

# EXHIBIT A

*Office of Congressional Relations*

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



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

February 22, 2023

The Honorable Norma J. Torres  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative Torres:

Thank you for your December 15, 2022 letter to U.S. Immigration and Customs Enforcement (ICE) regarding the improper disclosure of noncitizen personally identifiable information.

Enclosed are responses to the questions posed in your letter. Should you wish to discuss this matter further, please do not hesitate to contact the ICE Office of Congressional Relations at (202) 732-4200.

Sincerely,

**SEAN M  
HACKBARTH** Digitally signed by SEAN  
M HACKBARTH  
Date: 2023.02.22  
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Sean M. Hackbarth  
Acting Assistant Director  
Office of Congressional Relations

Enclosure

cc: The Honorable Nanette Diaz Barragán  
The Honorable Grace F. Napolitano  
The Honorable Jan Schakowsky  
The Honorable Raúl M. Grijalva  
The Honorable Rashida Tlaib  
The Honorable Tony Cárdenas

The Honorable Jesús G. "Chuy" García  
The Honorable Sheila Jackson Lee  
The Honorable Barbara Lee  
The Honorable Juan Vargas  
The Honorable Grace Meng  
The Honorable André Carson

**U.S. Immigration and Customs Enforcement’s Response to  
Representative Norma J. Torres and Others’ December 15, 2022 Letter**

- 1. What are ICE’s current policies regarding its handling of the sensitive, private information of asylum seekers? How is this information currently protected? How did this data breach happen?**

**Response:** U.S. Immigration and Customs Enforcement (ICE) protects the sensitive information of all individuals whose information is contained within its systems of records in accordance with the Privacy Act of 1974 and related Department of Homeland Security (DHS) policies. This includes sensitive asylum-related information. Additionally, ICE adheres to 8 C.F.R. § 208.6, which safeguards information pertaining to asylum applications, credible and reasonable fear determinations, and other protection-related applications (“special protected information”). ICE requires all employees and contractors to take annual privacy training that covers the proper handling (e.g., collection, use, disclosure) of personally identifiable information (PII). Further, ICE trains field personnel on the appropriate handling of information protected under 8 C.F.R. § 208.6. In the ICE Basic Immigration Enforcement Training Program, newly hired deportation officers are trained to redact all references to asylum, withholding of removal, Convention Against Torture (CAT), or refugee status in documents submitted to foreign consulates when attempting to obtain travel documents. The training also instructs the trainees to review any charging documents sent to consulates in this process in the event that the issuing authority’s title could lead the consulate to believe the individual applied for asylum. ICE also has system controls in place to ensure personnel only have access to information that they need in order to do their jobs.

The privacy incident that occurred on November 28, 2022 involved the ICE Detention Statistics report that ICE publishes on its public-facing website, ICE.gov, on a bi-weekly basis. The report contained detention and Alternatives to Detention statistics, provided across ten worksheets in a downloadable Excel Workbook. The data is searchable and sortable. The ICE Detention Statistics report also includes statistics related to credible fear claims.

Unfortunately, the ICE Detention Statistics report published on November 28, 2022 contained an additional worksheet labeled “USCIS-Established Fear Detail” that included the names, birth dates, country of citizenship, criminal status, detention facility locations, and credible fear determination information on 6,252 detained noncitizens. This privacy incident occurred as the result of human error. ICE Enforcement and Removal Operations (ERO), which is responsible for compiling the statistical data, merged the worksheet containing PII and credible fear information with the ICE Detention Statistics report to respond to an internal data call and did not remove the detailed spreadsheet before posting the report to ICE.gov.

2. **After ICE was notified by Human Rights First that the data breach had occurred, how long did the agency take to remove the information from its website? How long did it take for those impacted by the breach to be notified?**

**Response:** The document was posted to the website for approximately five hours. ICE removed the document from ICE.gov approximately 11 minutes after first being alerted to the disclosure.

ICE began notifying affected noncitizens on December 6, 2022. During that week, ICE moved quickly to send official letters and lists of legal resources to more than 4,000 detained noncitizens and more than 1,000 released noncitizens. ICE is also notifying attorneys of record for noncitizens affected by the inadvertent disclosure.

As of January 3, 2023, ICE has sent notifications to the overwhelming majority of affected noncitizens either directly or through their attorneys of record.

3. **Has ICE done anything to aid those who may be most at risk of retaliation due to this data breach? And if so, please explain the specific actions being taken.**

**Response:** ICE has notified the noncitizens and, where applicable, their attorneys of record of the inadvertent disclosure to allow noncitizens to determine what, if any, actions they may wish to take. ICE included a list of free or low-cost legal representatives along with the notification. For noncitizens with final orders of removal, they were advised that their removal will be delayed for 30 days from the date of the notice to allow time for decision-making about next steps and consultation with an attorney, if desired.

4. **After the breach, ICE issued a statement<sup>1</sup> that it was investigating the incident – when will the findings of the investigation be available? Can you commit to releasing said findings to our offices and the public as well?**

**Response:** The ICE Office of Professional Responsibility initiated a multi-faceted investigation into this incident, which is currently ongoing. Due to the complex nature of investigative processes, an anticipated date of completion cannot be provided. At this time, ICE is unable to make a commitment to releasing the findings, as a reasonable determination of what can be released cannot be made until the investigation has concluded and all information pertaining to the incident, which may include protected privacy information, has been thoroughly reviewed. Once the investigation and review process has been completed, an assessment will be made on what information may be released publicly.

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<sup>1</sup> <https://www.ice.gov/news/releases/statement-improper-disclosure-noncitizen-personally-identifiable-information>

5. **How many times was this information downloaded? Can ICE verify the locations of where the information was downloaded? Were any downloads in countries that these individuals are claiming asylum from?**

**Response:** ICE has the capability to trace internet activity to the Internet Service Provider, which provides the general geographic location where a user is accessing the internet. The file was downloaded 18 times, 12 of which were from within the DHS network. ICE respectfully declines to provide information about the locations from which the remaining six downloads originated.

6. **The article exposing this error states that the federal government will ask individuals who downloaded this information to delete it - is there not more that can be done to ensure this information does not spread further?**

**Response:** ICE was able to determine the general geographical location of users who downloaded the data but does not have the ability to determine individual identities, which limits the agency's ability to minimize further distribution. However, ICE has issued "claw back" letters to three parties who, based on public reports (e.g., news articles), appeared to have the detailed information contained in the document. In those letters, ICE informed the parties about the sensitivity of the data and requested they destroy the information and confirm to ICE that they have not distributed it. To date, ICE has not received responses from the three parties. ICE is limited in its ability to take legal measures beyond these "claw back" letters.

ICE is also monitoring various internet locations where PII is typically posted and has not found any indications that the file has been posted.

7. **What corrective measures are being taken by ICE to ensure that a data breach like this will not happen in the future?**

**Response:** Ensuring transparency and maintaining the privacy of all noncitizens with whom ICE interacts are among the agency's highest priorities. As part of its transparency efforts, and in some cases to ensure timely satisfaction of Congressional requirements, ICE provides information and data on the agency's operations and initiatives via its public facing website. ICE is committed to improving the processes through which it provides transparency to Congress and the American people while protecting the privacy of noncitizens. As an immediate measure, any changes to ERO's routine public-facing reports will require supervisory level clearance in the future. Further, ICE is reviewing its policies, practices, and technologies and will make changes, as appropriate, to further reduce the risk of inadvertent disclosures of sensitive individual information. Current recommendations include eliminating the process of distributing data via emailed spreadsheets; establishing the use of public-facing dashboards to provide transparency while limiting the publication of raw data, which increases the risk of exposing sensitive data; and exploring the use of data loss prevention tools to screen public-facing reports for sensitive data. ICE will also assess its training protocols and content related to the proper handling of special protected information to

ensure all personnel who may come into contact with special protected information are properly trained.

**8. Should any individual, or set of individuals, be found accountable for the data breach, what corrective measures will ICE be taking?**

**Response:** All ICE employees are expected to carry out their duties in a professional and business-like manner, adhering to applicable laws, rules, regulations, and policies. Employees are accountable for their actions and subject to appropriate disciplinary action for misconduct where there is a nexus to their misconduct and the efficiency of the service. Depending on the circumstances, failure to follow the ICE Code of Conduct may result in disciplinary, adverse, or other corrective actions.

**9. In light of increased resources provided to ICE through the Fiscal Year 2022 funding bill (Public Law 117-103), how can Congress best work with ICE to protect the data of asylum-seekers?**

**Response:** ICE notes that collaborating with Congress is of utmost importance and thanks Congress for its willingness to work with ICE to ensure that all ICE stakeholders can access ICE's operational information and data on its public facing website—especially when it involves sensitive data or analysis of data obtained from another agency (e.g., special protected information received from USCIS)—while also protecting the privacy and safety of noncitizens in immigration proceedings. As a result, ICE requests continued congressional support for technology to automate reporting and processing of immigration data to reduce reliance on human resources. ICE further requests additional funding from Congress to pursue new and innovative ways of protecting noncitizens' privacy. In concert with Congress, ICE will carefully balance resources while finding new and innovative ways to increase organizational efficiency, improve core processes, and implement privacy-protective technologies.