



July 7, 2021

VIA EMAIL

Freedom of Information Act Office
U.S. Immigration & Customs Enforcement
500 12th Street SW, Stop 5009
Washington, DC 20536-5009
ice-foia@dhs.gov

Re: Freedom of Information Act Request

Dear FOIA Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the implementing regulations of your agency, 6 C.F.R. Part 5, American Oversight makes the following request for records.

On November 16, 2020, Immigration and Customs Enforcement (ICE) published a pre-solicitation notice seeking a web-based Law Enforcement Investigative Database Subscription (LEIDS) to “assist the ICE mission of conducting criminal investigations that protect the United States against terrorists and criminal organizations” and to “combat criminal enterprises that seek to exploit America’s legitimate trade, travel, and financial systems.”¹ The pre-solicitation notice stated that ICE investigative agents “require a robust analytical search tool for its in-depth exploration of persons of interest and vehicles.”² The contract—potentially worth upwards of \$17.4 million—was awarded to LexisNexis Risk Solutions, Inc.³

On its website, LexisNexis Risk Solutions details several data sources and investigative tools available for law enforcement and public safety agencies, including crime mapping software, vehicle crash data, and investigative technologies, among other services.⁴

¹ General Services Administration, (Beta) System for Award Management (SAM), *Presolicitation Notice: Law Enforcement Investigative Database Subscription (LEIDS)*, <https://beta.sam.gov/opp/dd2901df29274e49921fdc232bb18d8d/view#general> (accessed: May 18, 2021).

² *Ibid.*

³ See, e.g., USA Spending, *Contract to LexisNexis Risk Solutions, Inc.*, https://www.usaspending.gov/award/CONT_AWD_70CMSD21C00000001_7012_-NONE_-NONE- (accessed: May 18, 2021).

⁴ LexisNexis Risk Solutions, Inc., *Product Index: Law Enforcement and Public Safety*, https://risk.lexisnexis.com/products?q=&hPP=20&idx=lnrs-web93-us&p=0&fR%5B_language%5D%5B0%5D=en-US&fR%5B_template%5D%5B0%5D=%7B828E9E61-311A-441C-B9BE-



Recent reporting suggests that ICE’s contract with LexisNexis Risk Solutions replaces a recently expired contract with Thomson Reuters/West Publishing Corporation for its Consolidated Lead Evaluation and Reporting (CLEAR) database.⁵ Earlier this year, the House Oversight and Reform Committee expressed concerns that the CLEAR database had been used to surveil and target undocumented immigrants for deportation.⁶

American Oversight seeks records with the potential to help the public better understand: the LexisNexis Risk Solutions database(s)/tool(s) to which ICE has access; the extent to which ICE has used LexisNexis Risk Solutions’ database(s)/tool(s); the purpose(s) for which the database(s)/tool(s) has/have been used; and any privacy and security safeguards in place.

Requested Records

American Oversight requests that Immigration and Customs Enforcement (ICE) produce the following records within twenty business days:

All email communications (including emails, complete email chains, email attachments, calendar invitations, and calendar invitation attachments) **between** (a) any of the individuals listed in Column A below and (b) any of the individuals or entities listed in Column B below, containing any of the following terms:

- i. “Law Enforcement Investigative Database Subscription”
- ii. LEIDS
- iii. “LexisNexis” or “Lexis Nexis”
- iv. Accurant
- v. “Virtual Crime Center”
- vi. Coplogic
- vii. “Crash Designer”
- viii. “Crash Mapper”
- ix. “Crime Map”
- x. “Desk Officer Reporting System”
- xi. DORS
- xii. “Claims Compass”
- xiii. “eCitation” or “e citation”
- xiv. “eCrash” or “e crash”

[228ACBB9332B%7D&hFR%5B_industry_hierarchy.Industry%5D%5B0%5D=Law%20Enforcement%20and%20Public%20Safety&is_v=1](https://www.ice.dhs.gov/228ACBB9332B%7D&hFR%5B_industry_hierarchy.Industry%5D%5B0%5D=Law%20Enforcement%20and%20Public%20Safety&is_v=1) (accessed: May 19, 2021).

⁵ See, e.g., Sam Biddle, “LexisNexis to Provide Giant Database of Personal Information to ICE” (April 2, 2021) <https://theintercept.com/2021/04/02/ice-database-surveillance-lexisnexis/> (accessed: May 18, 2021).

⁶ Letters from Reps. Raja Krishnamoorthi and Jimmy Gomez to Stephen Hasker and Mark W. Begor, Feb. 26, 2021, <https://oversight.house.gov/news/press-releases/oversight-subcommittee-launches-investigation-into-sale-of-utility-customer-info> (accessed: May 18, 2021).

Column A: ICE Employees	Column B: Outside Entities
<ul style="list-style-type: none"> a. Tae D. Johnson (Acting Director) b. Tony H. Pham (Former Director) c. Matthew C. Allen (Senior Official Performing the Duties of Deputy Director) d. Timothy Perry (Chief of Staff) e. Kathy Nuebel Kovarik (Former Chief of Staff) f. Patrick J. Lechleitner (Acting Executive Associate Director, Homeland Security Investigations (HSI)) g. Derek N. Benner (Former Executive Associate Director, Homeland Security Investigations (HSI)) h. John D. Trasviña (Principal Legal Advisor) i. Michael P. Davis (Former Acting Principal Legal Advisor) j. Jonathan Fahey (Former Acting Director and Former Principal Legal Advisor) k. Staci Barrera (Executive Associate Director, Management and Administration) l. Corey A. Price (Acting Executive Associate Director, Enforcement and Removal Operations) m. Henry Lucero (Executive Associate Director, Enforcement and Removal Operations) n. Waldemar Rodriguez (Associate Director, Office of Professional Responsibility) o. Albert Dainton (Director and Head of Contracting Activity) 	<ul style="list-style-type: none"> a. Anyone communicating with an email address ending in @lexisnexis.com or @lexisnexis.com b. Anyone communicating with an email address ending in @relx.com or @relxgroup.com c. Anyone communicating with an email address ending in @bhfs.com d. Anyone communicating with an email address ending in @acg-consultant.com e. Anyone communicating with an email address ending in @healthpolicysource.com f. Anyone communicating with an email address ending in @keelengroup.com g. Anyone communicating with an email address ending in @kleinjohnson.com h. Anyone communicating with an email address ending in @teamsubjectmatter.com i. Anyone communicating with an email address ending in @thompsonadvisory.com j. Steve Emmert (RELX Group) k. Karen Marangi (RELX Group) l. Julien Nagarajan (RELX Group) m. Adam Huftalen (RELX Group) n. Marla P. Grossman (American Continental Group)

For all parts of this request, please provide all responsive records from November 1, 2020 through the date the search is conducted.

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and your agency's regulations, American Oversight requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures will likely contribute to a better understanding of relevant government procedures by the general public in a significant way. Moreover, the request is primarily and fundamentally for non-commercial purposes.

American Oversight requests a waiver of fees because disclosure of the requested information is "in the public interest because it is likely to contribute significantly to public understanding of operations or activities of the government."⁷ The public has a significant interest in ICE's use of commercial and law enforcement data to conduct its operations.⁸ Moreover, ICE has previously awarded contracts to LexisNexis for access to national law enforcement data.⁹ Records with the potential to shed light on the role of large databases in HSI investigations would contribute significantly to public understanding of federal government operations, including how ICE has used the database(s) or tool(s) provided by LexisNexis Risk Solutions. American Oversight is committed to transparency and makes the responses agencies provide to FOIA requests publicly available, and the public's understanding of the government's activities would be enhanced through American Oversight's analysis and publication of these records.

This request is primarily and fundamentally for non-commercial purposes.¹⁰ As a 501(c)(3) nonprofit, American Oversight does not have a commercial purpose and the release of the information requested is not in American Oversight's financial interest. American Oversight's mission is to promote transparency in government, to educate the public about government activities, and to ensure the accountability of government officials. American Oversight uses the information gathered, and its analysis of it, to educate the public through reports, press releases, or other media. American Oversight

⁷ 5 U.S.C. § 552(a)(4)(A)(iii).

⁸ See, e.g., Sam Biddle, "LexisNexis to Provide Giant Database of Personal Information to ICE" (April 2, 2021) <https://theintercept.com/2021/04/02/ice-database-surveillance-lexisnexis/>; Alvaro M. Bedoya, "The Cruel New Era of Data-Driven Deportation," *Slate* (September 22, 2020) <https://slate.com/technology/2020/09/palantir-ice-deportation-immigrant-surveillance-big-data.html>; Chantal Da Silva, "City Refuses To Let ICE Track License Plates With 'Digital Deportation Machine,'" *Newsweek* (Feb. 14, 2018) <https://www.newsweek.com/city-refuses-let-ice-track-licenses-places-digital-deportation-machine-806845>

⁹ Department of Homeland Security, *U.S. Immigration and Customs Enforcement: Budget Overview (Fiscal Year 2021 Congressional Justification)*, https://www.dhs.gov/sites/default/files/publications/u.s._immigration_and_customs_enforcement.pdf (accessed: May 19, 2021).

¹⁰ See 5 U.S.C. § 552(a)(4)(A)(iii).

also makes materials it gathers available on its public website and promotes their availability on social media platforms, such as Facebook and Twitter.¹¹

American Oversight has also demonstrated its commitment to the public disclosure of documents and creation of editorial content through regular substantive analyses posted to its website.¹² Examples reflecting this commitment to the public disclosure of documents and the creation of editorial content include the posting of records related to the Trump Administration's contacts with Ukraine and analyses of those contacts;¹³ posting records and editorial content about the federal government's response to the Coronavirus pandemic;¹⁴ posting records received as part of American Oversight's "Audit the Wall" project to gather and analyze information related to the administration's proposed construction of a barrier along the U.S.-Mexico border, and analyses of what those records reveal;¹⁵ the posting of records related to an ethics waiver received by a senior Department of Justice attorney and an analysis of what those records demonstrated regarding the Department's process for issuing such waivers;¹⁶ and posting records and analysis of federal officials' use of taxpayer dollars to charter private aircraft or use government planes for unofficial business.¹⁷

¹¹ American Oversight currently has approximately 15,600 page likes on Facebook and 106,000 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited March 29, 2021); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited March 29, 2021).

¹² See generally *News*, American Oversight, <https://www.americanoversight.org/blog>.

¹³ *Trump Administration's Contacts with Ukraine*, American Oversight, <https://www.americanoversight.org/investigation/the-trump-administrations-contacts-with-ukraine>.

¹⁴ See generally *The Trump Administration's Response to Coronavirus*, American Oversight, <https://www.americanoversight.org/investigation/the-trump-administrations-response-to-coronavirus>; see, e.g., *CDC Calendars from 2018 and 2019: Pandemic-Related Briefings and Meetings*, American Oversight, <https://www.americanoversight.org/cdc-calendars-from-2018-and-2019-pandemic-related-briefings-and-meetings>.

¹⁵ See generally *Audit the Wall*, American Oversight, <https://www.americanoversight.org/investigation/audit-the-wall>; see, e.g., *Border Wall Investigation Report: No Plans, No Funding, No Timeline, No Wall*, American Oversight, <https://www.americanoversight.org/border-wall-investigation-report-no-plans-no-funding-no-timeline-no-wall>.

¹⁶ *DOJ Records Relating to Solicitor General Noel Francisco's Recusal*, American Oversight, <https://www.americanoversight.org/document/doj-civil-division-response-noel-francisco-compliance>; *Francisco & the Travel Ban: What We Learned from the DOJ Documents*, American Oversight, <https://www.americanoversight.org/francisco-the-travel-ban-what-we-learned-from-the-doj-documents>.

¹⁷ See generally *Swamp Airlines: Chartered Jets at Taxpayer Expense*, American Oversight, <https://www.americanoversight.org/investigation/swamp-airlines-private-jets-taxpayer-expense>; see, e.g., *New Information on Pompeo's 2017 Trips to His Home State*, American Oversight, <https://www.americanoversight.org/new-information-on-pompeos-2017-trips-to-his-home-state>.

Accordingly, American Oversight qualifies for a fee waiver.

Guidance Regarding the Search & Processing of Requested Records:

In connection with its request for records, American Oversight provides the following guidance regarding the scope of the records sought and the search and processing of records:

- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics. For instance, if the request seeks “communications,” please search all locations likely to contain communications, including relevant hard-copy files, correspondence files, appropriate locations on hard drives and shared drives, emails, text messages or other direct messaging systems (such as iMessage, WhatsApp, Signal, or Twitter direct messages), voicemail messages, instant messaging systems such as Lync or ICQ, and shared messages systems such as Slack.
- In conducting your search, please understand the terms “record,” “document,” and “information” in their broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions.
- Our request for records includes any attachments to those records or other materials enclosed with those records when they were previously transmitted. To the extent that an email is responsive to our request, our request includes all prior messages sent or received in that email chain, as well as any attachments to the email.
- Please search all relevant records or systems containing records regarding agency business. Do not exclude records regarding agency business contained in files, email accounts, or devices in the personal custody of your officials, such as personal email accounts or text messages. Records of official business conducted using unofficial systems or stored outside of official files are subject to the Federal Records Act and FOIA.¹⁸ It is not adequate to rely on policies and procedures that require officials to move such information to official systems within a certain period of time; American Oversight has a right to records contained in those files even if material has not yet been moved to official systems or if officials have, by intent or through negligence, failed to meet their obligations.¹⁹

¹⁸ See *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, 827 F.3d 145, 149–50 (D.C. Cir. 2016); cf. *Judicial Watch, Inc. v. Kerry*, 844 F.3d 952, 955–56 (D.C. Cir. 2016).

¹⁹ See *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, No. 14-cv-765, slip op. at 8 (D.D.C. Dec. 12, 2016).

- Please use all tools available to your agency to conduct a complete and efficient search for potentially responsive records. Agencies are subject to government-wide requirements to manage agency information electronically,²⁰ and many agencies have adopted the National Archives and Records Administration (NARA) Capstone program, or similar policies. These systems provide options for searching emails and other electronic records in a manner that is reasonably likely to be more complete than just searching individual custodian files. For example, a custodian may have deleted a responsive email from his or her email program, but your agency’s archiving tools may capture that email under Capstone. At the same time, custodian searches are still necessary; agencies may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.
- In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. If a request is denied in whole, please state specifically why it is not reasonable to segregate portions of the record for release.
- Please take appropriate steps to ensure that records responsive to this request are not deleted by the agency before the completion of processing for this request. If records potentially responsive to this request are likely to be located on systems where they are subject to potential deletion, including on a scheduled basis, please take steps to prevent that deletion, including, as appropriate, by instituting a litigation hold on those records.

Conclusion

If you have any questions regarding how to construe this request for records or believe that further discussions regarding search and processing would facilitate a more efficient production of records of interest to American Oversight, please do not hesitate to contact American Oversight to discuss this request. American Oversight welcomes an opportunity to discuss its request with you before you undertake your search or incur search or duplication costs. By working together at the outset, American Oversight and your agency can decrease the likelihood of costly and time-consuming litigation in the future.

Where possible, please provide responsive material in an electronic format by email. Alternatively, please provide responsive material in native format or in PDF format on a USB drive. Please send any responsive material being sent by mail to American Oversight, 1030 15th Street NW, Suite B255, Washington, DC 20005. If it will

²⁰ Presidential Memorandum—Managing Government Records, 76 Fed. Reg. 75,423 (Nov. 28, 2011), <https://obamawhitehouse.archives.gov/the-press-office/2011/11/28/presidential-memorandum-managing-government-records>; Office of Mgmt. & Budget, Exec. Office of the President, Memorandum for the Heads of Executive Departments & Independent Agencies, “Managing Government Records Directive,” M-12-18 (Aug. 24, 2012), <https://www.archives.gov/files/records-mgmt/m-12-18.pdf>.

accelerate release of responsive records to American Oversight, please also provide responsive material on a rolling basis.

We share a common mission to promote transparency in government. American Oversight looks forward to working with your agency on this request. If you do not understand any part of this request, please contact Hart Wood at foia@americanoversight.org or by phone at 202-873-1743. Also, if American Oversight's request for a fee waiver is not granted in full, please contact us immediately upon making such a determination.

Sincerely,

/s/ Hart Wood
Hart Wood
on behalf of
American Oversight