



April 5, 2018

U.S. Immigration and Customs Enforcement
Freedom of Information Act Office
500 12th Street, SW, Stop 5009
Washington, D.C. 20536-5009

Submission cc by email: ICE-FOIA@dhs.gov

Re: Freedom of Information Act Request to Immigration and Customs Enforcement (ICE) for Records Relating to the Enforcement, Detention, and Deportation of Southeast Asians (Expedited Processing & Fee Waiver)

Dear ICE FOIA Officer:

Asian Americans Advancing Justice | AAJC, the Southeast Asia Resource Action Center (SEARAC), and VietLead (collectively hereinafter “Requestors”) submit this Freedom of Information Act (“FOIA”) request (“Request”) for all Records relating to the enforcement, detention, and deportation of nationals from Cambodia, Laos, and Vietnam. 63 civil society and community services organizations have also signed on in support of this Request.

I. Requested Records

For purposes of this Request, the term “Records” means “any information” that qualifies under 5 U.S.C. §552(f)(2), and includes, but is not limited to, all records or communications preserved in electronic or written form, such as: analysis, audio tapes or audio recordings, cables, charts, contracts or agreements, correspondence, data, directives, documents, e-mails, evaluations, faxes, files, forms, guidance, guidelines, instructions, lists, logs, memoranda and memoranda of understanding, notes, orders, policies, procedures, protocols, formal and informal presentations, reports, rules, still images, technical or training manuals, text communications between mobile phones or other electronic devices, videotapes or video recordings, voicemail messages, and all other relevant communications created, stored, received, or delivered in any electronic or digital format, or any other records of any kind.

Pursuant to FOIA, 5 U.S.C. §552 *et. seq.*, and relevant regulations, 22 C.F.R. §171 *et. seq.*, Requestors hereby request release of the following:

1. Records relating to the total number (and percentage) of annual ICE/ERO administrative arrests of nationals of Cambodia, Laos, and Vietnam for each Fiscal Year between 1998-2018, disaggregated by nationality. Moreover, of the total arrests of Cambodian, Lao, and Vietnamese nationals in each Fiscal Year, please also disaggregate by individual arrestee and provide records relating to:
 - a. The place in which the arrest took place (e.g., airport; USCIS office; ICE field office; ICE arrest in home; on the street, etc.).
 - b. City or county and state where the arrest took place.
 - c. City or county and state of residence for each individual at the time of arrest (i.e., the individual's "home" residence).
 - d. The program or agency responsible for the arrest (e.g., ERO; HSI; 287(g)).
 - e. The number (and percentage) of arrestees then currently on orders of supervision.¹
 - f. The number (and percentage) of arrestees who had ever been previously released under orders of supervision.
 - g. The number (and percentage) of arrestees transferred directly to ICE custody from prison or jail (including transfers made pursuant to ICE detainers).
 - h. Whether the arrestee had a final order of removal at the time of his or her arrest, and the date of the final order of removal.
 - i. The immigration status of the arrestee charged with removal.
 - j. The initial entry date into the United States for each arrestee.
 - k. The grounds charged for removability.
 - l. The alleged factual basis or criminal conviction supporting the arrest/removal.
 - m. The alleged country of origin of the arrestee.
 - n. The ethnicity of the arrestee (e.g., Hmong, Montagnard, etc.).

¹ "Order of supervision" herein refers to both an Order of Supervision (OSUP) or an Order of Release on Recognizance (ROR).

2. Records relating to the total number (and percentage) of nationals of Cambodia, Laos, and Vietnam detained in ICE custody for each Fiscal Year between 1998-2018, disaggregated by nationality. Moreover, for each Fiscal Year of detention data, please also disaggregate by individual detainee and provide:
 - a. City or county and state of residence for each individual (i.e., the individual's "home" residence) at the time of detention.
 - b. The initial date of detention.
 - c. The initial detention location.
 - d. The release date, if applicable.
 - e. The detention facility prior to release, or the current detention location if still detained.
 - f. How many times the detainee was transferred between detention facilities, and the names and locations of those facilities and the transfer dates.
 - g. Whether the detainee was subject to mandatory detention, and the alleged factual basis or criminal conviction supporting the mandatory detention.
 - h. Whether the detainee received a custody review, and the dates of any custody reviews.
 - i. Whether the detainee was transferred into ICE custody pursuant to an ICE detainer request.
 - j. The initial entry date into the United States for each detainee.
 - k. The immigration status of the detainee.
 - l. The grounds charged for removability.
 - m. The alleged factual basis or criminal conviction supporting the detention and/or removal.
 - n. Whether the detainee has or had a final order of removal, and the date of the final order of removal.
 - o. The number (and percentage) of detainees who had ever been previously released under orders of supervision.
 - p. The alleged country of origin of the detainee.

- q. The ethnicity of the detainee (e.g., Hmong, Montagnard, etc.).
3. Records relating to the total number (and percentage) of nationals of Cambodia, Laos, and Vietnam deported in each Fiscal Year between 1998-2018, disaggregated by nationality. Moreover, for each Fiscal Year of deportation data, please also disaggregate by individual deportee and provide:
- a. The initial entry date into the United States for each deportee.
 - b. The ethnicity of the deportee (e.g., Hmong, Montagnard, etc.).
 - c. City or county and state of residence for each individual at the time of arrest or detention (i.e., the individual's "home" residence).
 - d. The date of deportation from the United States.
 - e. Whether the deportee received a consular interview prior to deportation, and the date of the consular interview.
 - f. Whether the deportee had applied for a stay of deportation or removal, and ICE's reason for denying the application.
 - g. The date and place of the final order of removal or administrative removal order.
4. Records relating to the total number (and percentage) of Cambodian, Lao, and Vietnamese nationals who have been, currently are, or will be scheduled for a check-in² at an ICE field office or otherwise placed under orders of supervision, disaggregated by the ICE field office location. Moreover, for each field office, please provide:
- a. The total number (and percentage) of Cambodian, Lao, and Vietnamese nationals scheduled for regular ICE check-ins, disaggregated by nationality and field office location.
 - b. Of those individuals scheduled for check-ins, please provide:
 - i. The total number (and percentage) of individuals who have final orders of removal, disaggregated by nationality and field office location.
 - ii. The initial entry date for each individual.
 - iii. The immigration status of each individual.

² "Check-in" herein refers to any routine or regularly scheduled appointments or visits with ICE officers, officials, or administrative personnel, including but not limited to ICE's "alternatives to detention" programs or "Intensive Supervision Appearance Program."

- iv. The ethnicity of the individual (e.g., Hmong, Montagnard, etc.).
 - v. The grounds charged for removability for each individual.
 - vi. The alleged factual basis or criminal conviction supporting the order of supervision/scheduled check-in for each individual.
 - vii. City or county and state of residence for each individual.
5. Records relating to the total number (and percentage) of Cambodian, Lao, and Vietnamese nationals scheduled on the December 18, 2017 deportation flight, as well as the April 4, 2018 deportation flight, disaggregated by nationality. Moreover, please also disaggregate by individual detainee/deportee and provide records relating to:
- a. The initial date of entry into the United States for each individual.
 - b. City or county and state of residence for each individual.
 - c. The immigration status of each individual.
 - d. The ethnicity of the individual (e.g., Hmong, Montagnard, etc.).
 - e. The grounds charged for removability for each individual.
 - f. The alleged factual basis or criminal conviction supporting the removal.
 - g. Whether each individual scheduled on either the December 18 or the April 4 flight was, in fact, deported. If the individual was not deported, please provide an explanation.
 - h. Whether the deportee received a consular interview prior to deportation, and the date of the consular interview.
 - i. The date and place of the final order of removal or administrative removal order.

6. Records relating to the total number (and percentage) of Cambodian, Lao, and Vietnamese nationals arrested or detained as a result of the immigration round-ups/raids³ in March 2017 and October 2017, disaggregated by nationality. Moreover, please also disaggregate by individual arrestee/detainee and provide records relating to:
 - a. The initial date of entry into the United States.
 - b. Immigration status.
 - c. Ethnicity (e.g., Hmong, Montagnard).
 - d. The grounds charged for removability.
 - e. The alleged factual basis or criminal conviction supporting the arrest/detention.
 - f. The place in which the arrest took place (e.g., airport; USCIS office; ICE field office; ICE arrest in home; on the street, etc.).
 - g. City or county and state where the arrest took place.
 - h. City or county and state of residence for each individual at the time of arrest (i.e., the individual's "home" residence).

Please construe this as an ongoing FOIA Request, so that any records that come within the possession of the agency prior to your final resolution of this FOIA Request are also considered within the scope of the Request.

Electronic versions of the requested records are preferred. Please produce electronic records in their native file format, if possible. With electronic records, please also produce any software, metadata, load files, and passwords so that the records may be accessed, searched, and displayed in a manner comparable to that of an ICE user. If codes are employed, please also produce any documents or records in your possession explaining how the codes are employed, and what the codes signify.

If all or part of any of the records in this Request are denied, please specify the exemption(s) claimed for withholding each record. If some portion(s) of the requested records are determined to be exempt, please provide the remaining non-exempt portions. 5 U.S.C. §552(b). Requestors reserve the right to appeal any decision(s) to withhold information and expect that the address and office for directing appeals will be provided, if necessary. 5 U.S.C. §552(a)(6)(A)(i).

³ "Round-ups" and "raids" herein refer to any arrests, busts, captures, operations, sweeps, or bringing in of more than one individual at a time, including pre-planned activities designed to apprehend a predetermined number or maximum number of people.

II. Request for Fee Waiver or Limitation of Fees

Asian Americans Advancing Justice | AAJC (“Advancing Justice | AAJC”), the Southeast Asia Resource Action Center (SEARAC), and VietLead (collectively “Requestors”) are entitled to a waiver of all costs because the information sought “is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the [Requestor’s] commercial interest.” 5 U.S.C. §552(a)(4)(A)(iii); *see also* 6 C.F.R. §5.11(k). Advancing Justice | AAJC is a national, nonpartisan, not-for-profit 501(c)(3) organization representing the Asian American community. Advancing Justice | AAJC’s mission is to advance the civil and human rights of Asian Americans and to build and promote a fair and equitable society for all. SEARAC is a national, nonpartisan, not-for-profit 501(c)(3) organization representing the interests of Cambodian, Lao, and Vietnamese Americans. SEARAC’s mission is to empower Southeast Asian communities to create a socially just and equitable society. As representatives of the largest refugee community ever resettled in the United States, SEARAC stands together with other refugee communities, communities of color, and social justice movements in pursuit of social equity. VietLead is a Vietnamese community-based organization that focuses on intergenerational building through leadership development, community engagement, culture and arts, and health promotion work.

Requestors regularly compile and disseminate information to the public about government functions and activities at no cost. Similarly, the primary purpose of this FOIA Request is to obtain information to further the public’s understanding of federal immigration enforcement actions regarding the Southeast Asian community, as well as to promote access to counsel and/or other resources for Southeast Asians facing detention and removal. Access to this requested information is necessary to develop the public’s meaningful understanding of how federal immigration enforcement affects Southeast Asian community members, including how many community members have been involved in enforcement actions and where those community members are located. Legal service providers, advocacy groups, and the public at large have an interest in knowing about how immigration enforcement systems operate on Southeast Asian immigrant communities.

As stated above, Requestors have no commercial interest in this matter. Requestors will make any information that they receive through this FOIA Request available to the public, including the press, free of charge (except for such information as is released subject to confidentiality safeguards). Requestors intend to make any non-confidential records, and an analysis thereof, publicly available on their websites and through other means of communication. A fee waiver in this case would therefore satisfy Congress’ legislative intent in amending FOIA to ensure liberal construction of all fee waiver provisions in favor of noncommercial requestors. *See Judicial Watch Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003).

Requestors are also entitled to a waiver of search-related fees as “representative[s] of the news media.” 5 U.S.C. §552(a)(4)(A)(ii)(II); *see also* 6 C.F.R. §5.11(d)(1). Under the amended FOIA, “a representative of the news media” signifies “any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into distinct work, and distributes that work to an audience.” 5 U.S.C. §552(a)(4)(A)(ii). Requestors regularly turn raw material into press releases, statements, blogs, reports, and other publications for distribution to the general public at no charge.

In the alternative, if a fee waiver is declined, Requestors seek all applicable reductions in fees pursuant to 6 C.F.R. §5.11(d). If a fee waiver is declined, and if the fees will exceed \$100.00, please notify the undersigned organizations to obtain consent to incur additional fees.

III. Request for Expedited Processing

Expedited processing of this Request is warranted pursuant to 5 U.S.C. §552(a)(6)(E)(i)(I) because there is a “compelling need” for this information. A “compelling need” is established when there exists an “urgency to inform the public concerning actual or alleged Federal Government activity” and when the requestor is a “person primarily engaged in disseminating information.” 28 C.F.R. §16.5(d)(1)(iv). Requestors are non-profit public interest groups primarily engaged in disseminating information about actual and alleged federal government activity, and the information is urgently needed to better understand ongoing federal immigration enforcement actions.

Please reply to this Request within twenty working days, or as required by statute. 5 U.S.C. §552(a)(6)(A)(i). If you have any questions regarding this Request, please email Hannah Woerner (hwoerner@advancingjustice-aaajc.org) or call 202-815-5382.

IV. Certification

Requestors certify that the above information is true and correct to the best of the Requestor’s knowledge. See 6 C.F.R. §5.5(d)(3).

Please provide all requested Records to:

Hannah Woerner
NAPABA Law Foundation Community Law Fellow
Asian Americans Advancing Justice | AAJC
1620 L Street NW, Suite #1050
Washington, D.C. 20036
hwoerner@advancingjustice-aaajc.org
202-815-5382

Sincerely,



Hannah Woerner
Asian Americans Advancing Justice | AAJC

Southeast Asia Resource Action Center (SEARAC)
VietLead

Signatories

Arizona Asian & Pacific Islander American Vote Table
Asia Pacific Cultural Center
Asian American Organizing Project (AAOP)
Asian American Resource Workshop
Asian Americans Advancing Justice - Asian Law Caucus
Asian Americans Advancing Justice - Atlanta
Asian Americans Advancing Justice - Chicago
Asian Americans Advancing Justice - Los Angeles
Asian Americans for Equality
Asian Americans United
Asian Community Resource Center
Asian Pacific Development Center
Asian Pacific Policy and Planning Council
Asian Prisoner Support Committee
Asian Services In Action, Inc.
Asians & Pacific Islander ReEntry of Orange County (APIROC)
AYPAL: Building API Community Power
California Immigrant Youth Justice Alliance (CIYJA)
CAPI USA
Chula Vista Partners in Courage
Coalition Against Refugee Exile (CARE)
East Bay Asian Youth Center
Engage Action
Empowering Marginalized Asian Communities
Empowering Pacific Islander Communities (EPIC)
Faith and Community Empowerment (formerly KCCD)
Filipinx for Immigrant Rights and Racial Justice MN (FIRM)
Food Empowerment Project
Formerly Incarcerated Group Healing Together (F.I.G.H.T.)
Fresno Interdenominational Refugee Ministries
Greater Boston Legal Services
Ground Game LA
Immigrant Law Center of Minnesota
Indivisible 4 Immigration
Indivisible CA StateStrong
Indivisible East Bay
Indivisible San Francisco
Khmer Girls in Action
Khmer Parent Association
Korean Resource Center
Mekong NYC
National Asian Pacific American Women's Forum (NAPAWF)
National Day Laborer Organizing Network
National Korean American Service and Education Consortium (NAKASEC)

National Tongan American Society
Network of Myanmar American Association
New Mexico Asian Family Center
OCA - Greater Houston
OneAmerica
PIVOT - The Progressive Vietnamese Organization
Providence Youth Student Movement
Release MN8
Resilience Orange County
San Francisco Peninsula People Power
Services, Immigrant Rights, and Education Network (SIREN)
South Asian Americans Leading Together (SAALT)
South Bay People Power
The Immigrant Youth Coalition
VIDAS Legal
Vietnamese American Initiative for Development
VietUnity - East Bay
VietUnity - Los Angeles
ViệtUnity - South Bay - PACT: People Acting in Community Together