

19TH JUDICIAL DISTRICT COURT FOR PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

No. _____

Division__

THE LENS & DELANEY NOLAN

versus

JASON P. MAHFOUZ, IN HIS OFFICIAL CAPACITY AS DIRECTOR AND
CUSTODIAN OF RECORDS FOR THE GOVERNOR’S OFFICE OF HOMELAND
SECURITY AND EMERGENCY PREPAREDNESS

PETITION FOR WRIT OF MANDAMUS

NOW INTO COURT, through undersigned counsel, comes Delaney Nolan and *The Lens*,
who bring this suit to enforce their rights under the Louisiana Public Records Law, *to wit*:

1.

Plaintiff *The Lens* is an award-winning newsroom dedicated to investigative and
explanatory journalism, published online at www.thelensnola.org. It is a non-profit corporation.

2.

Plaintiff Delaney Nolan is a journalist and employee at *The Lens*. She is a person of the
age of majority and is domiciled in the Parish of Orleans.

3.

Defendant Brigadier General Jason P. Mahfouz is the Director of and custodian of public
records for the Governor’s Office of Homeland Security and Emergency Preparedness
(“GOHSEP”) under Louisiana Revised Statutes 44:1(A)(3).

Ms. Nolan’s Public Records Requests

4.

As a journalist, Ms. Nolan reports on environmental and immigration issues throughout
Louisiana.

5.

In the course of her reporting, Ms. Nolan has made public records requests to different
local and state agencies for their contracts with Immigration and Customs Enforcement (“ICE”).

She has sought contracts showing the amount of money an agency receives in exchange for detention of a person detained by ICE, or the “daily bed rate.”

6.

On April 22, 2026, Ms. Nolan submitted, via email, a public records request to Allen Parish Sheriff’s Office for copies of “any and all contracts and/or the Intergovernmental Service Agreement (IGSA) between Allen Parish Sheriff’s Office and US Immigration and Customs Enforcement (ICE), covering the time period from 2020 to present day. I believe the contract number is EROIGSA-15-0009 P00009.” (The “Allen Parish Request,” attached hereto as Exhibit 1).

7.

On May 19, 2026, Pam Pender, the Administrative Assistant for the Allen Parish Sheriff’s Office emailed Ms. Nolan and provided a copy of the current Intergovernmental Service Agreement between the Allen Parish Sheriff’s Office and ICE (the “Allen Parish Contract,” attached hereto as Exhibit 2). The contract did not contain any redactions and included the daily bed rate for the facility.

8.

Ms. Nolan has since reported on the Allen Parish Contract and the daily bed rates. *See e.g.*, Delaney Nolan, “*Stuck in Purgatory*”: *ICE Detention Times in Louisiana Stretch on for Years*, THE LENS (June 18, 2026), <https://thelensnola.org/2026/06/18/louisiana-immigration-detention-habeas-petitionscrisis/>.

9.

On May 19, 2026, Ms. Nolan submitted, via email, a request to GOHSEP for “any and all contracts and/or the Intergovernmental Service Agreement (IGSA) between the Office of Homeland Security Emergency Preparedness and US Immigration and Customs Enforcement (ICE) regarding Louisiana ICE Processing Center at the State of Louisiana Penitentiary Facility, covering the time period from 01/01/2025 to present day.” (A copy of the request is attached hereto as Exhibit 3).

10.

In her request, Ms. Nolan provided the “contract number” 70CDCR25DIG000037 for the agreement that she understood should be responsive to her request, and provided a URL and hyperlink to a version of a contract bearing that number (referred to herein as the “GOHSEP/ICE Contract”) that was available on ICE’s website, but with certain information—including the daily bed rates—redacted. Ms. Nolan specifically asked for unredacted copies of the GOHSEP/ICE Contract and any other responsive records.

11.

On May 21, 2026, Clayton Revere, General Counsel to GOHSEP, replied via email, acknowledged Ms. Nolan’s request, and stated that “[w]hile Louisiana Public Records Law does not provide a specific exemption for this subject matter,” he would confer with ICE to determine whether “the federal basis for those redactions would also prohibit disclosure by the state.” (A copy of that response is attached hereto as Exhibit 4).

12.

Then, on June 4, 2026, Mr. Revere, via email, informed Ms. Nolan that the redactions in the version of the GOHSEP/ICE Contract available on ICE’s website “were made pursuant to the provisions of [Freedom of Information Act] FOIA Exemption 4,” which he stated “correlates to Louisiana’s Public Records exemption for proprietary and trade secret information found in La. R.S. 44:3.2” and, as a result, GOSHEP concluded the information is not subject to disclosure under state law. *See* Exhibit 4.

13.

On June 18, 2026, Ms. Nolan sent a letter, through undersigned counsel, to Mr. Revere explaining that the cited exemptions did not justify refusing to produce unredacted versions of responsive contracts and asked the agency to produce the GOHSEP/ICE Contract and any other responsive records without any redactions. (A copy of that letter is attached hereto as Exhibit 5).

14.

On July 15, 2026, Mr. Revere responded to undersigned counsel, via email, and stated that the “federal authority in this case (ICE) maintains that the information you are seeking is proprietary information, and La. R.S. 44:3.2 exempts proprietary information from disclosure.”

Further, Mr. Revere stated that because “this is a federal agreement and the requested information belongs to the federal entity, GOHSEP does not have the authority to comply with your request” and recommended addressing concerns through the FOIA process. (A copy of this response is attached hereto as Exhibit 6).

15.

This response is insufficient, and GOHSEP’s refusal to produce the responsive records, does not comply with the Louisiana Public Records Law, La. R.S. 44:1, *et seq.*

Applicable Law

16.

The Louisiana Constitution provides that “[n]o person shall be denied the right to observe the deliberations of public bodies and examine public documents, except in cases established by law.” La. Const. art. 12, § 3.

17.

Further, “[p]roviding access to public records is a responsibility and duty of the appointive or elective office of a custodian and his employees.” La. R.S. 44:31(A).

18.

The Louisiana Public Records Law provides that any person of the age of majority “may inspect, copy, or reproduce any public record” or “obtain a copy or reproduction of any public record.” La. R.S. 44:31(B)(1)–(2).

19.

The constitutional right of access and Public Records Law should be construed liberally, and any doubt must be resolved in favor of the public’s right to access records. *People for the Ethical Treatment of Animals v. Bd. of Supervisors of La. State Univ.*, 2022-0976 (La. App. 1 Cir. 9/19/2023), 376 So. 3d 178, 184.

20.

Contracts are subject to the Public Records Law because they are documents used for the performance of public business. *See* La. R.S. 44:1(A)(2)(a)

21.

The burden of proving that a public record is not subject to inspection, copying, or reproduction shall rest with the custodian. La. R.S. 44:31(B)(3).

22.

If the custodian asserts that the requested records are exempt from the Public Records Law, the custodian must notify the requestor in writing within five days and provide the basis under the law that the custodian has determined exempts a record. La. R.S. 44:32(D).

23.

If the custodian contends that the records are not in the custodian's possession, then the custodian must certify the absence with a detailed account of "the reason for the absence of the record from his custody or control, its location, what person then has custody of the record and the manner and method in which, and the exact time at which it was taken from his custody or control." La. R.S. 44:34.

24.

The Public Records Law provides that any person who has been denied the right to inspect or obtain a copy of a record "either by a determination of the custodian or by the passage of five days ... may institute proceedings for the issuance of a writ of mandamus, injunctive or declaratory relief, together with attorney fees, costs and damages as provided for by this Section, in the district court for the parish in which the office of the custodian is located." La. R.S. 44:35(A).

25.

Defendants waited 12 business days from receipt of the request and 10 business days after acknowledging the request to respond and deny access to the requested records.

26.

Further, the cited exemptions do not justify withholding the requested records.

27.

La. R.S. 44:3.2 exempts the following from disclosure:

proprietary or trade secret information pertaining to any code, pattern, formula, design, device, method, or process which is proprietary or trade secret information which has been submitted to a public body by the developer, owner, or manufacturer of a code, pattern, formula, design, device, method, or process in order to obtain or retain approval of such code,

pattern, formula, design, device, method, or process for sale or use in this state.... [or] has been submitted to a public body in order to facilitate the further research, development, or commercialization of such code, pattern, formula, design, device, method, or process.... [or] submitted to Louisiana Economic Development for economic development purposes.

La. R.S. 44:3.2(A)–(C).

28.

Nothing in the statute exempts disclosure of basic contract terms between two public agencies.

29.

FOIA Exemption 4, the other exemption cited by GOHSEP, states that the obligations to produce responsive records pursuant to FOIA does not apply to “matters that are ... trade secrets and commercial or financial information obtained **from a person** and privileged or confidential.” 5 U.S.C. § 552(b)(4) (emphasis added).

30.

FOIA Exemption 4 only applies to data generated outside of the federal government and information submitted by a third party to agencies. *See* 5 U.S.C. § 551(2) (defining “person” as an “individual, partnership, corporation, association, or public or private organization other than an agency.”).

31.

Moreover, FOIA Exemption 4 only applies to privileged or confidential information. 5 U.S.C. § 552(b)(4). The daily bed rate between GOSHEP and ICE is not privileged or confidential, as other agencies have provided unredacted contracts with ICE containing the daily bed rate. *See e.g.*, Exhibit 2.

32.

Based on the version of the document available on ICE’s website, GOHSEP is named as a contractor in the GOHSEP/ICE Contract. Regardless of whether the document originated from the federal government, GOHSEP is obligated to provide access to public records within its possession or certify the absence of such records.

33.

To date, Ms. Nolan has not received a certification that GOHSEP does not have possession of the requested records, pursuant to La. R.S. 44:31.

34.

Defendant Mahfouz violated the Public Records law by refusing to timely respond in accordance with the Public Records Law and failing to provide responsive records, including but not limited to an unredacted version of the GOHSEP/ICE Contract.

35.

The press has a crucial role in securing public records to investigate and report on issues of public concern. The release of unredacted contracts, detailing the amount of money the federal government is paying the state, is essential to evaluate the relationship between the federal government and different local and state agencies and to inform the public as to how the government is using taxpayer money.

WHEREFORE, in consideration of the above Petition for Writ of Mandamus, Injunctive and Declaratory Relief, pursuant to La. R.S. 44:1 *et seq.*, Plaintiffs *The Lens* and Delaney Nolan ask that this Honorable Court:

- (a) Issue a Writ of Mandamus directing Defendant Mahfouz to provide copies of the requested public records, or show cause as to the contrary;
- (b) Enter declaratory relief that the requested contracts between the Governor's Office of Homeland Security and Emergency Preparedness and Immigration and Customs Enforcement showing the daily bed rate are public records within the meaning the Louisiana Public Records Law, and that Defendant violated the Public Records Law;
- (c) Enter injunctive relief enjoining Defendant Mahfouz from withholding such contracts;
- (d) Award Plaintiffs reasonable attorneys' fees and costs pursuant to La. R.S. 44:35(D);
and
- (e) Award Plaintiffs any other legal and equitable relief to which they are entitled.

Respectfully submitted,

/s/ Virginia M. Hamrick

Virginia M. Hamrick, La Bar No. 40392

Ellen Goodrich, *pro hac application*
forthcoming

REPORTERS COMMITTEE

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