

Appendix: A History of Human Rights Watch’s FOIA Request for Deportation Data

	Date	Description
1	March 15, 2006	Human Rights Watch and the Center for Human Rights and International Justice at Boston College submit FOIA request to DHS.
2	March 27, 2006	FOIA request is acknowledged by DHS, it is referred to Marshall Fields “for processing and direct response.”
3	April 2006	Human Rights Watch contacts Marshall Field’s offices to follow up on our request; we are directed to Mr. Sal Vakalahee who indicates that he cannot locate our request and asks that it be re-faxed to DHS. HRW re-faxes our request to DHS.
4	May 3, 2006	Mr. Vakalahee assigns us case number FOIA #06-22074, and asks that we transmit the original response sent by his own agency to HRW so that he may follow up. We fax DHS’s response letter back to DHS as requested.
5	May 18, 2006	Mr. Vakalahee indicates to an HRW staff member that the necessary information is located in the Office of Detention and Removal (ODRO) and that they may be able to combine our request with others they have recently received. Nevertheless, he claims that he has misplaced our original request and again asks that we fax it to his office, which we do on this date.
6	June 2006	Through multiple phone contacts with Mr. Vakalahee we learn that our request is pending with the ODRO.
7	July 2006	Mr. Vakalahee moves to the Office of Detention and Removal and informs HRW that he will no longer handle our file. Instead, we are directed to contact Ms. Margaret Elizalde, the director of that office.
8	July 20–24, 2006	HRW leaves voice messages with Ms. Elizalde.
9	July 25, 2006	Ms. Elizalde asks for more information about the reference number we were provided by Mr. Vakalahee. We were then told to contact Mr. Vakalahee, which we did and he explained that our request was “in a box” and we would be updated once the request was located.
10	August 10, 2006	Ms. Elizalde and Mr. Vakalahee explained that Mr. Vakalahee would be leaving the ODRO office and that we should continue to follow up with Ms. Elizalde.
11	August 11, 2006	Human Rights Watch faxed a modification of our original request to Ms. Elizalde, limiting our original request to one single year of records, August 11, 2005–August 11, 2006, in a good faith effort on the part of HRW to help expedite agency response to our request.
12	August 14, 2006	HRW spoke with Ms. Elizalde who indicated that we should have by Wednesday, August 16, 2006, some sense of the time it will take to produce the records. Ms. Elizalde also indicated that it might be possible that there would be no charge for the narrowed set of records.
13	August 18, 2006	HRW spoke with Linda Thomas, in Ms. Elizalde’s office, who informed us that all the data we required was available on line at https://www.uscis.gov/graphics/shared/statistics/publications
14	August 18, 2006	HRW left voicemail for Ms. Thomas explaining that HRW had already conducted thorough searches of all available data sources through USCIS, DRO, BJS, DOJ,

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		and BOP, and stated unequivocally that the original purpose of our FOIA was to obtain data that was not publicly available at any location, having thoroughly researched this issue prior to our March 2006 request.
15	August 18, 2006	HRW receives a cost estimate of \$7,946 for producing the records requested in FOIA #06-22074. This estimate makes no mention of our request for a fee waiver, filed with our original request six months previously in March 2006. We are informed by Ms. Thomas that the cost estimate would remain the same irrespective of whether DHS produced records for a single year as per our amended request—see above item 11—or 10 years as we originally requested.
16	September 11, 2006	Again in an effort to amicably resolve the matter, HRW emails Ms. Thomas and Ms. Elizalde to make two alternative requests: First, that DHS make a decision to grant HRW and Boston College a fee waiver, or that DHS supply HRW and Boston College with CD-Roms containing all data for aliens removed on criminal grounds (as defined in the original request).
17	September 21, 2006	HRW contacts DHS to find out their response to our queries of September 11, 2006. We are told to contact Margaret Elizalde. Ms. Elizalde informs us that “a preliminary response was received but more detail is expected.”
18	October 3, 2006	HRW emails DHS to ask for an update on status of our request.
19	October 4, 2006	Ms. Thomas writes to say that they will be “in touch in the near future.”
20	October 5, 2006	HRW contacts DHS to offer that we will travel to Washington DC to meet with the relevant officials to seek a response to our request.
21	October 12, 2006	Ms. Thomas writes to say that they are “diligently working on a resolution.” HRW writes back to inform DHS that DOJ recently sent us data in response to a FOIA request without charging any fees.
22	October 18, 2006	Ms. Thomas tells HRW that our request is being reviewed by the legal advisor’s office.
23	October 31, 2006	HRW is told again that our request is pending with the legal advisor’s office. HRW writes to request additional family-related data to our pending request (based on new information provided to HRW). We also reiterate our offer to receive all records regarding “criminal removals” and conduct the data analysis ourselves and to stipulate to preserve the confidentiality of non-responsive or confidential records.
24	November 2, 2006	HRW is informed by DHS that the legal advisor’s office is expected to make its decision by early the following week.
25	November 13, 2006	HRW is told that the legal advisor’s office still has not rendered its decision.
26	November 20, 2006	HRW receives a letter response to our request modifying FOIA #06-22074 (see item 23, above) indicating once again that the data we seek is available online, a claim which we know to be false and have explained as such (see item 13, above).
27	November 21, 2006	HRW responds to DHS letter in correspondence sent from Executive Director Kenneth Roth pointing out the need for a timely response and the unresponsive treatment our request has thus far received.
28	November 30, 2006	DHS General Counsel letter announcing treatment of case as appeal.
29	December 6,	DHS letter setting forth additional items in response to November 21, 2006

	Date	Description
	2006	letter.
30	December 15, 2006	HRW responds to DHS letter, pointed out several factual inaccuracies, as well as legal inaccuracies, and reiterating our request for a timely response.
31	January 4, 2007	HRW places calls to follow up on December 15 letter.
32	January 12, 2007	DHS calls HRW to explain it will take immediate action to determine whether a fee waiver can be granted.
33	January 22, 2007	HRW receives three-page letter denying our FOIA request in full from DHS and ODRO.
34	January 23, 2007	HRW meets with pro bono counsel to discuss litigation in response to denial letter.
35	January 25, 2007	As decided during meeting with counsel on January 23, 2007, HRW makes final telephone approach to contacts in DRO and DHS to propose a narrowed request that would be less onerous on the agency.
36	January 29, 2007	ODRO and DHS inform HRW that no further discussions can be had on the original request since that FOIA file is closed and that a separate and new FOIA request must be submitted.
37	January 29, 2007	DHS contacts HRW to explain that they are willing to discuss FOIA with HRW; a call is scheduled for the following day.
38	January 30, 2007	ODRO contacts HRW to explain that they have changed their position and are now willing to discuss an amicable resolution with HRW.
39	January 30, 2007	Margaret Elizalde (ODRO) and Alison Parker (HRW) have telephone conversation in which HRW proposes narrowed request from 17 items to 5 as an amicable means by which HRW can obtain the requested information.
40	January 30, 2007	HRW sends to ODRO the revised five-item request in writing as per telephone conversation.
41	February 6, 2007	HRW sends a follow-up email seeking a response to our January 30, 2007 email.
42	February 7, 2007	ODRO replies indicating that our "request continues to be reviewed."
43	February 22, 2007	HRW sends another follow-up email seeking a response to our January 30, 2007 email.
44	February 26, 2007	HRW files administrative appeal.
45	April 16, 2007	HRW contacts FOIA appeals officer to enquire about the status of our appeal. We receive no response.
46	May 30, 2007	HRW contacts FOIA appeals officer to again enquire about the status of our appeal. We receive no response.
47	June 19, 2007	On the eve of publication of this report, Human Rights Watch receives correspondence from Catrina Pavlik-Keenan, Director of ICE's FOIA office, in response to our administrative appeal in which ICE claims it could provide records responsive to three of the five types of information we had requested, and assesses fees without responding to our application for a fee waiver as an organization that publicizes information "in the public interest" about the "operation or activities of the [US] government."
48	June 27, 2007	Human Rights Watch, through our pro bono counsel, Carter Ledyard & Milburn, LLP, appeals ICE's finding that we are not entitled to a fee waiver.