

Penn State Law

From the Selected Works of Shoba Sivaprasad Wadhia

2017

FOIA Submissions and Responses ICE

Shoba S Wadhia



Available at: https://works.bepress.com/shoba_wadhia/44/

Wadhia, Shoba

From: webpublishing@hq.dhs.gov on behalf of Homeland Security via Homeland Security <webpublishing@hq.dhs.gov>
Sent: Wednesday, October 14, 2015 10:08 AM
To: ssw11@psu.edu
Subject: Form submission from: DHS FOIA Request Submission Form

Submitted on Wednesday, October 14, 2015 - 10:07 Submitted by user: Anonymous Submitted values are:

Select the DHS component you wish to submit your request to: : U.S.
Immigration and Customs Enforcement (ICE)

Title: Ms.

First Name: Shoba

Middle Initial: S.

Last Name: Wadhia

Suffix:

Email Address: ssw11@psu.edu

Country: United States

Address 1: 329 Innovation Blvd. #118

Address 2:

City: State College

State: Pennsylvania

Zip Code: 16803

Telephone Number: 814-865-3823

Fax Number:

Are you requesting records on yourself? No If yes, you must check the perjury statement:

By initialing here you are providing your electronic signature.:

Please describe the records you are seeking as clearly and precisely as possible:

Requester seeks records of individuals processed for prosecutorial discretion pursuant to the November 20, 2014 memo titled "Policies for Apprehension, Removal and Detention of Undocumented Immigrants." This request is made for a scholarly purpose and not for commercial use.

Requester seeks the following information for each individual processed under the above memo:

- 1) type of discretionary decision made (i.e., deferred action, stay of removal, decision to release, etc.)
- 2) country of birth or citizenship
- 3) stage of enforcement at which prosecutorial discretion was processed (i.e., before an NTA was filed, before arrest, etc.)
- 4) reasons for a grant or denial
- 5) whether individual was an enforcement priority and if yes, whether individual met one of the exception contained in the above memo
- 6) whether individual had counsel
- 7) whether individual made a request affirmatively or if the request was initiated by ICE
- 8) unit/officer responsible for processing request
- 9) whether or not individual has family members in the United States
- 10) whether or not the individual was or is detained
- 11) length of presence in the United States

Requester asks that any records that exist in electronic form be provided in their native electronic format on a compact disc (CD), digital video disk (DVD), or equivalent electronic medium. Requester asks that any documents stored in Portable Document Format ("PDFs") be provided as individual files in a searchable PDF format. Ideally, the information requested above would be provided in an Excel spreadsheet. All requested records that are responsive may be provided with personally identifying details redacted.

I am willing to pay fees for this request up to the amount of: \$: 25.00 Select from the list below: An individual seeking information for personal use and not for commercial use.

I request a waiver of all fees for this request.: I request a waiver of all fees for this request.

Please provide an explanation for your request for a fee waiver:

A waiver of fees is requested under 5 U.S.C. 552(a)(4)(A)(iii) and 6 CFR §

5.11(k) because these requests seek documents, the disclosure of which "is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." *Id.* The requested information will be used to prepare a scholarly article and to further the public understanding of the Priorities Memo and their applicability to individuals facing immigration action.

Congress intended the FOIA fee waiver provision to encourage "open and accountable government." *Citizens for Responsibility and Ethics in Washington v. U.S. Dep't. of Educ.*, 593 F. Supp. 2d 261, 271 (D.D.C. 2009).

Therefore, agencies should "apply the public-interest waiver liberally."

Conklin v. United States, 654 F. Supp. 1104, 1005 (D.Colo. 1987). DHS regulations clarify that fee waivers are appropriate if disclosure of the requested information is "in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government" and is "not primarily in the commercial interest of the requester." 6 CFR 5.11 § (k)(i) and 6 CFR § 5.11(k)(ii).

1. Disclosure of the Information is in the Public Interest

To determine whether the requested information satisfies the first requirement, DHS has identified four relevant factors: (i) whether the subject of the request concerns "the operations or activities of the [federal] government;" (ii) whether the information is meaningfully informative about the operations or activities of the government such that its disclosure is "likely to contribute" to an understanding of such government functions; (iii) whether disclosure of the information will contribute to "public understanding," meaning a reasonably broad audience of interested persons beyond just the requester; and (iv) whether the disclosure will "significantly" increase public understanding of government operations or activities. 6 CFR § 5.11(k)(2)(i)-(iv).

i. The subject directly concerns the operations of the federal government.

The requested documents and information concern identifiable "operations or activities" of the government. Requester seeks records of undocumented immigrants applying under the Priorities Memo. The requested documents and information will allow the requester to analyze the frequency with which ICE grants or denies such requests, as well discern any potential patterns present in the applications, grants, and denials.

ii. The informative value will contribute to an understanding of government activities.

The requested documents and information will contribute to an understanding of government activities by allowing the requester to analyze the demographic and biographic profile of individuals, as well as how long it takes ICE to process and approve pending applications for prosecutorial discretion, and to publish the research in scholarly law journals.

iii. This information will contribute to the understanding of a broad audience.

The requested documents and information will contribute to the understanding of the public as a whole, not just a limited subsection of individuals. The requested documents and information will help undocumented immigrants who are potentially eligible for prosecutorial discretion. In addition, because much of the information sought has not been

consistently tracked and recorded by DHS in the past, the requester seeks to build upon and supplement her previous research on the subject of prosecutorial discretion.

iv. This information will significantly increase public understanding.

The requested documents and information will significantly increase public understanding for how ICE is implementing the Priorities Memo.

2. Disclosure of the Information is Not Primarily in the Commercial Interest of the Requester.

To determine whether the request satisfies the second requirement, DHS has identified two concerns: (i) whether the requester has a commercial interest that would be furthered by the requested disclosure and (ii) whether the public interest in disclosure is greater in magnitude than any identified commercial interest of the requester. 6 CFR § 5.11(k)(3)(i)-(ii).

i. Shoba Sivaprasad Wadhia is the director of the Penn State University Dickinson School of Law's Center for Immigrants' Rights and is a leading scholar in the field of immigration law, focusing specifically on prosecutorial discretion.

The Center for Immigrants' Rights is an immigration clinic at the Penn State Dickinson School of Law. Professor Shoba Sivaprasad Wadhia is the clinic's director. The requested information is to be used solely for scholarly research and the requester does not stand to gain financially from any of the information hereby requested.

Given that FOIA's fee waiver requirements are to "be liberally construed in favor of waivers for noncommercial requesters," a waiver of all fees is justified and warranted in this case. See *Judicial Watch, Inc., v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003). If you deny the fee waiver request, we respectfully ask for a limitation of processing fees pursuant to 5 U.S.C. §

552(a)(4)(A)(ii)(II) ("fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by an educational or noncommercial scientific institution, whose purpose is scholarly or scientific research; or a representative of the news media...")

Please select and describe in detail if you believe your request warrants expeditious handling: An urgency to inform the public concerning actual or alleged Federal Government activity exists (This option available only for PERSONS ENGAGED IN DISSEMINATING INFORMATION).

Please provide information to support your selection: This request qualifies for expedited treatment pursuant to 5 U.S.C. § 552(a)(6)(E) and applicable regulations. There is a compelling need for expedited processing of this request, namely an "urgency to inform the public concerning the actual or alleged Federal Government activity." 5 U.S.C. § 552(a)(6)(E)(v)(II).

Wadhia, Shoba

From: ice-foia@dhs.gov
Sent: Friday, October 30, 2015 11:38 AM
To: ssw11@psu.edu
Subject: ICE FOIA Request 2016-ICFO-02399

October 30, 2015

Shoba Wadhia
Penn State/Center for Immigrants Rights
329 Innovation Blvd
Suite 118
State College, PA 16803

RE: ICE FOIA Case Number 2016-ICFO-02399

Dear Wadhia:

This acknowledges receipt of your Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), dated October 14, 2015, and to your request for a waiver of all assessable FOIA fees. Your request was received in this office on October 14, 2015. Specifically, you requested records of individuals processed for prosecutorial discretion pursuant to the November 20, 2014 memo titled "Policies for Apprehension, Removal and Detention of Undocumented Immigrants." Requester seeks the following information for each individual processed under the above memo: 1) type of discretionary decision made (i.e., deferred action, stay of removal, decision to release, etc.) 2) country of birth or citizenship 3) stage of enforcement at which prosecutorial discretion was processed (i.e., before an NTA was filed, before arrest, etc.) 4) reasons for a grant or denial 5) whether individual was an enforcement priority and if yes, whether individual met one of the exception contained in the above memo 6) whether individual had counsel 7) whether individual made a request affirmatively or if the request was initiated by ICE 8) unit/officer responsible for processing request 9) whether or not individual has family members in the United States 10) whether or not the individual was or is detained 11) length of presence in the United States.

Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Per Section 5.5(a) of the DHS FOIA regulations, 6 C.F.R. Part 5, ICE processes FOIA requests according to their order of receipt. Although ICE's goal is to respond within 20 business days of receipt of your request, the FOIA does permit a 10-day extension of this time period. As your request seeks numerous documents that will necessitate a thorough and wide-ranging search, ICE will invoke a 10-day extension for your request, as allowed by Title 5 U.S.C. § 552(a)(6)(B). If you care to narrow the scope of your request, please contact our office. We will make every effort to comply with your request in a timely manner.

After thoroughly reviewing your letter and request for fee waiver, I have determined that you have not presented a convincing argument that Penn State/Center for Immigrants Rights is entitled to a blanket waiver of applicable fees.

The DHS FOIA Regulations at 6 CFR § 5.11(k)(2) set forth six factors to examine in determining whether the applicable legal standard for a fee waiver has been met. We will consider these factors in our evaluation of your request for a fee waiver:

- (1) Whether the subject of the requested records concerns "the operations or activities of the government";
- (2) Whether the disclosure is "likely to contribute" to an understanding of government operations or activities;
- (3) Whether disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requestor or a narrow segment of interested persons;
- (4) Whether the contribution to public understanding of government operations or activities will be "significant";
- (5) Whether the requester has a commercial interest that would be furthered by the requested disclosure; and
- (6) Whether the magnitude of any identified commercial interest to the requestor is sufficiently large in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requestor.

As a requester, you bear the burden under FOIA of showing that the fee waiver requirements have been met. Based on my review of your October 14, 2015 letter and for the reasons stated herein, I have determined that your fee waiver request is deficient because your request did not satisfy factors 4, 5, and 6. Since your request for a fee waiver has failed to satisfy each of the required factors, I am denying your fee waiver request.

Provisions of the FOIA allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the DHS Interim FOIA regulations as they apply to educational requesters. As an educational requester, you will be charged 10 cents per page for duplication; the first 100 pages are free. We will construe the submission of your request as an agreement to pay up to \$25.00. You will be contacted before any further fees are accrued.

You have the right to appeal the determination to deny your fee waiver request. Should you wish to do so, please send your appeal following the procedures outlined in the DHS regulations at 6 Code of Federal Regulations § 5.9 and a copy of this letter to:

U.S. Immigration and Customs Enforcement
Office of Principal Legal Advisor
U.S. Department of Homeland Security
Freedom of Information Act Office
500 12th Street, S.W., Stop 5900
Washington, D.C. 20536-5900

Your appeal must be received within 60 days of the date of this letter. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at www.dhs.gov/foia.

ICE has queried the appropriate program offices within ICE for responsive records. If any responsive records are located, they will be reviewed for determination of releasability. Please be assured that one of the processors in our office will respond to your request as expeditiously as possible. We appreciate your patience as we proceed with your request.

Your request has been assigned reference number **2016-ICFO-02399**. Please refer to this identifier in any future correspondence. To check the status of an ICE FOIA/PA request, please visit <http://www.dhs.gov/foia-status>. Please note that to check the status of a request, you must enter the 2015-ICFO-XXXXX or 2016-ICFO-XXXXX tracking number. You may contact this office at (866) 633-1182. Our mailing address is 500 12th Street, S.W., Stop 5009, Washington, D.C. 20536-5009.

Regards,

ICE FOIA Office
Immigration and Customs Enforcement
Freedom of Information Act Office
500 12th Street, S.W., Stop 5009
Washington, D.C. 20536-5009
Telephone: 1-866-633-1182
Visit our FOIA website at www.ice.gov/foia

U.S. Department of Homeland Security
500 12th St SW, Stop 5009
Washington, DC 20536



U.S. Immigration
and Customs
Enforcement

November 30, 2015

SHOBA WADHIA
PENN STATE/CENTER FOR IMMIGRANTS RIGHTS
329 INNOVATION BLVD
SUITE 118
STATE COLLEGE, PA 16803

RE: ICE FOIA Case Number 2016-ICFO-02399

Ms. Wadhia:

This is the final response to your Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), dated October 14, 2015, for records of individuals processed for prosecutorial discretion pursuant to the November 20, 2014 memo titled "Policies for Apprehension, Removal and Detention of Undocumented Immigrants."

ICE has considered your request under both the FOIA, 5 U.S.C. § 552, and the Privacy Act, 5 U.S.C. § 552a. Information about an individual that is maintained in a Privacy Act system of records may be accessed by that individual¹ unless the agency has exempted the system of records from the access provisions of the Privacy Act.²

A search for records produced 1 Excel workbook that is responsive to your request. After review of the document, ICE has determined that it will not be released in its entirety. Portions will be withheld pursuant to exemptions of the FOIA as described below:

FOIA Exemption 7(E) protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. I have determined that disclosure of certain law enforcement sensitive information contained within the responsive records could reasonably be expected to risk circumvention of the law. Additionally, the techniques and procedures at issue are not well known to the public.

You have the right to appeal ICE's determination and should you wish to do so, please send your appeal following the procedures outlined in the DHS regulations at 6 Code of Federal Regulations § 5.9 and a copy of this letter to:

¹ 5 U.S.C. § 552a(d)(1).

² 5 U.S.C. §§ 552a(d)(5), (j), and (k).

U.S. Immigration and Customs Enforcement
Office of Principal Legal Advisor
U.S. Department of Homeland Security
Freedom of Information Act Office
500 12th Street, S.W., Stop 5900
Washington, D.C. 20536-5900

Your appeal must be received within 60 days of the date of this letter. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at www.dhs.gov/foia.

Provisions of the FOIA and Privacy Act allow us to recover part of the cost of complying with your request. In this instance, because the cost is below the \$14 minimum, there is no charge.³

If you need to contact the FOIA office about this matter, please call (866) 633-1182 and refer to FOIA case number **2016-ICFO-02399**.

Sincerely,

R. Gowins, for

Catrina M. Pavlik-Keenan
FOIA Officer

Enclosure(s): 1 Excel workbook

³ 6 CFR § 5.11(d)(4).



January 28, 2016

FOIA APPEAL

U.S. Immigration and Customs Enforcement
Office of Principal Legal Advisor
U.S. Department of Homeland Security
Freedom of Information Act Office
500 12th Street, S.W., Stop 5900
Washington, D.C. 20536-5900

Re: Freedom of Information Act Appeal

This is an appeal under the Freedom of Information Act.

On October 14, 2015, I requested documents under the Freedom of Information Act. My request was assigned the following identification number: **2016-ICFO-02399**. On November 30, 2015, I received a response to my request in a letter signed by Catrina M. Pavlik-Keenan. I appeal the response I received, as it did not include information on a number of items requested. A copy of my FOIA request and the agency determination which is the subject of this appeal is attached for your convenience.

The following requested information was not included in the response I received:

- 1) Information for each individual processed under the November 20, 2014 memo titled "Policies for Apprehension, Removal and Detention of Undocumented Immigrants."
 - a. "Whether individual was an enforcement priority and if yes, whether individual met one of the exceptions contained in the above memo"
 - b. "Whether individual had counsel"
 - c. "Unit/officer responsible for processing request"
 - d. "Whether or not individual has family members in the United States"

I therefore seek to appeal the response I received on November 30, 2015. I request that the above information be provided, pursuant to my original request.

The response I received made reference to FOIA Exemption 7(E). However, in withholding the information listed above, ICE has not properly shown that disclosure would either frustrate enforcement of the law or risk circumvention of the law. Federal case law has repeatedly recognized that an agency "must establish that releasing the withheld material would risk circumvention of the law," in order to properly invoke exemption 7(E). *PHE, Inc. v. DOJ*, 983 F.2d 248, 250 (D.C. Cir. 1993); See also, *Piper v. DOJ*, 294 F. Supp. 2d 16, 30 (D.D.C. 2003). Because the information requested has not been shown to risk circumvention of the law, it cannot

be withheld. Additionally, the information withheld does not fall under exemption 7(E), because it does not reveal investigative techniques that “could enable [others] to employ measures to neutralize those techniques.” *James v. U.S. Customs and Border Prot.*, 549 F. Supp. 2d 1, 10 (D.D.C. 2008).

Furthermore, although the agency included information regarding the threat level of individuals listed, the information provided was not responsive to my request. I requested information on whether each individual was deemed an enforcement priority under the November 20, 2014 memorandum from Jeh Johnson. Any individual processed for prosecutorial discretion on or after January 5, 2015 should have been considered pursuant to the 2014 Johnson memo. The workbook sent to me by the agency only includes threat levels based on the 2010 “Civil Immigration Enforcement” memorandum from John Morton.

Based on these issues, I seek to appeal the agency’s response. I also include a telephone number at which I can be contacted during the hours of 9:00AM-5:00PM, Monday-Friday, if necessary, to discuss any aspect of my appeal.

Thank you for your consideration of this appeal.

Sincerely,



Shoba Sivaprasad Wadhia, Esq.
Samuel Weiss Faculty Scholar
Director, Center for Immigrants’ Rights Clinic
Penn State Law
The Pennsylvania State University
329 Innovation Blvd., Suite 118
University Park, PA 16802
Office: 814-865-3823 | Email: ssw11@psu.edu



U.S. Immigration and Customs Enforcement

March 2, 2016

Shoba Sivaprasad Wadhia, Esq.
Director, Center for Immigrants' Rights Clinic
Penn State Law
The Pennsylvania State University
329 Innovation Blvd., Ste. 118
University Park, PA 16802

Re: 2016-ICAP-00305, 2016-ICFO-02399

Dear Ms. Wadhia:

This is in response to your most recent letter, dated January 28, 2016, and received on February 3, 2016, appealing U.S. Immigration and Customs Enforcement's (ICE) response to your Freedom of Information Act/Privacy Act (FOIA/PA) request. Your October 14, 2015 FOIA/PA request to ICE asked for "records of individuals processed for prosecutorial discretion pursuant to the November 20, 2014 memo titled 'Policies for Apprehension, Removal and Detention of Undocumented Immigrants.'" You further specify the information you were seeking in your request to 11 categories. Your January 28, 2016 letter seems to appeal both the adequacy of the search undertaken and the withholdings that were applied.

As was explained in the ICE FOIA Office's letter dated December 24, 2015, your request was considered under both the Privacy Act, 5 U.S.C. § 552a and FOIA, 5 U.S.C. § 552. Additionally, the letter noted that a search for records produced 1 Excel workbook that was responsive to your request, noting that portions of it were withheld pursuant to FOIA Exemption 7(E). ICE has applied FOIA exemption (b)(7)(E) to protect from disclosure information compiled for law enforcement purposes. ICE applied this exemption to protect from disclosure investigative techniques and procedures, such as internal agency case numbers, law enforcement notes, internal identification numbers, and internal computer commands, which are not well known to the public that if disclosed could reasonably be expected to risk circumvention of the law.

Upon a complete review of records produced to you, ICE has determined that the withholding of the information was proper in all respects, and the information is exempt from disclosure under the applicable provisions of 5 U.S.C. § 552 and 5 U.S.C. § 552a noted above.

Notwithstanding the above, your January 28, 2016 letter also appealed the adequacy of the search, noting that certain information was not included in the December 24, 2015 ICE response, specifically:

- “(1) Information for each individual processed under the November 20, 2014 memo titled ‘Policies for Apprehension, Removal and Detention of Undocumented Immigrants.’
- a. ‘Whether individual was an enforcement priority and if yes, whether individual met one of the exceptions contained in the above memo’
 - b. ‘Whether individual had counsel’
 - c. ‘Unit/officer responsible for processing request’
 - d. ‘Whether or not individual has family members in the United States.’”

Upon a complete review of the administrative record, ICE has determined that a new search or modifications to the existing search could be made. We are therefore remanding your appeal to ICE FOIA for processing and re-tasking to the appropriate agency/office(s) to obtain responsive documents, if any. The ICE FOIA Office will respond directly to you.

Please note that this remand only pertains to the search that was undertaken and does not apply to the withholdings applied to the records that were already released to you. Should you have any questions regarding this appeal remand, please contact ICE at ice-foia@dhs.gov. In the subject line of the email, please include the word “appeal,” your appeal number, which is **2016-ICAP-00305**; and the FOIA case number, which is **2016-ICFO-02399**.

Sincerely,



Debbie Seguin
Chief
Government Information Law Division
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement

cc: The ICE FOIA Office

U.S. Department of Homeland Security
500 12th Street, SW, Stop 5009
Washington, DC 20536-5009



**U.S. Immigration
and Customs
Enforcement**

May 10, 2017

Shoba Wadhia
Penn State/Center for Immigrants Rights
329 Innovation Blvd, Suite 118
State College, PA 16803

**RE: ICE FOIA Appeal Number 2016-ICAP-00305
ICE FOIA Case Number 2016-ICFO-02399**

Dear Ms. Wadhia:

This letter is the final response to your Freedom of Information Act (FOIA) Appeal on remand to the U.S. Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE) where you appealed the adverse determination of your request dated February 3, 2016.

You have requested records of individuals processed for prosecutorial discretion pursuant to the November 20, 2014 memo titled "Policies for Apprehension, Removal and Detention of Undocumented Immigrants." Requester seeks the following information for each individual processed under the above memo:

- 1) type of discretionary decision made (i.e., deferred action, stay of removal, decision to release, etc.)
- 2) country of birth or citizenship
- 3) stage of enforcement at which prosecutorial discretion was processed (i.e., before an NTA was filed, before arrest, etc.)
- 4) reasons for a grant or denial
- 5) whether individual was an enforcement priority and if yes, whether individual met one of the exception contained in the above memo
- 6) whether individual had counsel
- 7) whether individual made a request affirmatively or if the request was initiated by ICE
- 8) unit/officer responsible for processing request
- 9) whether or not individual has family members in the United States
- 10) whether or not the individual was or is detained
- 11) length of presence in the United States.

We have considered your request under the both the FOIA, 5 U.S.C. § 552, and the Privacy Act Privacy Act, 5 U.S.C. § 552a.

In the appeal remand letter dated March 2, 2016 provided by the ICE Office of the Principal Legal Advisor, Government Information Law Division the withholdings applied by ICE FOIA

were affirmed. The case was remanded for an additional search. After the new search no new additional information was located. Attached with this appeal memo is 1 Excel workbook explaining why specific information in your request could not be provided.

Provisions of the FOIA allow us to recover part of the cost of complying with your request. In this instance, because the cost is below the \$14 minimum, there is no charge.¹

If you need to contact our office about this matter, please refer to FOIA case number **2016-ICAP-00305**. This office can be reached at (866) 633-1182.

Sincerely,

Matthias Headland
for

Catrina M. Pavlik-Keenan
FOIA Officer

¹ 6 CFR § 5.11(d)(4).

Item Number	Requested	Provided
	<p>Records of individuals processed under prosecutorial discretion according to the November 20, 2014 memorandum from the DHS Secretary entitled "Policies for Apprehension, Removal and Detention of Undocumented Immigrants" including:</p>	<p>Provided the FY2015 populations that had prosecutorial discretion exercised based on the prior Morton Memo</p>
1	<p>Type of discretionary decision made (i.e., deferred action, stay of removal, decision to release, etc.);</p>	<p>Provided all available fields related to the discretionary decision made for each enforcement action. These fields include Processing Disposition, Detainer Lift Reason, Release Reason, Case Status, and Case Action. Please note, not all variables are available for all enforcement actions and those available and relevant to each action have been provided accordingly.</p>
2	<p>Country of birth or citizenship;</p>	<p>Citizenship Country</p>
3	<p>Stage of enforcement at which prosecutorial discretion was used (i.e., before an NTA was filed, before arrest, etc.);</p>	<p>Provided all stages of the enforcement lifecycle where an alien can have PD exercised (Encounters, Detainers, Arrests, Cases closed administratively, Cases closed with charging documents cancelled, and Active Cases).</p>
4	<p>Reasons for a grant or denial;</p>	<p>Not Provided - Does not exist in the database as written.</p>

5	Whether individual was an enforcement priority and, if yes, whether individual met one of the exception contained in the above referenced memo;	Provided RC threat Level. Whether the individual met one of the exceptions contained in the memo does not exist within the database as written and is not provided.
6	Whether individual was represented by counsel;	Not Provided - Does not exist in the database as written.
7	Whether individual made a request affirmatively or if ICE initiated the request;	Not Provided - Does not exist in the database as written.
8	Unit/officer responsible for processing request;	Not Provided - Does not exist in the database as written.
9	Whether the individual has family members in the United States;	Not Provided - Does not exist in the database as written.
10	Whether the individual had been or was detained; and	Provided the Detention Involved Yes/No for those aliens that have a case associated with the PD action.
11	Length of presence in the United States.	Not Provided - Does not exist in the database as written. Requires further calculations and analysis.