EXHIBIT 1

Congress of the United States
Washington, DC 20515

February 12, 2014

The Honorable Sylvia Mathews Burwell
Director, Office of Management and Budget
Executive Office of the President
725 17th Street, NW
Washington, DC 20503

Dear Director Burwell,

As you complete the President's Fiscal Year 2015 budget request, we write to urge the end of the requirement that Immigration and Customs Enforcement (ICE) detain at least 34,000 people per day in detention facilities. This detention bed mandate is an unnecessary burden on the limited financial resources available to ICE.

As you are aware, current law requires that ICE maintain not less than 34,000 detention beds. ICE Director John Morton has testified in front of Congress that the Agency has interpreted this provision to require the maintenance of "a yearly average daily population of approximately 34,000 individuals."

Such a requirement is contrary to the best practices of law enforcement. Indeed, no other law enforcement agencies have quotas on the number of people they must keep in jail. Eliminating the mandate would bring ICE in line with the best practices of law enforcement agencies, which are to use detention beds based on actual need and the potential risks posed by individual detainees.

Moreover, the detention bed mandate is costly. The Department of Homeland Security spends more than $2 billion per year on immigration detention, or $5.5 million per day. It costs approximately $159 per day to detain an individual. Instead, ICE should be considering alternatives detention, including ankle bracelets, curfews, telephonic and in person reporting. Such alternatives cost between $.70 and $17 per person, per day.

We therefore urge the Administration to firmly oppose the detention bed mandate in the President's Fiscal Year 2015 budget request and support providing ICE with the tools they need to consider alternatives to detention for eligible detainees.

Thank you for your prompt attention to this matter. We look forward to hearing from your on this issue and to working with you in the near future.

Sincerely,

Theodore E. Deutch
Member of Congress

Bill Foster
Member of Congress

Luis V. Gutierrez
Member of Congress

Mike Quigley
Member of Congress

Sam Farr
Member of Congress

Juan Vargas
Member of Congress

James McGovern
Member of Congress

Jim Moran
Member of Congress

Jared Polis
Member of Congress

Jan Schakowsky
Member of Congress

Raul Grijalva
Member of Congress

Tony Cardenas
Member of Congress

Lloyd Doggett
Member of Congress

Chellie Pingree
Member of Congress

Dina Titus
Member of Congress

Mark Pocan
Member of Congress

Alan Lowenthal
Member of Congress

Barbara Lee
Member of Congress

Charles Rangel
Member of Congress

Beto O'Rourke
Member of Congress

Keith Ellison
Member of Congress

Joaquin Castro
Member of Congress

Gwen Moore
Member of Congress

Betty McCollum
Member of Congress

Henry C. "Hank" Johnson, Jr.
Member of Congress

Alan Grayson
Member of Congress

Lois Frankel
Member of Congress

Michelle Lujan Grisham
Member of Congress

EXHIBIT 2

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

DETENTION WATCH NETWORK
and CENTER FOR CONSTITUTIONAL
RIGHTS,

Plaintiffs,

SUPPLEMENTAL DECLARATION OF SILKY SHAH

v.

UNITED STATES IMMIGRATION
AND CUSTOMS ENFORCEMENT AGENCY,
UNITED STATES DEPARTMENT OF
HOMELAND SECURITY,

Defendants.

----------X

I, SILKY SHAH, declare pursuant to 28 U.S.C. § 1746 and subject to the penalties of perjury, that the following is true and correct:

1. I am the Interim Executive Director of Detention Watch Network ("DWN"), a Plaintiff, along with the Center for Constitutional Rights ("CCR") in the above-captioned matter. I make this statement in support of Plaintiffs' Motion for a Preliminary Injunction, and to supplement my previous Declaration in this case (Dkt. No. 8-6). DWN continues to seek immediate release of information by Defendants regarding the implementation and effects of the Detention Bed Quota, a policy enacted by Congress and ostensibly interpreted by Defendants to require the incarceration of 34,000 immigrants every day.

2. As of the date of this Declaration, DWN and CCR have not received any documents pursuant to our request.

3. On March 4, 2014, President Obama released his proposed budget for Fiscal Year 2015. The budget for the Department of Homeland Security included a request for funding a level of 30,539 beds. See U.S. Department of Homeland Security, *Budget-in-Brief: Fiscal Year 2015*, available at http://www.dhs.gov/sites/default/files/publications/FY15BIB.pdf. While DWN believes that no detention quota is acceptable, we believe that the Obama Administration's request for a lower number reflects the heightened public scrutiny of the quota. This year's budget debate therefore represents a unique opportunity to educate the public about the effects and the propriety of the quota policy. The budget proposal itself states that the reason for seeking funding for 30,539 beds is to "ensure the most cost-effective use of our appropriated funding … while placing low-risk, non-mandatory detainees in lower cost alternative to detention programs." *See Budget-in-Brief* at 66.

4. During the week of March 10, 2014, the House Appropriations Committee held hearings on the Department of Homeland Security (DHS) budget request (March 11, 2014) and the Immigration and Customs Enforcement (ICE) budget request (March 13, 2014) both of which discussed the Detention Bed Quota. Acquiring the documents requested in this Preliminary Injunction Motion would have greatly increased our ability to inform and educate members of Congress on the impact of the Quota as they reviewed the President's proposed budget in this week's hearings. As the budget debate progresses and further hearings are scheduled in the coming months, it will be increasingly critical to use such information to educate communities advocating to end the Quota and Congressional allies interested in being educated on its effects, particularly as Members of Congress consider recommendations and draft report language from advocates and interested communities.

5. On March 11, 2014, DWN announced our nationwide campaign to "End the Quota" with a national telebriefing call in which I along with Congressional Representative Lucille Royball-Allard (D-CA), civil rights leader and Howard University law professor Wade Henderson and Berta Alicia Avila, an immigrant detained for six months in an Arizona detention facility, urged legislators to eliminate the Quota from the DHS budget request. During the call, Rep. Roybal-Allard criticized the Quota as "costly and unjust" and an "arbitrary congressional mandate." The call was attended by a broad spectrum of representatives from national media outlets, such as the New York Times.

6. As a critical component of our campaign, over the next three months DWN is supporting our members, allied organizations and individuals in calling on their local Congressional representatives to remove the language mandating a set level of detention bed space from the FY15 appropriations budget. This includes scheduling meetings between leadership of DWN membership organizations with Congressional representatives to discuss the Detention Bed Quota. Further, over the course of the budget debate, which is expected to last through at least June, DWN plans to continue raising awareness with the policymakers, the broader immigrant rights movement and the media to emphasize the urgency of eliminating the mandate and providing relief to immigrants in detention and deportation proceedings. Lacking the information sought in our FOIA request, we continue to be at a disadvantage when meeting with Congressional leaders as well as to more broadly engage our membership and the public in advocacy efforts concerning the ongoing effects of the Detention Bed Quota on both immigrant communities as well as the federal budget.

7. Furthermore, it is vital that DWN be able to support our membership as well as the public in their own development of educational resources, public events and rallies calling

for an end to the Detention Bed Quota. As DWN has made clear in our recent reports concerning private prison facilities, the continued flow of federal funding to privately-run prison corporations is of high interest and relevance to our members, legislators and the public, and is directly connected to the Congressionally-mandated Detention Bed Quota. The human impact of continuance of a mandated number of detention beds has been illustrated in grim detail most recently by several hundred immigrant detainees held in the privately run Northwest Detention Center in Tacoma, Washington who went on hunger strike March 9, 2014 in protest of the intolerable conditions of confinement there.

8. Release of the records Plaintiffs have requested continues to be a matter of immediate urgency. We have requested these documents because they are critical to educating our members, the public and many of our congressional representatives, who continue to be extremely troubled by a continuing federal mandate that is not only wasting millions of dollars but forcing inhumane conditions upon immigrants held in facilities with little to no oversight. Acquiring these documents is vital to our ability to provide the public and their representatives in Congress with a full understanding of the impact of the Bed Quota on immigration detention and enforcement and practices.

Date: March 14, 2014

Silky Shah

EXHIBIT 3

centerforconstitutionalrights

February 28, 2014

By Electronic Mail

Assistant U.S. Attorney Natalie Kuehler
U.S. Attorney's Office
Southern District of New York
86 Chambers Street
New York, NY 10007

RE: *Detention Watch Network, et al., v. ICE, et al.*,14-cv-0583

Dear Natalie:

We are not closed to an agreement that would enable us to obtain documents quickly, but we cannot accept Defendants' unilateral attempt to revise our request, particularly as several of your proposed revisions excise records dated January 2012 going forward. We repeatedly identified this time period as crucial for our client, and never even discussed removing it from the request or from the documents needed to resolve the preliminary injunction. There is no basis in law for ICE and DHS to simply refuse to search for recent documents responsive to our request, particularly when we repeatedly identified this time period as a top priority.

As for the other proposed revisions, as we have stated, we would like to have a conversation with you in order to understand them, as many do not seem to us to be substantial revisions but rather semantic ones. Any resolution would require a commitment from DHS and ICE to produce documents immediately. In our letter of February 21, 2014, we advised you that we expect to receive records responsive to Requests (e), (f), and (g) by today, and to begin receiving documents responsive to the remaining requests by March 3, 2014. We look forward to speaking today at 3:30. Thank you.

Sincerely,

Ghita Schwarz

EXHIBIT 4

centerforconstitutionalrights

March 6, 2014

By Electronic Mail

Assistant U.S. Attorney Natalie Kuehler
U.S. Attorney's Office
Southern District of New York
86 Chambers Street
New York, NY 10007

RE: *Detention Watch Network, et al., v. ICE, et al.*, 14-cv-0583

Dear Natalie:

We write to respond to the Department of Homeland Security's letter dated December 6, 2013. The letter was first brought to my attention on the evening of March 4, 2014, when you alerted us by email that you would be filing a motion to dismiss the next day. After I advised you on March 5 that I was not aware of any such letter and asked for a copy, you emailed to me a PDF document entitled "DHS Letter." I received it for the first time on the morning of March 5, 2014. Notably, neither the letter itself, nor your email, nor the declaration annexed to DHS' motion to dismiss describes the manner of DHS' purported service of the letter in December of 2013. While we will address the improper manner of purported service in our opposition to DHS' motion to dismiss, we write here to address the contents of the letter, which do not comport with DHS' FOIA obligations.

DHS is not permitted to administratively close requests arbitrarily. Agency denials must be based upon FOIA or the agency's "published rules stating the time, place, fees (if any), and procedures to be followed" within the Federal Register or Code of Federal Regulations. 5 U.S.C. § 552(a)(3)(A) (2012). DHS's regulations specifically allow for administrative closure of claims when fees are not paid, 6 C.F.R. § 5.3(c), but not when requests are considered overly broad. 6 C.F.R. § 5.3(b). In such cases, the regulations merely state that an overly broad request may result in the "agency's response to [the] request . . . be[ing] delayed." *Id.* Therefore, no authority existed for administrative closure of our FOIA request.

DHS regulations require the agency to tell a requester "either what additional information is needed or why [a] request is otherwise insufficient" before issuing a denial, as well as giving requesters "an opportunity to discuss [their] request so that [they] may modify it to meet the requirements of this section." 6 C.F.R. § 5.3(b). The letter does not constitute a proper request for clarification, as it did not provide any guidance as to how the request could be clarified. It merely restated DHS regulations which indicate that requests should generally contain "sufficient detail," "as much information as possible," and "specific information about each record sought." *See* 6 C.F.R. § 5.3(b). The letter gives no indication as to what specific aspects of the request were considered overly broad or how they could be narrowed. Mere recitations of

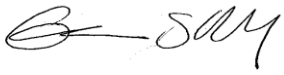
statutory standards give no real guidance, *cf. King v. U.S. Dep't of Justice*, 830 F.2d 210, 219 (D.C. Cir. 1987); they neither specify what "additional information" is needed nor explain why a request is "otherwise insufficient."

In any case, our FOIA Request meets the requesters' obligation to "reasonably describe" the materials sought, *see* 5 U.S.C. § 552(a)(3). The subject matter of the request—the detention bed quota and/or mandate—is well-known by DHS and has received considerable media attention. Additionally, we seek specific records, some of which are "agreements" of a specified nature, subject, parties and time period; data and statistics regularly held and produced within the agency; records related to three specific media stories; reports and memoranda between specific custodians and offices related to the detention bed mandate; and documents related to highly specific events such as the release of detainees due to budget constraints during specific time periods. In sum, our FOIA Request is in no way "too broad" or unspecific. Further, given our extensive discussions explaining various portions of the request, as well as the letter we sent to you earlier today regarding the scope of the request, we do not believe there should be any confusion on the part of DHS as to the records we seek. That said, as we have advised you previously, we would be happy to discuss our request with DHS directly.

Because DHS did not have authority to "administratively close[]" our request, and failed to properly notify us of its request for clarification, our request cannot legitimately be considered closed. Notwithstanding these arguments, we formally request that our FOIA request be administratively re-opened.

Please feel free to contact me with any questions at (212) 614-6445. I look forward to hearing from you.

Sincerely,



Ghita Schwarz

EXHIBIT 5

U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

March 13, 2014

BY EMAIL

Ghita Schwarz
Center for Constitutional Rights
666 Broadway, 7th Floor
New York, NY 10012

Re: *Detention Watch Network, et al. v. United States Immigration and Customs Enforcement, et al.*, 14 Civ. 583 (LGS)

Dear Ms. Schwarz:

I write on behalf of defendants United States Immigration and Customs Enforcement ("ICE") and United States Department of Homeland Security ("DHS," together with ICE the "Government") in connection with our recent telephone conversations and letters regarding the scope of your clients' FOIA request. Provided that your clients agree to pay the fees in connection with ICE's search for responsive documents, ICE is willing to task out your FOIA request as follows:

Request Category (a): Your letter dated March 6, 2014, did not raise any objections to revised Request Category (a) as set forth in the Government's letter dated February 21, 2014. Accordingly, ICE is willing to task out Request Category (a) for the time period June 2006 through the present as follows:

Most Recent Copies of Executed Agreements Related to the Number of Detention Beds

i. *Executed Agreements between Private Prison Corporations (such as Corrections Corporation of America and the Geo Group) and ICE, DHS and/or the Federal Bureau of Prisons;*
ii. *Executed Agreements between DHS/ICE and local, state, city or municipal governments, including all Intergovernmental Service Agreements; and*
iii. *Executed contract renewal, supplemental agreements, addendums, riders, etc. of the agreements in (i) and (ii).*

ICE is willing to apply your broad definition of "most recent" as referring to the last executed agreement on any specific contract during the period of June 2006 to the present. However, if you agree to limit Request Category (a) to currently active agreements, and/or only certain types of agreements as narrowed to those containing a minimum number of detention beds or relating to facilities located in certain geographic areas, this would lower the fees applicable to a search of these records and reduce the amount of time needed to gather, review and, where appropriate, process them for release.

Request Category (b): Your letter dated March 6, 2014, did not raise any objections to the language of revised Request Category (b) as set forth in the Government's letter dated February 21, 2014, but you did ask that the original time frame be applied. Accordingly, ICE is willing to task out Request Category (b) for the time period June 2006 through the present as follows:

Communications Regarding Contract Renewals, Supplemental Agreements, Addendums, Riders, etc. of any Agreements Relating to the Number of Detention Beds Listed in Part C(a).

Request Category (c): Your letter dated March 6, 2014, did not raise any objections to the language of revised Request Category (c) as set forth in the Government's letter dated February 21, 2014, but you did ask that the original time frame be applied. Accordingly, ICE is willing to task out Request Category (c) for the time period June 2006 through the present as follows:

Executed Agreements (Formal and Informal), whether Current or Expired, regarding the Amount, Financing and Allocation of Detention Beds in the Following ICE Jurisdictions: the Atlanta Field Office; the Dallas, El Paso, Houston and San Antonio Field Offices; the New Jersey Field Office, and the Philadelphia Field Office.

Request Category (d): Your letter dated March 6, 2014, did not raise any objections to revise Request Category (d) as set forth in the Government's letter dated February 21, 2014. Accordingly, ICE is willing to task out Request Category (d) for the time period June 2006 through the present as follows:

Summary Data and Statistics from 2007 to present:

i. *Copies of regularly generated statistical reports sufficient to establish the number of detainees and detention occupancy by geographic location (i.e. ICE field office, state or county).*
ii. *Copies of summary data or statistics establishing payments made to private prison corporations by ICE or DHS and the number of detainees actually occupying the private prison corporations' detention facilities.*
iii. *Copies of summary data or statistics establishing the existence of any "guaranteed minimums," "guaranteed minimum" payments, or "variable" prices in contracts with private prison corporations.*

Request Category (e): This category of documents has already been tasked out as set forth in my letter dated February 21, 2014, as follows:

Press Releases, Memoranda, Communications and Talking Points relating to the following Articles:

i. *William Selway & Margaret Newkirk, Congress Mandates Jail Beds for 34,000 Immigrants as Private Prisons Profit, Bloomberg (Sept. 24, 2013), http://www.bloomberg.com/news/2013-09-24/congress-fuels-private-jailsdetaining-34-000-immigrants.html;*

ii. *Stephen Dinan, Obama's Budget a Blow to Immigrant Enforcers; Funding Cut for Detentions, States, Washington Times (Apr. II, 2013), http://www.washingtontimes.com/news/2013/apr/IIobamas-budget-a-blow-to-immigrant-enforcers/?page=all; and*

iii. *Spencer S. Hsu and Andrew Becker, ICE Officials Set Quotas to Deport More Illegal Immigrants, Washington Post (Mar. 27, 2010), http://www.washingtonpost.com/wpdynlcontent/article/2010/03/26/AR20I0032604891.html.*

In accordance with your revised request, the search for responsive records encompasses drafts and post-publication communications.

Request Category (f): ICE is prepared to task out this category of documents as revised in your letter dated March 6, 2014, for the time period June 2006 through the present:

All Reports and Memoranda Reporting on the Detention Bed Mandate and Detention-Bed-Mandate-related Appropriations Decisions to/from the Secretary of Homeland Security, Assistant Secretary of Homeland Security in Charge of Immigration and Customs Enforcement, Members of Congress and/or the White House, With Particular Focus on ICE and DHS's Interpretation of the Detention Bed Quota and Enforcement Decisions Made to Comply with that Quota.

Request Category (g): ICE is prepared to task out this category of documents as revised in your letter dated March 6, 2014, for the time period June 2006 through the present:

Records, including communications, about releases from detention due to budget constraints or loss of funding, regarding the following:

i. *Effects of the 2013 Budget Sequestration and the government shutdown in the fall of 2013;*

ii. *Testimony of John Morton before the Judiciary Committee of the U.S. House of Representatives in March 19, 2013; and*

iii. *Communications with or about John Morton's decisions on or about December 2009 and Spring 2010 to release ICE detainees from detention.*

Request Category (h): ICE is prepared to task out this category of documents as revised in your letter dated March 6, 2014, for the time period June 2006 through the present:

Records of ICE or DHS communications with local, state or Congressional officials or law enforcement agencies related to monetary or contractual incentives related to immigration detention or detention contracting; or the need for additional detainees or possible sources of additional detainees to fulfill contractual obligations with ICE, including records related to the impact of the detention bed quota, if any, on ICE's or DHS's decision to renew contracts with private prison corporations.

Request Category (i): ICE is prepared to task out this category of documents as revised in your letter dated March 6, 2014, for the time period June 2006 through the present:

Records related to the relationship between ICE and private prison corporations regarding conditions within private prison facilities, including email communications, letters, memoranda, and policy memos regarding contract bidding processes or Requests for Proposals.

As noted above, ICE has determined that your clients are not eligible for a fee waiver under FOIA, and its search for records responsive to revised Request Categories (a) through (i) as set forth above (the "Revised Request") is conditioned on your agreement to pay ICE's processing fees, which are currently estimated to range between $35,000 and $40,000.

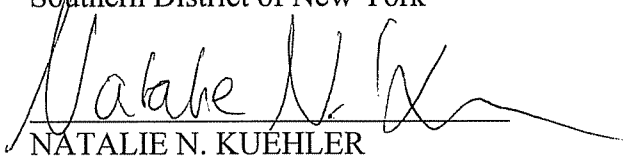
ICE's proposed search, and therefore the existing fee estimate, is premised on a search for responsive records at ICE's various headquarter offices and, for Request Category (c), the field offices specifically identified that request. Any broadening of the search to one or more field offices for other request categories would result in commensurately higher fees. Please let us know you consent to these search parameters and the payment of the estimated processing costs, or whether you would like to further limit your FOIA request in light of the anticipated fees.

Finally, ICE's agreement to search for drafts responsive to the Revised Request does not waive any applicable privilege, including the deliberative process privilege, under which responsive drafts may be withheld.

I can be reached at (212) 637-2741 should you have any questions.

Very truly yours,

PREET BHARARA
United States Attorney
Southern District of New York

By: 

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