Victoria Lopez (Bar No. 330042)**
Daniel J. Pochoda (Bar No. 021979)
James Duff Lyall (Bar No. 330045)**
ACLU FOUNDATION OF ARIZONA
3707 North 7th Street, Suite 235
Phoenix, AZ 85014
T: (602) 650-1854
F: (602) 650-1376
vlopez@acluaz.org
dpochoda@acluaz.org
jlyall@acluaz.org

David Loy*
Mitra Ebadolahi*
ACLU FOUNDATION OF SAN DIEGO AND IMPERIAL COUNTIES
P.O. Box 87131
San Diego, CA 92138
T: (619) 232-2121
F: (619) 232-0036
davidloy@aclusandiego.org
mebadolahi@aclusandiego.org

Whitty Somvichian*
Aarti Reddy*
COOLEY LLP
101 California Street, 5th Floor
San Francisco, CA 94111
T: (415) 693-2000
F: (415) 693-2222
wsomvichian@cooley.com
areddy@cooley.com

** Pro hac vice motions forthcoming*
***Admitted pursuant to Ariz. Sup. Ct. R. 38(f)*

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

AMERICAN CIVIL LIBERTIES UNION OF ARIZONA; AMERICAN CIVIL LIBERTIES UNION OF SAN DIEGO AND IMPERIAL COUNTIES, *Plaintiffs* v. OFFICE FOR CIVIL RIGHTS AND CIVIL LIBERTIES, U. S. DEPARTMENT OF HOMELAND SECURITY; OFFICE OF INSPECTOR GENERAL, U.S. DEPARTMENT OF HOMELAND SECURITY; UNITED STATES CUSTOMS AND BORDER PROTECTION; UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT; UNITED STATES DEPARTMENT OF HOMELAND SECURITY, *Defendants*	CASE NO.: **COMPLAINT FOR INJUNCTIVE RELIEF**

INTRODUCTION

1. This is an action under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, for injunctive and other appropriate relief, seeking the immediate processing and release of agency records improperly withheld by Defendants United States Department of Homeland Security ("DHS") and its sub-agencies Immigration and Customs Enforcement ("ICE"), United States Customs and Border Protection ("CBP"), the DHS Office of Inspector General ("OIG), and the DHS Office for Civil Rights and Civil Liberties ("CRCL") (collectively "Defendants") in response to FOIA requests properly made by Plaintiffs American Civil Liberties Union of Arizona ("ACLU of Arizona") and American Civil Liberties Union of San Diego and Imperial Counties ("ACLU of San Diego").

2. On December 3, 2014, Plaintiffs submitted a FOIA request (the "Request") to Defendant DHS seeking records related to abuse and mistreatment of children in the custody of Defendant CBP and its sub-agency, the Office of Border Patrol. A copy of the Request is attached hereto as Exhibit A. Plaintiffs seek the requested records in order to shed light on longstanding allegations of abusive treatment of children by Border Patrol, including prolonged detention in degrading and inhumane conditions, as well as DHS oversight agencies' handling of those allegations.

3. To date, Defendants have not responded to Plaintiffs' Request.

JURISDICTION AND VENUE

4. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

5. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B).

6. Defendants have failed to respond to Plaintiffs' Request within the statutory time limit, such that Plaintiffs are deemed to have exhausted the applicable administrative remedies. 5 U.S.C. § 552(a)(6)(C)(i).

PARTIES

7. Plaintiffs are state affiliate organizations of the national American Civil Liberties Union ("National ACLU"), with over 7,000 supporters in Arizona and 15,000 supporters in San Diego and Imperial Counties. National ACLU is a nationwide, non-profit, non-partisan organization dedicated to protecting civil liberties and human rights in the United States. It is the largest civil liberties organization in the country, with offices in fifty states and over 500,000 members. The ACLU works daily in courts, legislatures, and communities to defend and preserve the individual rights and liberties that the Constitution and laws of the United States guarantee everyone in this country. The organization has a particular commitment to ensuring that fundamental constitutional protections of due process and equal protection are extended to every person, regardless of citizenship or immigration status, and that the government respects the civil and human rights of all people.

8. Plaintiffs publish newsletters, news briefings, right-to-know handbooks, and other materials that are disseminated to the public. These materials are widely available to everyone, including tax-exempt organizations, non-profit groups, and law students and faculty, for no cost. The ACLU also disseminates information through its websites, including www.aclu.org, www.acluaz.org, and www.aclusandiego.org. These websites address civil liberties issues in depth, provide features on civil liberties issues in the news, and contain hundreds of documents that relate to issues addressed by the ACLU, including documents obtained through the FOIA. The ACLU also publishes a widely-read blog and electronic newsletter, which is distributed to subscribers by e-mail.

9. Defendant DHS is an Office of the Executive Branch of the United States Government. DHS is an "agency" within the meaning of FOIA, 5 U.S.C. § 552(f)(1). DHS includes Immigration and Customs Enforcement ("ICE"), Customs and Border Protection ("CBP") and the Office of Border Patrol, as well as DHS oversight agencies including the Office of Inspector General ("OIG"), CBP Internal Affairs, ICE Office of Professional

Responsibility, and the Office for Civil Rights and Civil Liberties ("CRCL"). Upon information and belief, DHS has possession and control over the records sought by Plaintiffs.

10. Defendant ICE is a component of DHS and an "agency" within the meaning of FOIA, 5 U.S.C. § 552(f)(1). Upon information and belief, ICE has possession and control over records sought by Plaintiffs.

11. Defendant CBP is a component of DHS and includes sub-agency Office of Border Patrol. CBP is an "agency" within the meaning of FOIA, 5 U.S.C. § 552(f)(1). Upon information and belief, CBP has possession and control over records sought by Plaintiffs.

12. Defendant OIG is a component of DHS and is an "agency" within the meaning of FOIA, 5 U.S.C. § 552(f)(1). Upon information and belief, OIG has possession and control over records sought by Plaintiffs.

13. Defendant CRCL is a component of DHS with responsibility for investigating civil rights complaints involving DHS policies and personnel. CRCL is an "agency" within the meaning of FOIA, 5 U.S.C. § 552(f)(1). Upon information and belief, CRCL has possession and control over records sought by Plaintiffs.

FACTS

14. The abuse and mistreatment of children in U.S. Border Patrol custody is well-documented. Numerous reports and hundreds of complaints filed with DHS oversight bodies have consistently described physical and verbal abuse and deplorable conditions in Border Patrol hold rooms—including harsh temperatures, severe overcrowding, and denial of adequate hygiene supplies, bedding, food, water, and medical care.[1] Border Patrol hold

[1] *See, e.g.*, NATIONAL IMMIGRANT JUSTICE CENTER, UNACCOMPANIED IMMIGRANT CHILDREN: A POLICY BRIEF (2014), *available at* http://bit.ly/1o2RT4B; AMERICANS FOR IMMIGRANT JUSTICE, THE HIELERAS (2013), *available at* http://bit.ly/1AcleeW; THE CENTER FOR LATIN AMERICAN STUDIES, UNIV. OF ARIZONA, IN THE SHADOW OF THE WALL: FAMILY SEPARATION, IMMIGRATION ENFORCEMENT AND SECURITY (2013), *available at* http://bit.ly/1n0QRRt; KINO BORDER INITIATIVE, DOCUMENTED FAILURES: THE CONSEQUENCES OF IMMIGRATION POLICY AT THE U.S.-MEXICO BORDER (2013), *available at* http://bit.ly/1pa3UVo; Daniel E. Martinez et al., BORDERING ON CRIMINAL:

rooms are not designed for prolonged detention—there are no beds or showers, and detainees are denied recreation—yet children, including infants and toddlers, are detained in these degrading conditions for days on end.[2]

15. On June 11, 2014, the ACLU and partner organizations submitted a complaint on behalf of 116 unaccompanied immigrant children to Defendants CRCL and OIG, alleging abuse and mistreatment of children in Border Patrol custody.[3] One quarter of these children reported physical abuse, including sexual assault, beatings, and the use of stress positions by Border Patrol agents, and more than half reported various forms of verbal

---

THE ROUTINE ABUSE OF MIGRANTS IN THE REMOVAL SYSTEM (2012), *available at* http://bit.ly/1cBbxwb; WOMEN'S REFUGEE COMMISSION, FORCED FROM HOME: THE LOST BOYS AND GIRLS OF CENTRAL AMERICA (2012), *available at* http://bit.ly/1idNuUo; NO MORE DEATHS, A CULTURE OF CRUELTY: ABUSE AND IMPUNITY IN SHORT-TERM U.S. BORDER PATROL CUSTODY (2011), *available at* http://bit.ly/1prrx9z; APPLESEED, CHILDREN AT THE BORDER: THE SCREENING, PROTECTION AND REPATRIATION OF UNACCOMPANIED MEXICAN MINORS (2011), *available at* http://bit.ly/1mt5hbi; FLORENCE IMMIGRANT AND REFUGEE RIGHTS PROJECT, SEEKING PROTECTION, ENDURING PROSECUTION: THE TREATMENT AND ABUSE OF UNACCOMPANIED UNDOCUMENTED CHILDREN IN SHORT-TERM IMMIGRATION DETENTION (2009), *available at* http://bit.ly/1prrCKx; WOMEN'S REFUGEE COMMISSION, HALFWAY HOME: UNACCOMPANIED IMMIGRANT CHILDREN IN IMMIGRATION CUSTODY (2008), *available at* http://bit.ly/1hvPc8M; NO MORE DEATHS, CROSSING THE LINE: HUMAN RIGHTS ABUSES OF MIGRANTS IN SHORT-TERM CUSTODY ON THE ARIZONA/SONORA BORDER (2008), *available at* http://bit.ly/1ztSVvF; *see also, e.g.*, Ed Pilkington, *Freezing Cells and Sleep Deprivation: The Brutal Conditions Migrants Still Face After Capture*, GUARDIAN, Dec. 12, 2014, *available at* http://bit.ly/1uxlzVi ("Among those subjected to harsh treatment… are numerous children. Children have described temperatures in the cells that turned their lips blue and made their fingers number.").

[2] *See, e.g.*, Ed Pilkington, *'It Was Cold, Very Cold': Migrant Children Endure Border Patrol 'Ice Boxes'*, GUARDIAN, Jan. 26, 2015, *available at* http://bit.ly/1H4xZzf ("Tatiana was 16 at the time of her detention, a child herself. 'The room was so cold you almost couldn't breathe, it made your nose hurt,' she said. There was no bedding, not even a blanket, and she slept fitfully with [her infant son] Rafael in her arms. After a few days the baby caught a cold and stopped eating solids, and for a couple of days he wouldn't even take his mother's milk. His weight fell from 23lbs when he arrived at the border station to 15lbs.").

[3] *See* ACLU, COMPLAINT AND REQUEST FOR INVESTIGATION, June 11, 2014, *available at* http://bit.ly/XqyyOt.

abuse, including death threats. Many reported being denied blankets and bedding and attempting to sleep on the floors of unsanitary, overcrowded, and frigid cells. Roughly half of the children reported being denied medical care, including several who eventually required hospitalization. Eighty percent described inadequate provision of food and water, and nearly as many were detained by Border Patrol beyond the legally mandated seventy-two hour maximum. These children's allegations were consistent with numerous NGO reports and hundreds of complaints dating back several years.

16. The sheer volume and consistency of these complaints point to systemic deficiencies in Border Patrol's detention policies and practices, and yet the full extent of these problems is still unknown. Border Patrol restricts access to detention facilities such that attorneys, advocates, and family members are generally prohibited from meeting with detainees, many of whom are held incommunicado for days. Immigrant children—like all immigrants—have no guarantee of legal counsel in removal proceedings; without legal representation, children are far less likely to report abuse or pursue civil rights complaints involving government officials. Additionally, the Office of Refugee Resettlement ("ORR")—which houses large numbers of unaccompanied children following their apprehension by Border Patrol—lacks clear and consistent guidelines for detecting and reporting child abuse allegations involving Border Patrol, though such complaints are common.[4] For these reasons, it is likely that much if not most abuse involving children in Border Patrol custody goes unreported.

---

[4] In 2014, the Houston Chronicle obtained a series of ORR special incident reports which contained approximately eighty-two separate cases of children alleging abuse by immigration officials, the vast majority involving Border Patrol. Children described being denied food, water, and medical care; being subjected to verbal and physical assaults and inhumane detention conditions; and having their personal property destroyed. Some of these cases were reported by shelter workers to child protection agencies, while others were not. The incident reports do not indicate whether those agencies, CBP, or any other part of DHS investigated or otherwise followed up on any of the allegations. *See also* Jessica Bakeman, *New York quietly expands role in caring for immigrant children*, CAPITAL NEW YORK, Oct. 20, 2014, *available at* http://bit.ly/1wn2zOU ("When the children arrive at New York-area airports from the federal facilities, they often require extensive medical care for

17. DHS officials are well aware that Border Patrol detains children in inhumane conditions, yet have allowed those conditions to persist. In response to the ACLU's June 2014 complaint, CBP Commissioner Gil Kerlikowske acknowledged that complaints regarding Border Patrol hold room conditions were "absolutely spot-on."[5] Commissioner Kerlikowske and DHS's OIG initially indicated they would conduct a thorough investigation.[6] Notwithstanding the agency's acknowledgment of "recurring problems" in CBP detention facilities, however, on October 6, 2014—less than four months after announcing its investigation—OIG reported it would be "curtailing routine inspections," and has issued no subsequent findings or taken any other public action in response to the complaint.[7]

18. The failure of DHS to address complaints of child abuse and mistreatment by Border Patrol reflects broader dysfunction within the agency. DHS oversight agencies have not kept pace with Border Patrol's rapid growth and are ill-equipped to provide transparent and effective oversight and accountability for rights violations by agents.[8]

---

broken bones that healed improperly or illnesses such as appendicitis and pneumonia, nonprofit officials said . . . 'Some of them have not eaten for long periods of time,' said Henry Ackermann, chief development officer at [ORR subcontracted] Abbott House . . . 'They come to us malnourished. They come to us sometimes with unset broken arms or legs, with bronchial or respiratory issues.'").

[5] National Public Radio, *Transcript: Commissioner Kerlikowske's Full Interview*, July 18, 2014, *available at* http://n.pr/1kCh2wg.

[6] *See Unaccompanied Minor Children*, CSPAN, June 12, 2014, http://cs.pn/YWfJEr.

[7] Press Release, Department of Homeland Security Office of Inspector General, Improvements Continue at Detention Centers (Oct. 6, 2014), *available at* http://1.usa.gov/1oKw2Kq.

[8] Following the ouster of CBP's Office of Internal Affairs chief, James Tomsheck, in June 2014, several high ranking U.S. government officials described CBP's consistent efforts to thwart meaningful investigations into misconduct within the agency. *See* Andrew Becker, *Removal of Border Agency's Internal Affairs Chief Raises Alarms*, CTR. FOR INVESTIGATIVE REPORTING, June 12, 2014, *available at* http://bit.ly/1odP2Rr. Tomsheck himself described CBP as an agency "rife with coverups and corruption" where officials have "distorted facts to try to hide any missteps." Andrew Becker, *Border Agency's Former Watchdog Says Officials Impeded His Efforts*, WASH. POST, Aug. 16, 2014, *available at*

19. In May 2014, the American Immigration Council reported that ninety-seven percent of the 809 abuse complaints filed against Border Patrol agents between January 2009 and January 2012 resulted in the classification "no action taken."[9] Approximately sixty of these complaints involved abuse of immigrant children, including one case in which a child reported that an agent "hit him on the head with a metal flashlight 20 times, kicked him five times, and pushed him down a hill."[10] DHS's lack of response in these cases is consistent with the experiences of advocates who have filed numerous complaints with DHS, only to be dismissed or ignored outright.[11]

20. Despite the overwhelming number of abuse allegations, few Border Patrol agents are known to have faced any disciplinary action for abusing children in custody.[12]

---

http://wapo.st/1wGHdc9; *see also* Carrie Johnson, *Former Border Protection Insider Alleges Corruption, Distortion in Agency*, NPR, Aug. 28, 2014, *available at* http://n.pr/1wGGPdv ("'I believe the system was clearly engineered to interfere with our efforts to hold the Border Patrol accountable,' [Tomsheck] says."); Anne Werner, *Border Patrol Killings Face Renewed Scrutiny*, CBS NEWS, Aug. 18, 2014, *available at* http://cbsn.ws/XXNUui ("'There were certainly many cases where border patrol agents or certainly CBP officers engaged in excessive use of force or abuse of migrants at the border that should have resulted in discipline where it did not,' Tomsheck says.").

[9] AMERICAN IMMIGRATION COUNCIL, NO ACTION TAKEN: LACK OF CBP ACCOUNTABILITY IN RESPONDING TO COMPLAINTS OF ABUSE 8 (2014), *available at* http://bit.ly/1ozFIdd.

[10] Damien Cave, *Complaints of Abuse by Border Agents Often Ignored, Records Show*, N.Y. TIMES, May 5, 2014, *available at* http://nyti.ms/1iTzDY5.

[11] *See, e.g.*, CULTURE OF CRUELTY *supra* n.2, at 44 ("[S]ince January 2010, Arizona organizations . . . have filed more than *seventy-five* complaints of Border Patrol abuse with the Department of Homeland Security's Office of Civil Rights and Civil Liberties . . . To our knowledge, DHS has taken no action to redress the abuse detailed in these complaints."). The ACLU is still waiting for substantive responses to multiple civil rights complaints filed with OIG and CRCL—including a January 15, 2014 complaint filed on behalf of fifteen individuals describing abuse and harassment at Border Patrol interior checkpoints; an October 9, 2013 complaint on behalf of five individuals alleging rights violations arising from Border Patrol "roving patrol" operations; and a complaint filed May 9, 2012 on behalf of eleven individuals reporting various abuses by CBP agents at southern Ports of Entry.

[12] In one recent case—the only example known to Plaintiffs of an agent facing disciplinary action for abusing children—Border Patrol agent Aldo Francisco Arteaga was reported by supervisors after being caught on a surveillance camera punching a child in custody. *See*

By failing to meaningfully investigate or otherwise respond to consistent reports of systemic abuse, DHS and CBP officials have demonstrated a continuing disregard for the civil and human rights of children in their custody, and may have violated state and federal child abuse reporting laws.[13]

21. The failure of DHS to produce the documents requested by Plaintiffs violates the FOIA and impedes Plaintiffs' efforts to educate the public on matters of pressing public concern—namely, the mistreatment of children in Border Patrol custody and the adequacy of DHS oversight mechanisms to detect and respond to recurring allegations of misconduct by officials of the largest law enforcement agency in the country.

PLAINTIFFS' FOIA REQUEST

22. In letters sent by e-mail and certified postal mail to Defendant DHS's FOIA Officer Karen Neuman on December 3, 2014, Plaintiffs submitted a FOIA request for records concerning allegations of abuse and mistreatment of children in Border Patrol custody and the handling of those allegations by DHS oversight agencies. A copy of the Request is attached hereto as Exhibit A, and the Request is hereby incorporated by reference.

23. Plaintiffs requested Expedited Processing of the Request pursuant to 5 U.S.C. § 552(a)(6)(E)(i) and 5 U.S.C. § 552(a)(6)(E)(v). Plaintiffs also requested a Fee Waiver for the Request pursuant to 6 C.F.R. § 5.11(b)(4) and (d)(1), and alternatively, 6 C.F.R. § 5.11(k). *See* Exhibit A.

24. Upon information and belief, Defendant DHS received the Request described in ¶ 22 no later than December 11, 2014,[14] and subsequently forwarded the Request or

---

Brian Bennett and Cindy Carcamo, *Border Patrol Agents Charged in Assault on 14-Year-Old Boy*, L.A. TIMES, Sept. 25, 2014, *available at* http://lat.ms/1rGH1Ii.

[13] *See, e.g.*, Victims of Child Abuse Act of 1990; 42 U.S.C. § 13031; 28 C.F.R. § 81.2–81.3.

[14] On January 22, 2015, Plaintiffs received an e-mail from Defendant OIG. That e-mail included as an attachment a copy of Plaintiffs' FOIA Request, with a file stamp indicating it was received by Defendant DHS on December 11, 2014. Thus, although Plaintiffs submitted the Request to DHS via e-mail on December 3, 2014, for purposes of this

portions of the Request to various DHS sub-agencies, including Defendants CBP, ICE, CRCL and OIG.

25. On December 16, 2014, Plaintiffs received an acknowledgment of receipt via e-mail from Defendant CRCL. A copy of that e-mail is attached hereto as Exhibit B.

26. On December 19, 2014, Plaintiffs received an e-mail from Defendant ICE denying Plaintiffs' request for expedited processing and waiver of fees, and invoking a ten-day extension to respond to the Request under 5 U.S.C. § 552(a)(6)(B). A copy of that e-mail is attached hereto as Exhibit C.

27. On January 9, 2015, Plaintiffs received a second e-mail from CRCL, which did not commit to producing the requested documents and instead sought a modification of Plaintiffs' Request, and a follow up e-mail on January 20, 2015. Copies of those e-mails are attached hereto as Exhibit D and Exhibit E, respectively.

28. On January 22, 2015, Plaintiffs received a letter from Defendant OIG, denying Plaintiffs' request for expedited processing, and invoking a ten-day extension to respond to the Request under 5 U.S.C. § 552(a)(6)(B).[15] A copy of that letter is attached hereto as Exhibit F.

29. On January 26, 2015, Plaintiffs responded via e-mail to CRCL, declining the agency's request to narrow the scope of Plaintiffs' FOIA Request. A copy of that e-mail is attached hereto as Exhibit G.

30. To date, other than the aforementioned correspondence, Plaintiffs have received no other communication regarding their Request from DHS or any of its component agencies. Specifically, Plaintiffs have not received a determination regarding their Request from Defendants or any of DHS's other component agencies.

Complaint, Plaintiffs will assume DHS received the Request on or before December 11, 2014.

[15] In its letter, OIG states that it received Plaintiffs' Request from DHS on January 15, 2015. DHS, however, was required to forward the Request to the relevant component agencies within ten business days of receipt—in this case, no later than December 26, 2014. 5 U.S.C. § 552(a)(6)(A)(ii).

31. Defendants therefore have not responded to Plaintiffs' Request as required by statute. 5 U.S.C. § 552(a)(6)(A)(i).

32. Defendant DHS received the Request no later than December 11, 2014, and its deadline to respond to the Request therefore elapsed on or before January 12, 2015.

33. Pursuant to 5 U.S.C. § 552 (a)(6)(A)(ii), Defendant CBP could have received the Request no later than December 26, 2014, and its deadline to respond to the Request therefore elapsed on or before January 27, 2015.

34. Defendant CRCL received the Request on December 15, 2014, and sought a modification of the Request on January 9, 2015. Plaintiffs responded to the request for modification on January 26, 2015. Pursuant to 5 U.S.C. § 552(a)(6)(ii)(I), CRCL's deadline to respond to the Request therefore elapsed on or before January 29, 2015.

35. Defendant ICE received the Request on December 19, 2014 and requested a ten-day extension pursuant to 5 U.S.C. § 552 (a)(6)(B)(i). Its deadline to respond to the Request therefore elapsed on or before February 4, 2015.

36. Pursuant to 5 U.S.C. § 552 (a)(6)(A)(ii), Defendant OIG could have received the Request no later than December 26, 2014, and requested a ten-day extension pursuant to 5 U.S.C. § 552 (a)(6)(B). Its deadline to respond to the Request therefore elapsed on or before February 10, 2015.

37. Because Defendants have failed to respond within the statutory time limit, Plaintiffs are deemed to have exhausted the applicable administrative remedies. 5 U.S.C. § 552(a)(6)(C)(i).

38. Upon information and belief, Defendants are in possession and have control over the records sought by Plaintiffs and have failed to make reasonable efforts to search for records responsive to Plaintiffs' Request.

39. Defendants have wrongfully withheld requested records from Plaintiffs.

CAUSES OF ACTION

40. Plaintiffs repeat, re-allege, and incorporate the allegations in the foregoing paragraphs as though fully set forth herein.

41. Each Defendant is an agency subject to FOIA, 5 U.S.C. § 552(f), and must therefore release in response to a FOIA request any disclosable records in its possession at the time of the request and provide a lawful reason for withholding any materials as to which it claims an exemption, under 5 U.S.C. § 552(a)(3).

42. Defendants have failed to make a reasonable effort to search for records sought by the Request, and that failure violates FOIA, 5 U.S.C. § 552(a)(3), and Defendants' corresponding regulations.

43. Defendants have failed to promptly make available the records sought by the Request, and that failure violates FOIA, 5 U.S.C. § 552(a)(6)(A), and Defendants' corresponding regulations.

44. Defendants have failed to process Plaintiffs' Request as soon as practicable, and that failure violates FOIA, 5 U.S.C. § 552(a)(6)(E), and Defendants' corresponding regulations.

45. Defendants have failed to grant Plaintiffs' request for a waiver of search, review, and duplication fees, and that failure violates FOIA, 5 U.S.C. § 552(a)(4), and Defendants' corresponding regulations. Further, Defendants have failed to grant Plaintiffs' request for a limitation of fees, and that failure violates FOIA, 5 U.S.C. § 552(a)(4)(6), and Defendants' corresponding regulations.

REQUESTED RELIEF

WHEREFORE, Plaintiffs pray that this Court:

A. Order Defendants to immediately process and release all records responsive to the Request;

B. Enjoin Defendants from charging Plaintiffs search, review, or duplication fees for the processing of the Request;

C. Award Plaintiffs their costs and reasonable attorneys' fees incurred in this action; and

D. Grant such other relief as the Court may deem just and proper.

DATED this 11th day of February, 2015.

ACLU FOUNDATION OF ARIZONA

By /s/ James Duff Lyall
Victoria Lopez
Daniel J. Pochoda
James Duff Lyall

ACLU FOUNDATION OF SAN DIEGO AND IMPERIAL COUNTIES

By /s/ Mitra Ebadolahi
David Loy
Mitra Ebadolahi

COOLEY LLP

By /s/ Whitty Somvichian
Aarti Reddy
Whitty Somvichian

Attorneys for Plaintiffs