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VIA E-MAIL & CERTIFIED U.S. MAIL

U.S. Immigration and Customs Enforcement
Freedom of Information Act Office
500 12th Street SW, Stop 5009
Washington, DC 20536-5009
Email: ICE-FOIA@dhs.gov
Phone: (866) 633-1182

Re: FOIA Request for Records Relating to In-Custody Death of Melvin Ariel Calero Mendoza

Dear Freedom of Information Officer:

This letter is a request for records¹ (“Request”) made pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, *et seq.*, and the relevant implementing regulations, *see* 6 C.F.R. § 5 *et seq.* The Request is submitted by the Social Justice Legal Foundation (“Requestor”), on behalf of the American Friends Service Committee. SJLF is a 501(c)(3) nonprofit organization dedicated to disrupting the carceral system by challenging systems of oppression and ensuring justice for individuals who are justice-involved or in immigration detention—along with their families. SJLF promotes knowledge of legal rights, provides no cost representation to ensure due process, works to end the prison industrial complex, and promotes equity through a movement lawyering, abolitionist approach.

Requestor seeks the disclosure of any and all responsive records, as described in the requests listed below, concerning the in-custody death of Mr. Melvin Ariel Calero Mendoza (“Mr. Calero Mendoza”) on October 13, 2022—including electronic documents and communications in the custody of U.S. Immigration and Customs Enforcement (“ICE”), the Department of Homeland Security (“DHS”), and any other subcomponent or subcontractor.

Requestor also seeks a fee waiver, pursuant to 5 U.S.C. § 552(a)(4)(A) and 6 C.F.R. § 5.11(k), and expedited processing, pursuant to 5 U.S.C. § 552(a)(6)(E) and 6 C.F.R. § 5.5(e). The justifications for the fee waiver and expedited processing are set out in detail below.

¹ The term “records” as used herein includes, but is not limited to, communications, correspondence, directives, documents, data, videotapes, audiotapes, e-mails, faxes, files, guidance, guidelines, standards, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, manuals, technical specifications, training materials, and studies, including records kept in written form, or electronic format on computers and/or other electronic storage devices, electronic communications and/or videotapes, as well as any reproductions thereof that differ in any way from any other reproduction, such as copies containing marginal notations.

I. Background

ICE Enforcement and Removal Operations (“ERO”) is responsible for managing its more than 200 immigration detention centers, in conjunction with private contractors or state or local governments—one being the Denver Contract Detention Facility (“Aurora”) run by GEO Group, Inc. ICE has an inspection regime for monitoring the compliance of ICE detention facilities with a specific set of detention standards promulgated by ICE, including the Performance-Based National Detention Standards (“PBNDS”) issued in 2011 and revised in 2016,² and the 2019 National Detention Standards (“NDS”).³ As part of its responsibilities, ICE is tasked with ensuring that detainees have access to “appropriate and necessary medical, dental and mental health care.”⁴

As part of its mandatory intakes, ICE employees and subcontractors are required to perform a host of evaluations, including screening for any past history of serious infectious or communicable illness; a full history of physical and mental illness; a pain assessment; a review of all current and past medication; an inquiry into any previous surgical procedures; an inquiry into any drug use; an observation of behavior, including state of consciousness, mental status, appearance, conduct, tremor, sweating; a history of suicide attempts; an inquiry into all past hospitalizations; a host of other inquiries; and any other relevant health problems identified by the medical professional responsible for the intake or transfer screening.⁵

Despite these standards, and the continuing obligation to care for detainees after the initial intake screening, the Aurora facility has had three detainees die while in custody in the last decade.⁶ Another detainee had his leg amputated after staff ignored his repeated complaints about bedsores.⁷ Numerous other detainees suffered severe physical and emotional pain as a result of medical neglect, retaliation, and at times, open antagonism from Aurora guards and medical staff.⁸

Mr. Calero Mendoza, a Nicaraguan national, was transferred from U.S. Customs and Border Protection (“CBP”) custody to ICE at Torrance County Detention Facility (“TCDF”) on April 15, 2022, before being transferred to Aurora on May 2, 2022. Between April and September 2022, none of the medical staff at TCDF or Aurora who evaluated Mr. Calero Mendoza reported any medical conditions of concern.⁹ However, on October 13, 2022, two weeks after receiving yet another clean bill of health from medical staff,

² Performance-Based National Detention Standards 2011 (PBNDS), IMMGR. & CUSTOMS ENF’T (rev’d Dec. 2016) <https://www.ice.gov/doclib/detention-standards/2011/pbnds2011r2016.pdf>.

³ National Detention Standards for Non-Dedicated Facilities, IMMGR. & CUSTOMS ENF’T (rev’d 2019) at 18, <https://www.ice.gov/doclib/detention-standards/2019/nds2019.pdf>.

⁴ PBNDS, *Medical Care*, IMMGR. & CUSTOMS ENF’T (rev’d Dec. 2016) <https://www.ice.gov/doclib/detention-standards/2011/4-3.pdf>

⁵ *Id.*

⁶ Tony Gorman, *Colorado lawmakers call for investigation into death at Aurora ICE facility*, CPR NEWS (Oct. 27, 2022), <https://www.cpr.org/2022/10/27/colorado-lawmakers-call-for-investigation-into-death-at-aurora-ice-facility/>

⁷ ACLU of Colorado, *Cashing in on Cruelty, Stories of death, abuse and neglect at the GEO immigration detention facility in Aurora* (Sept. 17, 2019), available at https://www.aclu-co.org/sites/default/files/ACLU_CO_Cashing_In_On_Cruelty_09-17-19.pdf

⁸ *Id.*

⁹ ICE, *Detainee Death Report: Mendoza, Melvin Ariel Calero*, available at <https://www.ice.gov/doclib/foia/reports/ddrMendozaMelvinArielCalero.pdf>.

Mr. Calero Mendoza had a medical emergency that two hours later, left him pronounced dead at the University of Colorado Hospital.

II. Records Requested

1. All records relating to Mr. Calero Mendoza's death, including but not limited to, reports, notes, forms, complaints, incident reports, supplementary reports, witness statements, and daily activity logs.
2. All records pertaining to Mr. Calero Mendoza's detention, including location logs, kites, grievances, responses to kites and grievances, and any reference to the circumstances of his death.
3. Any and all medical and mental health records from when Mr. Calero Mendoza entered DHS custody until October 13, 2022. This includes but is not limited to medical, dental, and mental health intake screenings conducted at TCDF and Aurora; indications of pre-existing conditions; any and all requests seeking medical assistance (both paper and electronic); notes from any medical or mental health appointment; diagnoses; any medications prescribed and/or provided; and any records of injuries and the actions taken by medical staff.
4. All video footage from October 13, 2022 for (1) the Aurora South E-dorm, (2) hallways between Aurora South E-dorm and where Mr. Calero Mendoza was transferred within the facility, (3) the medical unit, and (4) Mr. Calero Mendoza being transferred into the care of emergency medical services.
5. Any and all audio recordings of Mr. Calero Mendoza's phone conversations made from Aurora between May 2, 2022 and October 13, 2022.
6. Any and all audio recordings of the 911 call made to emergency medical services personnel regarding Mr. Calero Mendoza on October 13, 2022.
7. Name and place of employment for the Emergency Medical Services ("EMS") personnel who responded to the 911 call as well as names of medical personnel who cared for Mr. Calero Mendoza at the University of Colorado Hospital and any medical records obtained by DHS from the EMS provider and the University of Colorado Hospital.
8. A copy of the death certificate for Mr. Calero Mendoza.
9. A complete copy of any independent autopsies supplied to DHS or ICE, including those by county or state medical examiners, for Mr. Calero Mendoza. This should also include any toxicology reports completed.
10. The "Detainee Death Review," "Detainee Death Report," and/or "Healthcare and Security Compliance Analysis" reports and any records relied upon to complete those reports including any information provided or conducted by a contractor (e.g., Creative Corrections)—or equivalent internal procedural analysis—completed by or for ICE Office of Professional

Responsibility, ICE Office of Detention Oversight, or any other DHS entity, related to the death of Mr. Calero Mendoza.

11. A complete copy of any and all documents titled “Mortality Review,” “Event Review,” “Root Cause Analysis,” “Interim Notice of Detainee Death,” “OPR Detainee Death Review,” or “Action Plan,” created by the ICE Health Services Corps (“IHSC”) regarding the death of Mr. Calero Mendoza and all records relied upon to create the above items.
12. Documentation of who worked, where, doing what, at or for the Aurora facility, between 12:01 a.m. Wednesday, October 12, 2022 and 12:01 a.m. Friday, October 14, 2022, including records in whatever form of, regarding or related to: schedules, schedule changes, absences, tardiness, on-the-clock time, off-the-clock time, paid and unpaid time, turnkey activities, ID swipes, card swipes, grants and denials of access, code entries, biometrics scans, signing-in, signing-out, security clearance, gate opening, secured door opening, rosters, control logs, staff logs, staff notes, billing, and invoicing.
13. Any communications regarding Mr. Calero Mendoza’s death, including but not limited to, between IHSC; ERO staff; GEO Group, Inc. staff; CoreCivic, ICE, or any contractor staff at TCDF; and any contractor at the Aurora facility.
14. Any communications or records regarding the circumstances surrounding Mr. Calero Mendoza’s death between ICE and the Nicaraguan consulate, embassy, or other government entities.
15. Any electronic communications including but not limited to e-mails, text messages, and instant messages on any platform, to and from ERO Field Office Director, Acting Field Office Director, Deputy Field Office Director, Assistant Field Office Director, Officer in Charge, Acting Officer in Charge of ICE’s Denver Field Office, Executive Associate Directors for ERO, ICE Headquarters Responsible Officials, the Associate Director for the ICE Office of Professional Responsibility; Assistant Director (“AD”) for the Office of Congressional Relations; AD for Custody Management; AD for IHSC; DHS Office of Civil Rights and Civil Liberties; and/or DHS Office for Immigration Detention Oversight containing the words “Melvin Calero Mendoza,” “Calero Mendoza,” “Melvin Calero,” or “Melvin Mendoza.” The time range for this search should be from April 13, 2022, to the date the officer engages in this search.
16. Any communications occurring on or after January 1, 2020, to or from ICE’s Detention Standards Compliance Unit regarding the Aurora facility’s compliance or non-compliance with ICE’s Performance-Based National Detention Standards.
17. Any Root Cause Analysis created by the IHSC for any Sentinel Event occurring at the Aurora facility between January 1, 2022, to present.
18. Any Health Care Compliance Assessment or ICE Uniform Corrective Action Plans prepared by IHSC following Mr. Calero Mendoza’s death or returned to ICE by GEO Group, Inc.

19. All Significant Incident Reports (“SIR”) and any associated records relating to the Aurora facility or immigrants detained therein between January 1, 2022, and the present.
20. Any and all discipline, training, employee instruction, contractor instruction, policy changes, procedure changes, facility changes, staffing changes, contractor changes, and/or remedial measures, provided, announced, implemented, or made after October 1, 2022, which relate in any way to Mr. Calero Mendoza’s care, observation, treatment, diagnosis, handling, injury, death, or experiences.
21. Any and all Aurora facility policies from 2017 to present, including medical observation post policies; medicine administration policies; intake screening policies; medical follow-up policies; referral to external specialist policies; segregation policies; suicide watch policies; use of force policies; and any and all information, policies, and/or procedures for handling and responding to medical emergencies. This request also includes any policy changes that have been implemented since Mr. Calero Mendoza’s death.
22. Any and all TCDF policies from 2017 to present, including medical observation post policies; medicine administration policies; intake screening policies; medical follow-up policies; referral to external specialist policies; segregation policies; suicide watch policies; use of force policies; and any and all information, policies, and/or procedures for handling and responding to medical emergencies. This request also includes any policy changes that have been implemented since Mr. Calero Mendoza’s death.
23. Identifying information for all medical personnel that conducted a health screening and/or medical appointment and/or follow-up for Mr. Calero Mendoza, including but not limited to name, title, responsibilities, specialization (if applicable), and medical degree/license.
24. Identifying information for all medical professionals on staff at TCDF and Aurora from 2017 to present, including but not limited to name, title, responsibilities, specialization (if applicable), and frequency of visits to TCDF or Aurora (i.e., full-time, part-time, every Wednesday).
25. A current copy of the contract between ICE and GEO Group, Inc. related to the operations of the Aurora facility, including any provisions related to detention standards and staffing of the medical unit within the facility.
26. All documents pertaining to “Detainee Reporting and Information Line” calls made from the Aurora facility between January 1, 2022, and the present. Requestor requests the release of all segregable portions of otherwise exempt material. If, under applicable law, any of the information requested is considered exempt, please describe in detail the nature of the information withheld, the specific exemption or privilege upon which the information is withheld, and whether the portions of withheld documents containing non-exempt or non-privileged information have been provided.
27. All inspection reports, findings, interviews, notes, and communications stemming from Nakamoto Group, Inc. review of TCDF and Aurora from 2017 to present.

28. All records related to, created in response to, and/or describing your office's efforts to respond to this FOIA Request. This should include, but is not limited to, a list of search terms run, and a list of databases searched. If any records were identified as relevant but privileged or confidential, please produce a privilege log documenting these records.
29. Any and all complaints, first person or third party, to the Office of Civil Rights and Civil Liberties about the Adelanto facility from 2017 – present.
30. Any and all complaints, first person or third party, to the Office of Civil Rights and Civil Liberties about the TCDF from 2017 – present.

III. Fee Waiver Request

Requestor requests that any fees associated with responding to this FOIA Request be waived pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 6 C.F.R. § 5.11(k). Fees should be waived or reduced if disclosure is (1) in the public interest because it is “likely to contribute significantly to public understanding of the operations or activities of the government” and (2) “not primarily in the commercial interest of the requester.” Such tests should be “liberally construed in favor of waivers for noncommercial requestors.” *Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003). Disclosure in this case meets both tests. Requestor also requests a waiver or reduction of fees on the grounds that it qualifies as a “representative of the news media” and the records are not sought for commercial use. *See* 5 U.S.C. § 552(a)(4)(A)(ii)(II); 6 C.F.R. § 5.11(d)(1).

1. Disclosure is in the public interest as it is likely to contribute significantly to the public's understanding of the operations and activities of government.

Disclosure pursuant to this Request is in the public interest. Under 6 C.F.R. § 5.11(k)(2), the following factors are to be considered in determining whether a disclosure is in the public interest: (i) whether the subject of the requested records concerns “the operations or activities of the government”; (ii) whether the disclosure is “likely to contribute” to an understanding of government operations or activities; (iii) whether disclosure of the requested information will contribute to “public understanding,” that is, “the understanding of a reasonably broad audience of persons interested in the subject”; and (iv) whether disclosure is likely to contribute “significantly” to public understanding of government operations or activities. *See* 6 C.F.R. § 5.11(k)(2)(i)–(iv).

Each of these considerations is satisfied here. First, the records requested pertain directly to “operations or activities” of the federal government. Immigration advocacy groups, government organizations, legislators, and the public at large have paid particular attention to ICE's failure to conduct adequate oversight of its detention facilities and the harrowing impact this negligence has on the detainees housed in ICE's more than 200 detention centers. After Mr. Calero Mendoza's death, Congressman Jason Crow and U.S. Senators Michael Bennet and John Hickenlooper requested an independent investigation into the death of Mr. Calero Mendoza in a letter to the Inspector General's Office because of concerns over the lack of oversight by ICE and its subcontractor Nakamoto Group.¹⁰ Having three deaths in ten years makes

¹⁰ Investigation into death, *supra* note 6.

Aurora one of the deadliest detention centers, and there is no change in sight. As such, the records requested would shine a light on operations or activities that allowed, or encouraged, such tragedies.

Second, this request is “likely to contribute” significantly to a public understanding of government operations or activities, specifically by helping the public understand the process by which detainees are evaluated and what steps could have been taken to prevent so many in-custody deaths.

Third, disclosure of the requested information will contribute to “the understanding of a reasonably broad audience of persons interested in the subject.” SJLF will publish responsive records and its analysis through reports, press releases, online posts, newsletters, and other media forms to raise public awareness about ICE’s medical processes, oversight mechanisms, subcontracting practices, disciplinary practices, emergency response capabilities, and its overall ability to comport—and have its subcontractors comport—with the standards it set for itself. Moreover, SJLF will also use the records to inform know-your-rights presentations and trainings for the public and attorneys. Using records produced from prior records requests, SJLF has published reports, facts sheets, and community resources on federal and local government agencies, which has reached a broad audience and garnered public attention.

Finally, disclosure will contribute “significantly” to the public understanding of ICE’s internal processes that have allowed for the death and mistreatment of so many. The requested records will contribute to the public dialogue over insufficient oversight and profit-driven subcontractors acting with impunity. The public has significant interest in knowing and understanding how the federal government is managing the immigration system and treating those under its purview. The public also has a significant interest in understanding the extent to which private subcontractors are profiting at the expense of human beings and the quality of life of so many more. There are many unanswered questions in this arena, and the public deserves answers.

Based on the information above, Requestor has established, “with reasonable specificity[,] that [its] request pertains to operations of the government,” and “the informative value of a request depends not on there being certainty of what the documents will reveal, but rather on the requesting party having explained with reasonable specificity how those documents would increase public knowledge of the functions of the government.” *Citizens for Responsibility and Ethics in Washington v. Department of Health and Human Services*, 481 F. Supp. 2d 99, 107–109 (D.D.C. 2006).

2. Disclosure is not in the commercial interest of Requestor.

Requestor is not filing this Request to further a commercial interest. SJLF is a 501(c)(3) nonprofit organization and therefore has no commercial interest. Requestor intends to make any relevant information obtained through this FOIA available to the public. Requestor publishes newsletters, news briefings, know-your-rights pamphlets, and other materials that are disseminated to the public. These materials are widely available to everyone, including community organizers, tax-exempt organizations, not-for-profit groups, law students, and faculty, for no cost.

3. Requestor also qualifies for a fee waiver because it is a representative of the news media, and the records are not sought for commercial use.

Requestor is also entitled to a waiver of search fees on the grounds that it qualifies as a “representative of the news media” and the records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii)(II). Requestor meets the statutory and regulatory definitions of “representative of the news media” because it is an “entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.” 5 U.S.C. § 552(a)(4)(A)(ii)(III); *see also Nat’l Sec. Archive v. U.S. Dep’t of Def.*, 880 F.2d 1381, 1387 (D.C. Cir. 1989) (finding that an organization that gathers information, exercises editorial discretion in selecting and organizing documents, “devises indices and finding aids,” and “distributes the resulting work to the public” is a “representative of the news media” for purposes of the FOIA); *ACLU v. U.S. Dep’t of Justice*, 321 F. Supp. 2d 24, 30 n.5 (D.D.C. 2004) (finding non-profit public interest group to be “primarily engaged in disseminating information”).

Obtaining information about government activity, analyzing that information, and publishing and disseminating that information to the press and public are critical and substantial components of Requestor’s work and are among its primary activities. SJLF regularly publishes updates and alerts via social media, which often include descriptions and analysis of information obtained through FOIA and other record requests. Requestor also regularly issues press releases to call attention to documents obtained through FOIA requests, as well as other breaking news. This material is broadly circulated to the public and widely available to everyone at no cost.

Moreover, Requestor creates, publishes, and disseminates know-your-rights materials, fact sheets, and educational pamphlets to educate the public about civil rights, civil liberties issues, and government policies that implicate civil rights and liberties.

Underscoring this point, courts have found that other organizations whose mission, function, publishing, and public education activities are similar in kind to that of Requestor are “representatives of the news media” as well. *See, e.g., Cause of Action v. IRS*, 125 F. Supp. 3d 145 (D.C. Cir. 2015); *Nat’l Sec. Archive v. U.S. Dep’t of Def.*, 880 F.2d 1381, 1387 (D.C. Cir. 1989); *Judicial Watch, Inc. v. U.S. Dep’t of Justice*, 133 F. Supp. 2d 52, 53–54 (D.D.C. 2000) (finding Judicial Watch, self-described as a “public interest law firm,” a news media requester).¹¹

As representatives of the news media, Requestor plans to analyze and disseminate to the public the information gathered through this Request. The records requested are not sought for commercial use. A fee waiver would additionally fulfill Congress’s legislative intent in amending FOIA.¹²

In sum, because disclosure of the requested documents is in the public interest and not primarily in the commercial interest of Requestor, and Requestor is a representative of the news media, Requestor is

¹¹ Courts have found these organizations to be “representatives of the news media” even though they engage in litigation beyond their dissemination of information and public education activities. *See, e.g., Elec. Privacy Info. Ctr.*, 241 F. Supp. 2d 5; *Nat’l Sec. Archive*, 880 F.2d at 1387; *see also Leadership Conference on Civil Rights v. Gonzales*, 404 F. Supp. 2d 246, 260 (D.D.C. 2005); *Judicial Watch, Inc.*, 133 F. Supp. 2d at 53–54.

¹² *See Judicial Watch, Inc.*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (“Congress amended FOIA to ensure that it be ‘liberally construed in favor of waivers for noncommercial requestors.’”) (citation omitted); *Citizens for Responsibility and Ethics in Washington v. U.S. Dept. of Educ.*, 593 F. Supp. 2d 261, 268 (D.D.C. 2009) (“[FOIA’s] purpose . . . is to remove the roadblocks and technicalities which have been used by . . . agencies to deny waivers.”) (internal quotation marks and citation omitted).

entitled to a total waiver of fees associated with this Request and should, in no event, be required to pay more than reasonable standard charges for document duplication. In the event that you decide not to waive the fees, please provide us with prior notice so that we can discuss arrangements.

IV. Expedited Processing Request

Requestor requests expedited processing of this Request pursuant to 5 U.S.C. § 552(a)(6)(E) and 6 C.F.R. § 5.5(e). There is a “compelling need” for these records, as defined in the statute, because the information requested is “urgen[tly]” needed by an organization primarily engaged in disseminating information “to inform the public concerning actual or alleged Federal Government activity.” 5 U.S.C. § 552(a)(6)(E)(v)(II); *see also* 6 C.F.R. § 5.5(e)(1)(ii). Second, the information is such that failure to obtain requested records on an expedited basis “could reasonably be expected to pose an imminent threat to the life or physical safety of an individual.” 5 U.S.C. § 552(a)(6)(E)(v)(I); *see also* 6 C.F.R. § 5.5(e)(1)(i). Third, the records requested concern a matter of “widespread and exceptional interest” in which there are serious “questions about the government's integrity which affect public confidence.” 6 C.F.R. § 5.5(e)(1)(iv).

Moreover, ICE policy requires transparency when a person passes away while in the agency’s custody.¹³ It calls for ICE to release information to the public that “timely, accurately, appropriately, and with sufficient detail” depicts the circumstances relating to the person’s death.¹⁴ A “compelling need” to produce these records exists and each basis for granting a request for expedited processing is satisfied.

1. Requestor is an organization primarily engaged in disseminating information to inform the public about actual or alleged government activity.

First, Requestor is “primarily engaged in disseminating information” within the meaning of the statute. 5 U.S.C. § 552(a)(6)(E)(v)(II). As detailed *supra*, Requestor has the ability and intention to widely disseminate the requested information through a variety of sources, including reports, newsletters, news briefings, know-your-rights pamphlets, and other materials to the public at no cost. Indeed, obtaining information about government activity, analyzing that information, and widely publishing and disseminating that information to the press and public are critical and substantial components of Requestor’s work and are among its primary activities.¹⁵ Moreover, as mentioned *supra*, Requestor intends to distribute the information obtained through this FOIA request via its websites and/or other means available.

2. The records sought are urgently needed to inform the public about actual or alleged government activity.

Second, the requested records are also urgently needed to inform the public about actual or alleged government activity. *See* 5 U.S.C. § 552(a)(6)(E)(v)(II). Mr. Calero Mendoza’s death generated significant

¹³ ICE Directive 11003.5, *Notification, Review, and Reporting Requirements for Detainee Deaths* (Oct. 25, 2021), <https://www.ice.gov/doclib/detention/directive11003-5.pdf>.

¹⁴ *Id.*

¹⁵ *See ACLU*, 321 F. Supp. 2d at 29 n.5 (finding non-profit public interest group that “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience” to be “primarily engaged in disseminating information”).

attention from the public.¹⁶ After Mr. Calero Mendoza's death, Aurora caught national attention, with Congressman Jason Crow and U.S. Senators Michael Bennet and John Hickenlooper calling for an independent investigation into Aurora and the cause of Mr. Calero Mendoza's death, and that the information be "publicly available."¹⁷ Continued public interest exists regarding the underlying cause of the death of a seemingly healthy 36-year-old man who was incarcerated solely because he sought asylum protections in the United States. His death, as a string of deaths at one detention center out of more than 200 with similar concerns, is a matter of widespread media and public interest, and the requested records will inform the public of this pattern and this activity by ICE and its subcontractors. 5 U.S.C. § 552(a)(6)(E)(i)(I).

As identified here, various advocacy groups, legislators, and government organizations have expressed concerns regarding the shortcomings of ICE's detention facility inspection regime, lack of transparency and information available to the public to assess the reliability of the methods and sources used in conducting these inspections, and the inadequate medical services provided to detainees, resulting in too many tragic incidents. This Request will shed critical light on these practices as well as the increasing profitization and monetization of immigration detention that is costing more and more lives.

3. The records sought are required for protecting "the life or physical safety of an individual."

Third, the records requested relate to the death of a person within ICE custody at the Aurora facility, and expedited processing is required because they could be an "imminent threat to the life or physical safety" of those who continue to be detained in the same space by the same custodians. 5 U.S.C. § 552(a)(6)(E)(v)(I); *see also* 6 C.F.R. § 5.5(e)(1)(i).

On December 4, 2017, Kamyar Samimi passed away while in ICE custody at the Aurora facility. An internal ICE review concluded that staff in the Aurora facility committed numerous violations of ICE detention standards.¹⁸ Subsequently, the DHS Office of Inspector General ("OIG") investigated four ICE detention facilities across the country, including the Aurora facility. In a 2019 report, the OIG found that the Aurora facility does not meet ICE's own detention standards.¹⁹ Yet, nearly four years later, ICE and GEO have not meaningfully addressed any of the violations reported in the OIG investigation.

¹⁶ CBS Colorado, *Melvin Ariel Calero-Mendoza, Nicaraguan father of 2, dies in ICE custody at Aurora facility* (Oct. 20, 2022), <https://www.cbsnews.com/colorado/news/melvin-ariel-calero-mendoza-nicaraguan-father-dies-icecustody-aurora-facility/>; NBC 9 News Colorado, *Nicaraguan man sought better life before he died in ICE custody in Aurora, family says* (Oct. 18, 2022), <https://www.9news.com/article/news/local/nicaraguan-man-soughtbetter-life-died-in-ice-custody/73-0bcf578e-e8bc-4c0c-9613-aeaad250f3a>; Westword, Conor McCormick-Cavanagh, *Nicaraguan Asylum Seeker Dies in ICE Custody in Aurora* (Oct. 17, 2022), <https://www.westword.com/news/nicaraguan-asylum-seeker-dies-in-ice-custody-in-aurora-15252848>.

¹⁷ Investigation into death, *supra* note 6.

¹⁸ ICE Office of Professional Responsibility, *External Reviews and Analysis Unit Detainee Death Review: Kamyar Samimi* (May 2018), https://bento.cdn.pbs.org/hostedbento-prod/filer_public/RMPBS%20PDFs/RMPBS%20News/2018-ICFO-47347.pdf; U.S. House of Representatives Committee on Oversight and Reform and Subcommittee on Civil Rights and Civil Liberties Report (Sep. 2020), <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2020-09-24.%20Staff%20Report%20on%20ICE%20Contractors.pdf> ("During Mr. Samimi's last hours, he was placed on suicide watch. He exhibited seizure symptoms and vomited and urinated on himself, but multiple calls to the on-call physician, who is required to be available 24 hours per day, were never answered.").

¹⁹ DHS Office of Inspector General Report, *Concerns about Detainee Treatment and Care at Four Detention Facilities* (Jun. 3, 2019), (describing the inappropriate segregation practices in the Aurora facility, identifying "serious issues with the

In the wake of Mr. Calero Mendoza’s death, numerous reports emerged detailing stories from people still in custody at Aurora depicting the abysmal lack of adequate medical care, medical neglect, and threats of retaliation for anyone trying to access such care or file a grievance.²⁰ As Mr. Calero Mendoza was the third person to die while detained at Aurora in the last few years, the imminent threat of serious and irreparable harm to those still detained at Aurora is high and expedited processing of these records is essential to protect the life and safety of those still detained there.

4. The records sought implicate “the government’s integrity” and “affect public confidence.”

Mr. Calero Mendoza’s death, as part of a number of in-custody deaths at the same facility under ICE control, is a matter of “widespread and exceptional interest” in which there are serious “questions about the government’s integrity which affect public confidence.” 6 C.F.R. § 5.5(e)(1)(iv). The Aurora facility has a lengthy history of providing inadequate medical care for persons detained in ICE custody.²¹ Several investigations have found that medical staff members’ actions are unjustifiable and do not follow the appropriate standard of care.²² Further fracturing public confidence is the OIG report that indicated the Aurora facility was in violation of binding ICE detention standards.²³ ICE has yet to mitigate those violations or take any substantive steps to rectify subcontractors being openly in defiance of its own detention standards. Public confidence in the care provided within ICE facilities is shaken. A robust response to this request will allow for further transparency regarding the conditions of confinement and medical care offered to persons within the Aurora facility to try and stop the freefall of public confidence in ICE and the government’s integrity.

I affirm that the information provided supporting the request for expedited processing is true and correct to the best of my knowledge and belief. *See* 5 U.S.C. § 552(a)(6)(E)(vi) and 6 C.F.R. § 5.5(e)(3).

administrative and disciplinary segregation” used, describing the lack of outdoor space or opportunity for recreation provided, and lack of contact visitation with loved ones), <https://www.oig.dhs.gov/sites/default/files/assets/2019-06/OIG-19-47-Jun19.pdf>.

²⁰ AIC/RMIAN/IJI Complaint Re: Violations of ICE COVID-19 Guidance, PBNDS 2011, and Rehabilitation Act of 1973 at the Denver Contract Detention Facility Complaint (Feb. 11, 2022), https://www.americanimmigrationcouncil.org/sites/default/files/research/complaint_against_ice_medical_neglect_people_sick_covid_19_colorado_facility_complaint1.pdf; *see also* Angeline McCall, *Reports detail inadequate medical care at Aurora Detention Center*, 9NEWS (Oct. 18, 2022), <https://www.9news.com/article/news/community/inadequate-medical-aurora-ice-detention/73-62542eca-cf06-456e-bea3-65ebfae7847e>.

²¹ *See, e.g.*, American Immigration Council (AIC) Complaint, *RE: Failure to provide adequate medical and mental health care to individuals detained in the Denver Contract Detention Facility* (Jun. 4, 2018), https://www.americanimmigrationcouncil.org/sites/default/files/general_litigation/complaint_demands_investigation_into_inadequate_medical_and_mental_health_care_condition_in_immigration_detention_center.pdf; AIC Complaint (2019), SUPPLEMENT— *Failure to provide adequate medical and mental health care to individuals detained in the Denver Contract Detention Facility* (Jun. 11, 2019), https://www.americanimmigrationcouncil.org/sites/default/files/general_litigation/complaint_supplement_failure_to_provide_adequate_medical_and_mental_health_care.pdf; Cashing in on Cruelty, *supra* note 7; AIC/RMIAN/IJI Complaint (2022), *supra* note 20.

²² DHS Office of Inspector General Report, *supra* note 19; *see also* Cashing in on Cruelty, *supra* note 7.

²³ *Id.*

V. Requestor Is Entitled to a Timely Response

Thank you for your prompt attention to this Request. We look forward to your reply to this Request within ten (10) business days, as required under 5 U.S.C. § 552(a)(6)(E)(ii) and 6 C.F.R. § 5.5(e)(4). Please furnish all responsive records to:

Pilar Gonzalez Morales
Social Justice Legal Foundation
523 W 6th Street, Suite 450
Los Angeles, CA 90014

If this Request is denied in whole or part, we ask that you justify all deletions by reference to specific exemptions of the FOIA. We expect the release of all segregable portions of otherwise exempt material. We reserve the right to appeal a decision to withhold any information, or to deny a waiver of fees. Please email or call me at the contact information below if you have any questions or wish to obtain further information about the nature of the records in which we are interested.

Sincerely,

Pilar Gonzalez Morales

Managing Attorney

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