

Subject: Fwd: Data on which John Morton relied for letter to the editor published in May 27, 2013 New Yorker

From: Jackie Stevens <jacqueline-stevens@northwestern.edu>

Date: 11/9/2014 1:08 PM

To: ICE-FOIA@dhs.gov

CC: Louis.T.Fuss@ice.dhs.gov

BCC: andrew@immigrantcivilrights.com

To Whom It May Concern,

I am writing to follow up on my May 29, 2013 FOIA request for materials on which John Morton relied in his New Yorker letter to the editor (see below), assigned case number 2013FOIA21895.

I have received no items responsive to this request. At this point, ICE has exceeded the maximum time allowed under law by 499 days. ICE also has removed from its website the case tracking interface, and it is not making FOIA tracking information available on FOIAonline.gov, as have other agencies.

It appears as though I may need to take this matter to a federal judge. In the interests of saving taxpayer money, I am writing, as I have done before, to see if it is possible to avoid litigation. I would appreciate it if someone from your office could contact me this week and assure me of a time frame for the immediate release of these requested documents. The failure to respond to this and my other requests appears to be part of a deliberate policy to deprive the public of real-time information for the sole purpose of avoiding agency embarrassment.

I understand that the responsibility for this delay is not with the FOIA office but the ICE components I understand were tasked with providing the relevant documents. I

am very concerned that the components are failing to respond simply as a tactic to avoid embarrassment, a lack of integrity that goes to the substance of the response I am pursuing.

When I first started researching the detention and deportation of US citizens, ICE categorically denied it ever happened. Then, after repeated reporting, including my 2011 law review article documenting this as systemic, ICE admitted it happened but, John Morton claimed, ICE had stopped this. I can document that this was a false statement. The American public has a strong policy interest in being able to hold ICE accountable for the detention and deportation of US citizens -- one Congress mandated through the Freedom of Information Act ICE responsiveness. The unconscionable delay in the release of the information I requested thwarts Congress's intent and the law.

Two recent developments further urge your expedited response: 1) Information received from a recent FOIA response from another agency indicating that in the time frame since Morton wrote this letter hundreds of US citizens have been held in ICE detention; 2) correspondence and communications with someone who appears to be a naturalized US citizen presently in ICE custody.

In light of the numerous articles published on ICE custody and the attention to this matter from Congress, I believe this request today meets the criteria for an expedited release, as it did 499 days ago. For specific references, please see two articles in national magazines spanning this time frame:

"The Deportation Machine," William Finnegan, *New Yorker*, April 29, 2012; Victoria Bekiempis, "Why Did Immigration and Customs Enforcement Detain a U.S. Citizen for Three and a Half Years?" Nov. 6, 2014, <http://www.newsweek.com/why-did-immigration-and-customs-enforcement-detain-us-citizen-3-and-half-years-282509>. And, as I point out in my initial request, Morton himself considered this important enough to himself write a letter to the *New Yorker*, clear evidence that US citizens in ICE custody is of great governmental as well as public interest.

I look forward to speaking with someone from your agency very soon.

Thank you for your time and thought.

Jackie Stevens (847) 467-2093.

----- Original Message -----

Subject: Data on which John Morton relied for letter to the editor published in May 27, 2013 New Yorker

Date: Wed, 29 May 2013 22:24:16 -0500

From: Jackie Stevens <jacqueline-stevens@northwestern.edu>

To: ICE-FOIA@dhs.gov

To Whom It May Concern,

On May 27, 2013, the New Yorker magazine published a letter written by John Morton, Director, Immigration and Customs Enforcement.

That letter states: "William Finnegan's article about Mark Lyttle, an American citizen deported by his country, depicts a rare and unfortunate case dating back to 2008 that is in no way representative of our agency's record ("The Deportation Machine," April 29th)." The letter goes on to state that reforms undertaken in the meantime have addressed the problem of ICE detaining and deporting US citizens.

http://www.newyorker.com/magazine/letters/2013/05/27/130527mama_mail1

I write under the Freedom of Information Act to request:

1) All systems data--including spreadsheet data on deportation order terminations by immigration judges or the Board of Immigration Appeals-- as well as all memoranda, reports, email, and all other communications, including but not confined to correspondence with the ICE Office of General Counsel and Public Affairs on which John Morton relied for his assertion that reforms since 2008 have decreased the number of US citizens ICE is detaining or deporting.

2) I am requesting a copy of current ICE protocols for when agents or attorneys encounter individuals with probative evidence of US citizenship;

3) I am requesting all email correspondence and attachments for January 1, 2013 to present sent to the current USC dropbox email address required by current protocols for when ICE agents or attorneys encounter potential US citizens;

My articles on US citizens being deported has been reported in The Nation, The New York Times, and The New Yorker. In light of the recent letter and article on this topic published in the New Yorker, it is clear that this information is of extraordinary public interest and that

ICE itself recognizes this. I am therefore requesting an expedited response to this request.

As I will be using this information for my scholarship, journalism, and teaching I am requesting a fee waiver.

Thank you for your assistance.

Sincerely,

Jacqueline Stevens

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Jacqueline Stevens

Professor

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