

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

THE UNIVERSITY OF WASHINGTON, a
Washington state agency; THE CENTER FOR
HUMAN RIGHTS AT THE UNIVERSITY OF
WASHINGTON, a research center created by
state law; and ANGELINA GODOY, director of
the Center,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY; and UNITED
STATES IMMIGRATION AND CUSTOMS
ENFORCEMENT

Defendants.

No.

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF FOR
VIOLATING FOIA**

Plaintiffs, the University of Washington, the Center for Human Rights at the University
of Washington, and Doctor Angelina Godoy (collectively “UWCHR” or “Plaintiffs”), allege as
follows:

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INTRODUCTION

1. Plaintiffs bring this action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 et seq., as amended, to enjoin the Department of Homeland Security (“DHS”) and Immigration and Customs Enforcement (“ICE” and together with DHS, the “DHS Defendants”) from continuing to improperly withhold three categories of agency records concerning federal immigration enforcement in Washington State, and to compel ICE and DHS to disclose these records by publishing them on the internet in the agencies’ electronic reading room and by providing them directly and proactively to Plaintiffs pursuant to FOIA’s affirmative disclosure requirement, 5 U.S.C. § 552(a)(2).

2. These records—Forms I-213, Significant Incident Reports (“SIR” or “Significant Event Notifications”), and Segregation Review Management System logs (“SRMS logs”)—have been routinely requested from ICE and DHS for several years by Plaintiffs and by others. On various occasions, ICE and DHS have released these records after a FOIA request has been submitted or, often, due to litigation to enforce FOIA after a request has been submitted.

3. The documents sought through this Complaint are essential to UWCHR’s function and mandate from the Washington State Legislature—to generate research data that enhances public and private policymaking with respect to identifying and addressing human rights abuses around the world, as well as here in Washington State, including those occurring at the hands of our own government.

4. Forms I-213 shed light on credible reports and accounts of human rights abuses taking place during ICE and Border Patrol arrests, including the only known source for precise arrest locations and detailed arrest narratives.

5. SIRs are essential tools in corroborating human rights conditions inside ICE’s immigrant detention compound in Tacoma. These documents have provided the backbone for

1 multiple published UWCHR reports on conditions at this facility, which have been presented to
2 the Washington State Legislature in its consideration of three recent laws it has passed.

3 6. SRMS logs track the use of solitary confinement in prison settings and have been
4 essential to UWCHR research on length of confinement in segregated facilities. These logs
5 formed the basis of a recent report on a detainee's death while in solitary confinement which was
6 widely cited in the media, in discussions at the Washington State Legislature, and in a
7 Congressional appropriations hearing.

8 7. UWCHR has requested Forms I-213, SIRs, and SRMS logs. Each of these
9 categories of documents has been previously released to UWCHR. These categories of records
10 have been requested three or more times by UWHRC or other parties since 2017.

11 8. ICE's and DHS's failure to publish these records in its reading room pursuant to
12 FOIA's proactive disclosure requirements under 5 U.S.C. § 552(a)(2) and also to directly and
13 proactively provide these records to Plaintiffs hinders Plaintiffs' ability to undertake their work.

14 JURISDICTION

15 9. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B)
16 and 28 U.S.C. § 1331.

17 VENUE

18 10. Venue in the Western District of Washington is proper under 5 U.S.C.
19 § 552(a)(4)(B). Independently, venue is proper in the Western District of Washington because all
20 Plaintiffs reside in Seattle, Washington. 28 U.S.C. § 1391(e)(1).

21 PARTIES

22 11. Plaintiff, the University of Washington, is a Washington State agency and the
23 state's largest public research university. Its primary business offices are in Seattle, Washington.
24

12. Plaintiff, the Center for Human Rights at University of Washington, is an organization within the University of Washington. The Washington Legislature created the Center for Human Rights in 2009 to expand opportunities for Washington residents to receive a world-class education in human rights, generate research data and expert knowledge to enhance public and private policymaking, and to be an academic center for human rights teaching and research. The Center for Human Rights focuses on, among other things, the rights of all persons to security against violence. Its offices are in Seattle, Washington.

13. Plaintiff, Angelina Godoy, Ph.D., is the Director of the Center for Human Rights. Dr. Godoy resides in Seattle, Washington.

14. Defendant United States Department of Homeland Security (“DHS”) is a federal agency within the meaning of 5 U.S.C. §§ 552 and 552a(a)(1).

15. Defendant United States Immigration and Customs Enforcement (“ICE”) is a federal agency within the meaning of 5 U.S.C. §§ 552 and 552a(a)(1).

FACTS

FOIA PROACTIVE DISCLOSURE REQUIREMENTS

16. The Freedom of Information Act (“FOIA”) “focuses on the citizens’ right to be informed about ‘what their government is up to,’” by requiring the release of “[o]fficial information that sheds light on an agency’s performance of its statutory duties.” *DOJ v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 750, 773 (1989) (citation omitted). “[D]isclosure, not secrecy, is the dominant objective” of FOIA. *Dep’t of Interior v. Klamath Water Users Protective Ass’n*, 532 U.S. 1, 8 (2001) (internal quotation marks and citations omitted).

17. Under Section 522(a)(2)’s original text, federal agencies were required to make certain records “available for public inspection and copying” on a proactive basis. *See DOJ*,

1 *Department of Justice Guide to the Freedom of Information Act* (July 23, 2014),
 2 <https://www.justice.gov/sites/default/files/oip/legacy/2014/07/23/proactive-disclosures.pdf>.
 3 Section 522(a)(2) thus became known as the “reading-room” provision because “agencies
 4 historically met their § 522(a)(2) obligations by placing the appropriate records in a physical,
 5 public reading room.” *Animal Legal Def. Fund v. U.S. Dep’t of Agriculture*, 935 F.3d 858, 862
 6 (9th Cir. 2019).

7 18. FOIA was updated to comport with modern requirements with the FOIA
 8 Improvement Act of 2016. This Act codified the “rule of three” for proactive disclosure of
 9 frequently requested records. Under this amendment, Section 522(a)(2) now requires agencies to
 10 proactively disclose information and publish it in its reading room as follows:

11 “(2) Each agency... shall make available for public inspection in an electronic
 12 format—

13 (D) copies of all records, regardless of form or format—

(i) that have been released to any person under paragraph (3); and

(ii) (II) that have been requested 3 or more times”

14 5 U.S.C. § 552(a)(2)(D); *see* FOIA Improvement Act of 2016, Pub. L. No. 114-185, 130 Stat.
 15 538; *see also* U.S. DOJ OFF. OF INFO. POL’Y, *Summary of the FOIA Improvement Act of 2016*,
 16 <https://www.justice.gov/oip/oip-summary-foia-improvement-act-2016> (Aug. 17, 2016).

17 19. In addition, the FOIA Improvement Act of 2016 now specifies that agencies shall
 18 make records available “for public inspection in an electronic format.” FOIA Improvement Act
 19 of 2016, Pub. L. No. 114-185, 130 Stat. 538. As a result, agencies today simply post records in
 20 electronic reading rooms on their websites.

21 **PLAINTIFF’S FOIA REQUEST FOR PROACTIVE DISCLOSURE**

22 20. In accordance with these proactive disclosure requirements, on July 30, 2024, Dr.
 23 Godoy, on behalf of UWCHR, filed a request with ICE seeking proactive disclosure for three
 24 categories of records: Forms I-213, SIRs, and SRMS (the “Proactive Disclosure FOIA Request”).

Specifically, the request asked DHS and ICE to comply with 5 U.S.C. § 552(a)(2)(D) “by posting copies of these records . . . on a monthly basis in ICE’s online FOIA reading room and to be sent directly to the University of Washington Center for Human Rights on a monthly basis.” The Proactive Disclosure FOIA Request was assigned the number 2024-ICFO-50835. A true and correct copy of this July 30, 2024 FOIA request is attached hereto as **Exhibit 1**.

21. The Proactive Disclosure FOIA Request explained that the records at issue had been frequently requested and had been previously released to Plaintiff and to other parties.

Ex. 1.

22. In September 2024, Dr. Godoy reached out to ICE asking when they would begin processing the Proactive Disclosure FOIA Request. ICE responded on September 26, 2024 that “the search for responsive documents is complete and your request is currently in queue to be processed. If responsive records have been located, they will be reviewed for a determination of releasability.”

23. Having heard nothing from ICE after this response, on October 26, 2024, Dr. Godoy logged into ICE’s FOIA portal to see if there was an updated status for the Proactive Disclosure FOIA request, but the case did not appear in the portal at all. As a result, Dr. Godoy reached out to ICE again asking for the status of the request. On October 29, 2024, ICE responded that “the search for responsive documents is complete and your request is currently in queue to be processed. If responsive records have been located, they will be reviewed for a determination of releasability.”

24. As of the date of this filing, ICE has failed to proactively release these records, leaving Plaintiffs no choice but to bring this litigation.

REQUESTS FOR FORMS I-213 MEET THE REQUIREMENTS OF 5 U.S.C.

§ 552(A)(2)(D)

25. Since 2017, UWCHR has sent Defendants numerous FOIA categorical requests seeking documents relevant to the human rights impact of federal immigration enforcement in Washington State, including Forms I-213.

26. Forms I-213 completed by ICE provide the most accurate known representation of ICE and Border Patrol arrests, including the only known source for precise arrest locations and detailed arrest narratives.

27. Plaintiffs have used Forms I-213 in multiple productive ways, including to quantify and map immigration arrests by city and county across the Seattle Area of Responsibility; identify specific enforcement practices that may violate Washington State laws governing collaboration and information-sharing with ICE by local and state agencies; as well as to document trends in federal immigration enforcement practices affecting Washington State residents. *See* Protecting Immigrant Rights: Is Washington's Law Working?, <https://jsis.washington.edu/humanrights/2021/08/11/protecting-immigrant-rights-is-washingtons-law-working/>; I-213 Descriptive Analysis, <https://uwchr.github.io/i-213-analysis/>.

28. Plaintiffs have also shared specific subsets of the I-213s obtained with public interest attorneys, who have used them in successful litigation against local jurisdictions failing to comply with the requirements of state law, as well as with the office of the Attorney General of the State of Washington, which used them in successful litigation against Greyhound Bus Lines for violating the rights of customers in Washington State.

29. Copies of these Form I-213 have been released to Plaintiffs after filing FOIA requests—sometimes after having to go through litigation.

30. For example, in October 2017, Dr. Godoy made, on behalf of UWCHR, a written FOIA request to ICE seeking copies of Forms I-213 created on or after January 1, 2012, for individuals detained or transferred into custody from ICE’s Seattle field office (request number 2018-ICFO-14208). Ex. 1, at 4. ICE rejected this request, causing UWCHR to file a complaint against ICE and DHS, seeking declaratory relief for FOIA violations. *See* Case 2:18-cv-01396-BAT. Through this litigation, UWCHR successfully obtained the documents requested in May 2020—**two and a half years** after the initial FOIA request.

31. In December 2021, Dr. Godoy made, on behalf of UWCHR, another written FOIA request to ICE seeking digital copies of draft, unsigned Forms I-213 from the Seattle Area of Responsibility (request number 2022-ICFO-02878). Through litigation, UWCHR successfully obtained the documents requested in 2023—two years after the initial FOIA request. *See* Ex. 1, at 4.

32. In addition to the two requests above, Plaintiffs and other parties have categorically requested Forms I-213 multiple times (*See* Ex. 1):

- In May 2024, UW filed FOIA request seeking copies of draft, unsigned I-213s from the Seattle Area of Responsibility (request number 2024-ICFO-35467).

ICE issued a request for clarification, which UWCHR responded immediately.

However, one month later, ICE administratively closed UWCHR’s request due to “failure to respond” to the request for clarification. After UWCHR appealed the improper closure of this request; administratively ICE closed the case again without giving UWCHR an opportunity to reduce the scope of their request.

- Request 2024-ICFO-00108, filed by Churchill Ndonwie of Columbia University, seeks I-213s from all southwest border apprehensions from 2018-2023.

1 • 2023-ICFO-16106, filed by Kira Olsen-Medina of Cornell University,
2 seeks all form I-213 records completed by U.S. Border Patrol agents assigned to a
3 range of southern border sectors from 2019-2022.

4 • 2023-ICFO-06543, filed by Daniel Melo of the North Carolina Justice
5 Center, seeks copies of all Form I-213s prepared in a North Carolina sub-office of
6 ICE's Atlanta Field Office, from 2018 to the present.

7 • 2022-ICFO-01759, and separately, 2020-ICFO-72513, both filed by Elsa
8 Goosen of the ACLU of New Mexico, seek all copies of DHS Form I-213 prepared in
9 the Area of Responsibility of New Mexico during two different date ranges.

10 • 2022-ICFO-05011, Prepared by Michael Kaplan, seeks all copies of I-213
11 forms filled by ICE Miami Field Office from 2019-2021.

12 • 2021-ICFO-02565, prepared by Ethan Varian of Sonoma Media
13 Investments, seeks any and all I-213s for all apprehensions made by ICE in Sonoma
14 County, California from August- September 2020.

15 • 2019-ICFO-51663, filed by Vanessa Stine of the ACLU of Pennsylvania,
16 sought the release of copies of all Form I-213s prepared by any agent or employee
17 under the supervision of the Philadelphia Field Office from 2017-2019.

18 • 2017-ICFO-39439 and CBP-2021-041934, both filed by Advocates for
19 Basic Legal Equality, sought records relating to the practices of ICE and CBP in
20 Ohio, including I-213s.

21 • 2018-ICFO-25132, filed by Andrew Erickson, seeks all I-213s arising
22 from the Municipality of Anchorage in 2017.

• 2018-ICFO-25015, filed by Leah Montagne of the University of Toronto, sought copies of I-213s for each individual detained or taken into custody by staff from ICE's Portland, Oregon, field office since 2015.

• 2017-ICFO-40912 filed by the Houston Media Group sought portions from all form I-213s collected in the Enforcement Integrated Database for apprehensions in 2017.

• 2017-ICFO-33823, also filed by the Houston Media Group, sought all I-213s from a specific date range for the Houston, San Antonio, Dallas, and El Paso areas of responsibility.

• 2017-ICFO-25628, filed by the Arkansas Democrat-Gazette, copies of all forms I-213 for apprehensions in Arkansas in February 2017.

• 2017-ICFO-26581, filed by Caitlin Dickerson of the New York Times, sought I-213s for all individuals apprehended from January 20, 2017 to the date of filing 6 months later.

33. Of the requests above, some have resulted in disclosure of the information only after litigation.

34. Defendants' responses and record productions have consistently been delayed and have thus precluded UWCHR from properly performing its legislatively mandated function.

REQUESTS FOR SIRS MEET THE REQUIREMENTS OF 5 U.S.C. § 552(A)(2)(D)

35. SIRs must be filed through DHS's significant event notification system under certain circumstances. These include any time force is used in the conduct of an agency officer's duties, or at a facility run operated by a private company under agency contract; any time a hunger strike, a suicide attempt, death, or a serious injury occurs at a facility run by or for the agency; and any time a detainee is taken to receive outside medical care. *See* Ex. 1, at 6. These

1 records are therefore essential tools in corroborating human rights conditions inside immigrant
2 detention centers.

3 36. SIRs have provided the backbone for multiple published UWCHR reports on
4 conditions at ICE's immigrant detention compound in Tacoma, including *Allegations of Medical*
5 *Neglect* (April 2020), *Use of Solitary Confinement* (November 2020), *Covid-19 and Health*
6 *Standards* (December 2020), *Reporting of Sexual Abuse and Assault* (May 2022), and *Use of*
7 *Force and Chemical Agents* (August 2023). See Ex. 1, at 6–7. This work has been presented to
8 the Washington State Legislature in its consideration of the three recent laws it has passed in an
9 attempt to address these concerns.

10 37. SIRs have been released to Plaintiffs after filing categorical FOIA requests—
11 sometimes after having to go through litigation.

12 38. In October 2017, UWCHR requested all SIRs created by ICE in the Seattle Area
13 of Responsibility as of that date. ICE initially refused to release the records, claiming that
14 UWCHR would need third-party authorization from everyone referenced in the records. See
15 Ex. 1, at 7. Once again, UWCHR was required to appeal and litigate the case to release these
16 records. *Id.* Only after such litigation did ICE release records of all SIRs in the Seattle Area of
17 Responsibility from January 1, 2015 until October 1, 2017.

18 39. UWCHR has categorically requested SIRs more than three times.

19 • In January 2019, UWCHR filed request # 2019-ICFO-28410, seeking all
20 SIRs for the 2018 calendar year.

21 • In January 2019, UWCHR filed FOIA request # 2019-ICFO-26935
22 seeking all SIRs reporting the use of force on removal flights since 2010.

23 • In April 2020, UWCHR filed request # 2020-ICFO-32497 seeking all
24 SIRs for ICE's Seattle field office created on or after March 1, 2020.

1 • In August 2020, UWCHR filed request # 2020-ICFO-81129, seeking all
2 SIRs after January 1, 2020.

3 • In March 2023, UWCHR filed request # 2023-ICFO-16851 seeking all
4 SIRs filed relating to events between February 1-3, 2023 at the Northwest Detention
5 Center in Tacoma.

6 • In October 2023, UWCHR filed FOIA request # 2024-ICFO-02575,
7 seeking copies of all SIRs regarding the use of force or restraints between October
8 15-20, 2023 in the Seattle Area of Responsibility.

9 • In March 2024, UWCHR filed FOIA request # 2024-ICFO-24871 seeking
10 copies of SIRs filed in the Seattle Area of Responsibility on March 13-14, 2024.

11 • In March 2024, UWCHR filed FOIA request # 2024-ICFO-25726 seeking
12 copies of SIRs filed from March 1-3, 2024.

13 • In March 2024, UWCHR filed FOIA request # 2024-ICFO-25732, seeking
14 copies of SIRs filed on March 11-12, 2024, in the Seattle Area of Responsibility.

15 40. For each of these requests, ICE either withheld records, required UWCHR to
16 narrow its request, failed to maintain communication with UWCHR regarding such records,
17 denied the request outright, or heavily redacted material that was responsive to the request. ICE
18 also has closed several of UWCHR's FOIA requests for SIRs without any explanation or
19 information. *See* Ex. 1, at 7–8.

20 41. In addition to UWCHR's requests, the organization is aware of at least 22 other
21 requests made between April 2014 and December 2023 for SIRs. *See* Ex. 1.

1 **REQUESTS FOR SRMS LOGS MEET THE REQUIREMENTS OF 5 U.S.C.**

2 **§ 552(A)(2)(D)**

3 42. ICE’s 2013 directive on the use of segregation (commonly known as “solitary
4 confinement”) created a tracking system to monitor detainee placements in solitary confinement
5 currently known as the Segregation Review Management System (“SRMS”). *See* ICE, REVIEW
6 OF THE USE OF SEGREGATION FOR ICE DETAINEES (2013), [https://www.ice.gov/doclib/detention-](https://www.ice.gov/doclib/detention-reform/pdf/segregation_directive.pdf)
7 [reform/pdf/segregation_directive.pdf](https://www.ice.gov/doclib/detention-reform/pdf/segregation_directive.pdf).

8 43. As the use of solitary confinement in civil detention has come under increased
9 scrutiny due to increasing numbers of deaths, many parties, including the UWCHR, have sought
10 access to data from this system. *See* Ex. 1, at 11–12.

11 44. Access to these SRMS logs has been essential to UWCHR research that resulted
12 in the 2020 report on solitary confinement at the Northwest Detention Center. This report
13 revealed that the facility detains people longer, on average, in solitary confinement than any
14 other ICE facility in the nation. *See* UWCHR, CONDITIONS AT THE NWDC: SOLITARY
15 CONFINEMENT (2020), <https://jsis.washington.edu/humanrights/2020/11/30/nwdc-solitary/>.

16 45. Additionally, the release of SRMS logs aided UWCHR in preparing a March 2024
17 report on the death of Charles Leo Daniel at the Northwest Detention Center, finding that he died
18 in segregation during the second-longest stay in ICE solitary nationwide. UWCHR, NWDC
19 CONDITIONS RESEARCH UPDATE: CHARLES LEO DANIEL’S DEATH AT NWDC IN CONTEXT (2024),
20 [https://jsis.washington.edu/humanrights/2024/03/15/nwdc-conditions-research-update-daniel-](https://jsis.washington.edu/humanrights/2024/03/15/nwdc-conditions-research-update-daniel-death-in-context/)
21 [death-in-context/](https://jsis.washington.edu/humanrights/2024/03/15/nwdc-conditions-research-update-daniel-death-in-context/).

22 46. These reports have been cited widely in the media, in discussions at the
23 Washington State Legislature, and in the U.S. Congress, emphasizing the importance of this
24 work in shaping public policy. *See* Ex. 1, at 12.

1 47. Requests for data regarding solitary confinement under ICE’s 2013 directive use
2 the name SRMS to refer to the system of records from which data is sought. Several frame their
3 requests as “pursuant to the 2013 ICE directive on the use of segregation”. As such, whether the
4 specific acronym SRMS is invoked or not, these requests refer to the same system of records
5 (“SRMS logs”).

6 48. SRMS logs have been released to Plaintiffs after filing FOIA categorical
7 requests—sometimes after having to go through litigation.

8 49. In September 2017, UWCHR requested all records concerning segregation at the
9 Northwest Detention Center in Tacoma, Washington, from September 2013 to the present
10 (request number 2018-ICFO-00515). *See* Ex. 1, at 12. A year later, when UWCHR was still
11 awaiting a response from ICE, it filed litigation against ICE, resulting in the release of over 100
12 pages of records. *Id.*

13 50. UWCHR and third parties have categorically requested SRMS logs more than
14 three times.

15 • On September 18, 2017, UWCHR requested all SRMS logs describing or
16 reviewing the placement of detainees in segregation at the Northwest Detention
17 Center in Tacoma, WA, from September 2013 to the date of the request (request
18 number 2018-ICFO-00515). The records were released after litigation.

19 • On March 18, 2024, UWCHR requested all SRMS logs in all segregation
20 placements for all facilities nationwide in which people were held from September 1,
21 2023, until the date of the request (request number 2024-ICFO-25462). Ex. 1, at 12–
22 13. Although this data has been released to other parties, as of the date of this filing,
23 the status of the request still indicates that ICE is “searching for records.”
24

1 • 2020-ICFO-05792 was a request filed by Seattle Times reporter Esmy
2 Jimenez, which requests SRMS logs specifically for the Northwest Detention Center
3 from January 1, 2018 through September 2019.

4 • 2019-ICFO-28595, 2019-ICFO-28597, 2019-ICFO-28598, 2019-ICFO-
5 28601, 2019-ICFO-28602, and 2019-ICFO-28603 were filed by Prof. César García
6 Hernández at the University of Denver, seeking SRMS logs, but about six different
7 detention facilities from January 2015 through the date of response.

8 • 2017-ICFO-01806 sought SRMS logs for all facilities in the Central
9 district of California from September 4, 2013 through September 30, 2016; it was
10 filed by Prof. Caitlin Patler of the University of California, Davis.

11 • 2016-ICFO-39830 sought SRMS logs on a national basis “from 2013-
12 present”; it was filed by Christina Thompson of the nonprofit news organization The
13 Marshall Project.

14 • 2016-ICFO-38327 was filed by reporter Kathleen Morrissey from the San
15 Diego Union Tribune seeking SRMS logs for all facilities in Southern California
16 since Jan 1, 2015.

17 • 2018-ICFO-20094 was filed by reporter Kathleen Morrissey from the San
18 Diego Union Tribune seeking SRMS logs for the Otay Mesa facility “from
19 01/01/2013 – current”.

20 • 2018-ICFO-16647 was filed by Elly Yu of WABE 90.0 FM for SRMS logs
21 about Stewart Detention Center in Lumpkin, GA from October 1, 2016 to
22 November 1, 2017.

1 • 2018-ICFO-35561 and 2023-ICFO-05014 were separate requests filed by
2 Prof. Caitlin Patler at the University of California, Davis, for SRMS logs on a
3 national basis. 2023-ICFO-05014 requested SRMS logs from September 4, 2013
4 through the date of response.

5 • 2018-ICFO-21128, 2018-ICFO-21130, 2018-ICFO-21131 were various
6 FOIA requests filed by Rachel Kroll of the Immigration and Refugee Clinical
7 Program at Harvard Law School, which ICE consolidated under case number 2018-
8 ICFO-21128. All requested national data on SRMS logs from September 2013 to
9 February 2018. In December 2021, these resulted in a release of records after
10 litigation.

11 • 2018-ICFO-34416 was filed by the Project on Government Oversight
12 (POGO), seeking national data of “instances when immigrant detainees were placed
13 in segregation from January 1, 2016 to present.” This resulted in the release of 6,559
14 SRMS logs covering January 1, 2016, through May 4, 2018, on immigrant detention
15 centers’ use of solitary confinement.

16 • 2019-ICFO-07455 was filed by reporter Spencer Woodman of VOX
17 media, seeking SRMS logs on a national level “between February 1st, 2017, and the
18 date of the fulfillment of this request”.

19 • 2020-ICFO-24804 was filed by Eunice Cho of the ACLU seeking SRMS
20 logs on a national level.

21 • 2020-ICFO-25525 was filed by Kevin Herrera of the National
22 Immigration Law Center, seeking SRMS logs on a national level.

23 • 2020-ICFO-29570 was filed by Jesse Franzblau of the National Immigrant
24 Justice Center, seeking SRMS logs on a national level.

51. While some of these records concern specific facilities and other are national in scope, all requested data relates to SRMS logs and ICE facilities' use of solitary confinement against prisoners.

**PLAINTIFFS SUFFERED AN INJURY AS A RESULT OF THE FAILURE TO
PROACTIVELY DISCLOSE THESE DOCUMENTS**

52. As a result of Defendants' failure to proactively disclose the three categories of documents requested and comply with 5 U.S.C. § 552(a)(2)(D), Plaintiffs have suffered real injury because they are unable to properly fulfill their legislatively mandated mission to expand human rights education in Washington State, generate research data, and enhance public and private policymaking. Defendants' unreasonable delay in releasing records prejudices Plaintiffs' ability to research and report in real time about human rights issues in Washington State.

53. Similarly, Defendants' failure to proactively disclose the three categories of documents requested has required Plaintiffs to continuously litigate their FOIA requests, costing Plaintiffs time, money, and resources that could otherwise be directed to fulfill UWCHR's mission.

54. Additionally, Plaintiffs have suffered an informational injury because Defendants' actions in withholding valuable information deprive Plaintiffs of "information which must be publicly disclosed pursuant to a statute." *Animal Legal Def. Fund v. U.S. Dep't of Agriculture*, 935 F.3d 858, 867 (9th Cir. 2019) (internal quotation marks and citation omitted).

55. Plaintiffs' real and informational injuries are traceable to Defendants' refusal to proactively release records in accordance with 5 U.S.C. § 552(a)(2). The records that Plaintiffs are seeking have been previously released and have been requested at least three times, meaning that they are subject to proactive disclosure under FOIA. Defendants' arbitrary withholding and redaction of these records and unreasonable delay in their release directly harms Plaintiffs'

1 ability to conduct meaningful research and inform policymaking and education on human rights
2 issues.

3 56. Plaintiffs seek declaratory judgment from this Court as a way to redress both their
4 real injury and the public's informational injuries. Plaintiffs' access to rolling monthly
5 productions of these three categories of records would enable them to conduct timely and
6 insightful research to better fulfill their mission. These proactive disclosures would also allow
7 UWCHR to provide the public with relevant information regarding practices and procedures
8 related to apprehension, arrest, detention, racial profiling, and collaborations with state and local
9 law enforcement in the context of federal immigration enforcement in the Pacific Northwest.
10 Additionally, the Court's granting of this declaratory judgment would enable the public access to
11 records whose disclosure are statutorily mandated.

12 FIRST CAUSE OF ACTION

13 **Violation of 5 U.S.C. § 552(a)(2) by the DHS Defendants for Failure to Proactively Disclose**

14 **Forms I-213**

15 57. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 55
16 above, inclusive.

17 58. Plaintiffs have a legal right under FOIA to obtain the ICE and DHS records
18 related to Forms I-213.

19 59. Defendants have released Forms I-213 to Plaintiffs at least once.

20 60. Plaintiffs and other parties have made categorical requests of Forms I-213 in more
21 than three occasions since 2017.

22 61. Defendants have a duty under 5 U.S.C. § 552(a)(2)(D) to proactively release to
23 Plaintiffs and the public records related to Forms I-213.

62. Defendants' failure to release Forms I-213 on a proactive basis is a violation of FOIA, 5 U.S.C. § 552(a)(2)(D) and applicable regulations promulgated thereunder.

63. Defendants' failure to release Forms I-213 on a proactive basis injure Plaintiffs as described in ¶¶ 50-54.

SECOND CAUSE OF ACTION

Violation of 5 U.S.C. § 552(a)(2) by the DHS Defendants for Failure to Proactively Disclose

SIRs

64. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 61 above, inclusive.

65. Plaintiffs have a legal right under FOIA to obtain the ICE and DHS records related to SIRs.

66. Defendants have released SIRs to Plaintiffs at least once.

67. Plaintiffs and other parties have made categorical requests of SIRs in more than three occasions since 2017.

68. Defendants have a duty under 5 U.S.C. § 552(a)(2)(D) to proactively release to Plaintiffs and the public records related to SIRs.

69. Defendants' failure to release SIRs on a proactive basis is a violation of FOIA, 5 U.S.C. § 552(a)(2)(D) and applicable regulations promulgated thereunder.

70. Defendants' failure to release SIRs on a proactive basis injure Plaintiffs as described in ¶¶ 50-54.

THIRD CAUSE OF ACTION

Violation of 5 U.S.C. § 552(a)(2) by the DHS Defendants for Failure to Proactively Disclose

SRMS Logs

71. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 68 above, inclusive.

72. Plaintiffs have a legal right under FOIA to obtain the ICE and DHS records related to SRMS Logs.

73. Defendants have released SRMS Logs to Plaintiffs at least once.

74. Plaintiffs and other parties have made categorical requests of SRMS Logs in more than three occasions since 2016.

75. Defendants have a duty under 5 U.S.C. § 552(a)(2)(D) to proactively release to Plaintiffs and the public records related to SRMS Logs.

76. Defendants' failure to release SRMS Logs on a proactive basis is a violation of FOIA, 5 U.S.C. § 552(a)(2)(D) and applicable regulations promulgated thereunder.

77. Defendants' failure to release SRMS Logs on a proactive basis injure Plaintiffs as described in ¶¶ 50-54.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request the Court award them the following relief:

A. Declare that Defendants are violating FOIA, 5 U.S.C. § 552(a)(2)(D) by failing to proactively make available for public inspection in an electronic format all non-exempt records concerning Forms I-213, SIRs, and SRMS logs, which have been released to Plaintiffs and have been requested three or more times;

1 B. Order Defendants to immediately disclose the requested records and information
2 to Plaintiffs and enter an injunction prohibiting Defendants from continuing to withhold the
3 requested records and information from the public;

4 C. Order Defendants to immediately make all non-exempt information available to
5 the public by posting such information on Defendants' website and to continue posting on the
6 website as soon as possible after such information is generated information responsive to these
7 records without waiting for individual FOIA requests for such information;

8 D. Award Plaintiffs their reasonable costs and attorneys' fees; and

9 E. Grant such further relief as the Court may deem just and proper.

10
11 DATED: November 13, 2024

Respectfully submitted,

12 Davis Wright Tremaine LLP
13 Special Assistant Attorneys General

14 By /s/ Ambika Kumar

15 Thomas R. Burke, (*pro hac vice forthcoming*)

Ambika Kumar, WSBA #38237

DAVIS WRIGHT TREMAINE LLP

920 Fifth Avenue, Suite 3300

Seattle, Washington 98104-1610

Telephone: (206) 622-3150

thomasburke@dwt.com

ambikakumar@dwt.com

18 Attorneys for Plaintiffs, the Center for Human
19 Rights at the University of Washington, the
20 University of Washington, and Angelina Godoy