 22, 2018), https://law.tamu.edu/docs/default-source/faculty-documents/wtdf_report.pdf?sfvrsn=4 [hereinafter ABUSES AGAINST AFRICAN DETAINEES AT THE WEST TEXAS DETENTION FACILITY].

⁵ *Id.* at 11.

⁶ *Id.* at 9, 15.

⁷ Letter from Cameroon American Council et al., to Hon. Joseph V. Cuffari, DHS Inspector General & Officer Cameron Quinn, Officer for Civil Rights and Civil Liberties, Call for an Immediate Halt to and Investigation of Detention, Violence, Repression and Racism Against Peacefully Protesting Cameroonian and Black Asylum

peacefulness was violently thrown to the ground with six officers on top of him and left with bruises all over his body.⁸ African immigrants detained in the West Texas Detention Facility similarly reported numerous instances of officers using physical violence against them such as indiscriminate deployment of pepper spray, sometimes in response to simple requests such as asking to speak with an ICE officer.⁹

21. The physical abuse perpetrated by ICE also includes sexual assault. For instance, one Black immigrant reported being consistently searched by guards who touched his private areas; another Black immigrant reported that he was touched inappropriately by an officer who pulled his pants down and gave him a “wedgie.”¹⁰

Use of Threats and Violent Force to Compel Consent to Deportation

22. Immigrants from Black-majority countries also widely report that guards and ICE officials use restraint and physical force to compel them to involuntarily sign deportation consent forms or provide their fingerprints to consent to deportation, even when they have pending court matters and are represented by counsel.¹¹ One individual connected this phenomenon to race in

Seekers, and other Asylum Seekers, at Pine Prairie ICE Processing Center; and the release of all Black Hunger Strikers from Solitary Confinement at 1–2 (Aug. 26, 2020), https://www.splcenter.org/sites/default/files/8.26.20_crcl_letter.pdf [hereinafter Letter from Cameroon American Council et al.].

⁸ *Id.*

⁹ ABUSES AGAINST AFRICAN DETAINEES AT THE WEST TEXAS DETENTION FACILITY, *supra* note 4, at 6–7.

¹⁰ *See, e.g.*, Complaint from UndocuBlack Network et al., to Garrett Ripa, Field Office Director, ICE & ERO Miami Field Office et al., COVID-19 Negligence, Sexual Assault, Retaliation, Verbal Abuse, Religious Discrimination, Anti-Blackness, and Deplorable Conditions at Krome North Services Processing Center in Miami, Florida at 1, 9 (Oct. 6, 2021), <https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/615defe5e76a986c1af29d7a/1633546214397/Multi-Individual+CRCL+Anti-Blackness+and+Other+Abuse+of+Black+immigrants+at+Krome+Oct+2021.pdf>.

¹¹ FREEDOM FOR IMMIGR. ET AL., U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT TORTURE IN SIGNING OF DEPORTATION DOCUMENTS FOR CAMEROONIAN MIGRANTS AT WINN CORRECTIONAL CENTER, LOUISIANA 2 (Feb. 1, 2021), https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/6019dd452f75af0a17bec824/1612307782021/Redacted_CRCL_Complaint_Winn.pdf.

even clearer terms, reporting that ICE officials used these practices against him precisely “because [he is] black.”¹²

23. Cameroonian asylum-seekers at the Winn Correctional Center, for instance, reported that guards assaulted, choked, and beat them while physically manipulating their hands into providing their fingerprints to indicate their consent on deportation paperwork.¹³ One individual reported that two guards pressed their body weight onto his back until he could barely breathe while manipulating his hand into giving his fingerprint.¹⁴ An Ethiopian asylum-seeker reported a similar assault and forced fingerprinting at the Adelanto ICE Processing Center.¹⁵

24. Another Black man at Winn reported that a guard stated that if he did not voluntarily provide his signature and fingerprints for his deportation paperwork, they would use force against him.¹⁶ When he refused, six guards forced him to the ground while they attempted to put him into handcuffs and subsequently attempted to break his finger until he gave up and let them take his fingerprint.¹⁷

25. Similarly, six African asylum-seekers detained at the Jackson Parish Correctional Center reported that they were threatened, physically assaulted and abused, and restrained as part of a regular facility practice of obtaining noncitizens’ fingerprints on deportation consent forms against their will and without their counsel present.¹⁸ When one of these men nevertheless declined

¹² *Id.* at 5.

¹³ *Id.* at 2–3.

¹⁴ *Id.* at 3.

¹⁵ Molly O’Toole & Andrea Castillo, ‘Betrayed’ Black Asylum Seekers Say Trump Administration is Ramping Up Deportations by Force and Fraud, L.A. TIMES (Nov. 27, 2020), <https://www.latimes.com/politics/story/2020-11-27/black-asylym-seekers-trump-officials-push-deportations>.

¹⁶ *Id.* at 4.

¹⁷ *Id.* at 5.

¹⁸ See generally Letter from Freedom for Immigrants et al., to Patricia Nation, Officer for Civil Rights & Civil Liberties & Hon. Joseph V. Cuffari, DHS Inspector General, U.S. Immigration and Customs Enforcement (ICE) Pattern of Torture in Signing of Deportation Documents for Cameroonian Migrants (Nov. 5, 2020), https://www.splcenter.org/sites/default/files/crcl_complaint_ice_s_pattern_of_torture_in_signing_of_deportation_documents_for_cameroonian_migrants.pdf.

to give his fingerprints, staff restrained him to physically manipulate his hands into signing the documents.¹⁹ Another man who refused to sign without a translator stated that he was stripped naked and held down while guards forced him into placing his fingerprints as a form of signature on the document.²⁰

Denial of Adequate Medical Care

26. Detained immigrants from predominantly Black countries describe being denied access to adequate medical care despite potentially serious medical consequences. For instance, a 2018 report documenting conditions at the West Texas Detention Facility found that employees denied critical healthcare—including necessary medications and treatment—to detained African immigrants with severe conditions such as blood clots, internal bleeding, hallucinations, and even an infected lung.²¹ The denial of such necessary medications and treatments can seriously exacerbate these conditions and compound detained immigrants' pain.

27. This failure to provide critical medical care is sadly not limited to the West Texas facility. Indeed, a group of more than forty Cameroonian asylum-seeking women detained at the T. Don Hutto facility reported similarly serious medical neglect perpetrated against the majority-

¹⁹ *Id.* at 4.

²⁰ *Id.* at 3; *see also* Letter from Freedom for Immigrants et al., to Diane L. Witte, Acting Field Office Director ICE & ERO, Caridad Cephas-Kimbrough, Deputy Field Office Director ICE & ERO, Patricia Nation, Officer for Civil Rights & Civil Liberties, & Hon. Joseph V. Cuffari, DHS Inspector General, Immigration and Customs Enforcement Officers' Use of Torture to Coerce Immigrants into Signing Immigration Documents at Adams County Correctional Facility at 4 (Oct. 7, 2020), <https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/5f7f17f39e044f47175204fb/1602164723244/Re+CRCL+Complaint+ICE%27s+Use+of+Torture+to+Coerce+Immigrants+to+Sign+Immigration+Documents+at+Adams+County+Correctional+Facility.pdf> (reporting that, at the Adams County Correctional Center, a Cameroonian immigrant was restrained, repeatedly sprayed with pepper spray, and had multiple guards force his hand to “sign” deportation consent forms over his physical and verbal objections).

²¹ ABUSES AGAINST AFRICAN DETAINEES AT THE WEST TEXAS DETENTION FACILITY, *supra* note 4, at 13–15.

African population, including the refusal to provide critical surgeries, the provision of incorrect medication, and disbelief and mockery of their medical needs.²²

28. In certain cases involving Black immigrants, the government has acknowledged its failure to provide adequate care. Such instances include an internal ICE report finding that the agency failed to meet basic standards of care in the case of a Black immigrant detained at the LaSalle ICE Processing Center who died of a subdural hemorrhage after ICE failed to provide adequate medical care or hospitalize him when his known conditions, including cancer, significantly worsened.²³ Similarly, DHS investigators recently identified the case of a Black Bahamian man who died of a heart attack while detained at Adams County Correctional Center after the medical staff ignored clear warning signs and failed to send him to the hospital.²⁴ Despite ICE's recognition of at least some of its failings, medical neglect and discrimination persists.

Excessive Use of Solitary Confinement

29. Data and other accounts also indicate that individuals from Black-majority countries are disproportionately subject to solitary confinement. For instance, one study found that from 2012 to 2017, detained individuals from predominantly Black countries—who made up less than 4% of people in ICE's custody—comprised more than 24% of all solitary confinement placements.²⁵

²² Tina Vásquez, 'A Cry for Help': *Cameroonian Women Allege Medical Neglect, Discrimination in ICE Detention*, PRISM (Mar. 10, 2020), <https://prismreports.org/2020/03/10/a-cry-for-help-cameroonian-women-allege-medical-neglect-discrimination-in-ice-detention/>.

²³ U.S. IMMIGR. & CUSTOMS ENF'T, MORTALITY REVIEW – ROGER RAYSON 2–8, 97, 107 (2018), <https://docs.pogo.org/document/2020/Roger-Rayson-Searchable.pdf?mtime=20200428150122>.

²⁴ Hamed Aleaziz, *An Immigrant Died in ICE Custody After Staff Didn't Send Him to a Hospital, An Inspector Found*, BUZZFEED NEWS (June 24, 2021), <https://www.buzzfeednews.com/article/hamedaleaziz/immigrant-death-ice-custody-report>.

²⁵ Konrad Franco et al., *Punishing Status and the Punishment Status Quo: Solitary Confinement in U.S. Immigration Prisons, 2013-2017*, PUNISHMENT & SOC'Y 1, 13, 18 (Oct. 29, 2020), <https://osf.io/preprints/socarxiv/zdy7f/>.

30. For Black immigrants, the harms of solitary confinement are all too often compounded by additional abuse and mistreatment. For example, one African man detained at the West Texas Detention Facility reported that officers placed him in solitary confinement for seven days in freezing temperatures, initially without a mattress or pillow.²⁶ Another detained African man reported being placed in confinement only to be kicked and threatened with pepper spray.²⁷ Still other African immigrants reported being detained in a solitary cell for seven to eight hours without food or water.²⁸

31. This discrimination and abuse that Black immigrants report in ICE detention are consistent with the racist treatment that increasingly has been documented in other aspects of our society. For example, one recent study found that physical force was used in 2% of incidents involving white people in prison, as compared to physical force being used in 14% of incidents involving Black people who were incarcerated.²⁹ Another study showed that Black individuals in prison not only are placed in solitary confinement at disproportionately high rates, but also are likely to be held in solitary far longer—thirty-five days longer on average—than white people in prison.³⁰ Similarly, the accounts of denial and disregard for the medical needs of Black individuals within the immigration detention system sadly mirror the well-documented fact of racial discrimination in the healthcare system writ large.³¹

²⁶ ABUSES AGAINST AFRICAN DETAINEES AT THE WEST TEXAS DETENTION FACILITY, *supra* note 4, at 8.

²⁷ *Id.* at 9.

²⁸ *Id.*

²⁹ Susan McNeeley, *Racial Disparities in Use of Force Against Incarcerated People*, MINN. DEP'T CORR. 16 (Mar. 2021), https://mn.gov/doc/assets/Race%20and%20Use%20of%20Force%20with%20Background_v2_tcm1089-473845.pdf.

³⁰ Michael Schwirtz et al., *The Scourge of Racial Bias in New York State's Prisons*, N.Y. TIMES (Dec. 3, 2016), https://www.nytimes.com/2016/12/03/nyregion/new-york-state-prisons-inmates-racial-bias.html?_r=0; *see also* Juleyka Lantigua-Williams, *The Link Between Race and Solitary Confinement*, ATLANTIC (Dec. 5, 2016), <https://www.theatlantic.com/politics/archive/2016/12/race-solitary-confinement/509456/>.

³¹ *See, e.g.*, Austin Frakt, *Bad Medicine: The Harm that Comes from Racism*, N.Y. TIMES (Jan. 13, 2020), <https://www.nytimes.com/2020/01/13/upshot/bad-medicine-the-harm-that-comes-from-racism.html>.

PLAINTIFFS' FOIA REQUESTS AND DEFENDANTS' RESPONSES

32. To obtain more information about the treatment of Black immigrants in detention, Plaintiffs submitted a series of FOIA requests seeking records about the treatment of individuals detained at eight immigration detention centers: Pine Prairie ICE Processing Center, Winn Correctional Center, Jackson Parish Correctional Center, LaSalle ICE Processing Center, Adams County Correctional Center, Prairieland Detention Facility, West Texas Detention Facility, and T. Don Hutto Residential Center.

ICE FOIA Requests

33. On April 16, 2021, Plaintiffs submitted eight FOIA requests to ICE (collectively, "ICE FOIA Requests"), each seeking records from a different detention facility:

- (a) Adams County Correctional Center (# 2021-ICFO-34507). *See* Ex. A.
- (b) Jackson Parish Correctional Center (# 2021-ICFO-34506). *See* Ex. B.
- (c) LaSalle ICE Processing Center (# 2021-ICFO-34505). *See* Ex. C.
- (d) Pine Prairie ICE Processing Center (# 2021-ICFO-34504). *See* Ex. D.
- (e) Prairieland Detention Center (# 2021-ICFO-34503). *See* Ex. E.
- (f) T. Don Hutto Residential Center (# 2021-ICFO-34502). *See* Ex. F.
- (g) West Texas Detention Facility (# 2021-ICFO-34500). *See* Ex. G.
- (h) Winn Correctional Center (# 2021-ICFO-34499). *See* Ex. H.

34. In each of these requests, Plaintiffs sought five categories of records regarding individuals held at each facility on or after October 1, 2015, relating to: (1) complaints, grievances, and related records about treatment and conditions within a facility; (2) the use of force, restraints, chemical agents, weapons, and other devices; (3) the use of segregation against detained individuals; (4) detained individuals' requests for medical services; and (5) individualized, non-

personally identifying data pertaining to individuals detained at these facilities, including biographic information such as individuals' race, ethnicity, and country of origin.

35. In each request, Requestors sought a fee waiver, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 6 C.F.R. § 5.11(k).

36. On May 4, 2021, ICE acknowledged each of these requests via email, assigned tracking numbers to the requests, and invoked the ten-day extension of the ordinary twenty-business-day FOIA response period, pursuant to 5 U.S.C. § 552(a)(6)(B).

37. After waiting for months with no communication from ICE, Plaintiffs contacted the agency to obtain information about the ICE FOIA requests. On September 17, 2021, and September 22, 2021, for example, counsel for Plaintiffs called the phone number provided by the ICE FOIA Office to seek an update on ICE's timeline and progress in responding to these requests. However, no one answered the phone, nor was there a way to leave a voicemail. Instead, the phone number connected to an automated message which instructed that requests be sent to a specific e-mail address. On September 17, 2021, counsel for Plaintiffs emailed the address provided to request an update, but ICE has not responded.

38. On September 27, 2021, the Council sent letters to ICE's FOIA Office via e-mail and through DHS's FOIA portal seeking an update on the status of the agency's progress in responding to each of the ICE requests and expressing Plaintiffs' willingness to identify ways to streamline and expedite the agency's response to the requests.

39. ICE has not responded to these letters or any of Plaintiffs' outreach attempting to resolve the matter without litigation, nor has it provided any response to Plaintiffs' requests.

CLAIM FOR RELIEF

FIRST CAUSE OF ACTION

Violation of FOIA, 5 U.S.C. § 552, for Failure to Disclose Responsive Records

40. Plaintiffs repeat, allege, and incorporate, as fully set forth herein, each and every allegation contained in paragraphs 1–39 above.

41. Defendants are obligated under 5 U.S.C. § 552(a)(3) to promptly produce records responsive to Plaintiffs’ FOIA requests and supplement thereto.

42. Plaintiffs have a legal right to obtain such records, and no legal basis exists for Defendants’ failure to disclose them.

43. Defendants’ failure to disclose all responsive records violates 5 U.S.C. § 552(a)(3)(A), as well as the regulations promulgated thereunder.

SECOND CAUSE OF ACTION

Violation of FOIA, 5 U.S.C. § 552, for Failure to Respond within Time Required

44. Plaintiffs repeat, allege, and incorporate, as fully set forth herein, each and every allegation contained in paragraphs 1–39 above.

45. Defendants are obligated under 5 U.S.C. § 552(a)(6)(A)(i) to promptly produce records responsive to Plaintiffs’ FOIA requests. Plaintiffs have a legal right to obtain such records, and no legal basis exists for Defendants’ failure to disclose them.

46. Defendants’ failure to disclose all responsive records violates, at a minimum, 5 U.S.C. § 552(a)(3)(A), as well as the regulations promulgated thereunder.

THIRD CAUSE OF ACTION

Violation of FOIA, 5 U.S.C. § 552, for Failure to Conduct an Adequate Search for Responsive Records

47. Plaintiffs repeat, allege, and incorporate, as fully set forth herein, each and every allegation contained in paragraphs 1–39 above.

48. Plaintiffs properly requested records within the possession, custody, and control of Defendants.

49. Defendants are agencies subject to FOIA and therefore must make reasonable efforts to search for requested records and to promptly make the requested records available. 5 U.S.C. § 552(a)(3)(C).

50. Defendants' failure to conduct an adequate search for responsive records violates FOIA.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray for judgment against Defendants as follows:

a. Order Defendants to expeditiously conduct an adequate search for all records responsive to Plaintiffs' FOIA requests in accordance with 5 U.S.C. § 552(a)(3)(C);

b. Declare that Defendants' failure to disclose the records responsive to Plaintiffs' requests violates FOIA, 5 U.S.C. § 552(a)(3)(A), as well as the regulations promulgated thereunder;

c. Declare that Defendants' failure to promptly produce records responsive to Plaintiffs' requests violates 5 U.S.C. § 552(a)(6)(A)(i);

d. Order Defendants to expeditiously process and disclose all responsive, non-exempt records, and enjoin Defendants from improperly withholding records;

e. Award Plaintiffs reasonable attorneys' fees and other litigation costs pursuant to 5 U.S.C. § 552(a)(4)(E), the Equal Access to Justice Act, and any other applicable statute or regulation; and

f. Grant such other relief as the Court may deem just, equitable, and appropriate.

Respectfully Submitted,

Dated: November 10, 2021

/s Lindsay Nash

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* *Motion to Appear as Law Students forthcoming*

***Application for admission pro hac vice
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