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Exhibit 1



VIA ELECTRONIC MAIL AND UPS NEXT DAY AIR

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

September 2, 2021

Re: Freedom of Information Act Request

Dear FOIA Officer:

The Immigrant Defense Project (“IDP” or “Requester”) files this request pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, for information regarding the Department of Homeland Security (“DHS”)’s Immigration and Customs Enforcement (“ICE”) policies, practices and procedures concerning the supervision and monitoring of immigrants pursuant to Orders of Supervision (“OSUP”), release on recognizance (“OREC”), Alternatives to Detention (“ATDs”), parole, bond, or any other population management program.

IDP is a national expert resource and advocacy organization that provides training, advice, and support to immigrant communities, legal practitioners, and advocates seeking to advance the rights of immigrants, and monitors the intersection of the criminal legal system and immigration system. IDP disseminates information about these issues to policy makers, attorneys, the general public, and affected communities. These materials routinely include information obtained in FOIA requests.¹

A. Purpose of Request

The purpose of this request is to obtain information for the public about ICE policies, practices, and procedures related to the agency’s Population Management, OSUP, OREC, parole, bond, and ATD programs, as well as any other supervision program. As an organization that provides no-cost services to immigrants, immigrant communities, legal practitioners, advocates, and activists seeking to advance the rights of immigrants, IDP has an interest in understanding the implementation and impact of these policies and procedures, how they have been and are being developed, and what goals the agency has in enforcing them.

¹ See, e.g., Immigrant Defense Project, ICE Raids FOIA, <https://www.immigrantdefenseproject.org/raids-foia/> (last accessed Aug. 19, 2021) (disseminating documents on the recent history of ICE trainings and practices around home raids obtained via FOIA).

Current procedures and policies governing ICE supervision programs are not publicly known; however, record evidence of the lived experiences of individuals subject to these supervision programs demonstrates egregious conditions with far-reaching adverse consequences. For example, a recent report published by IDP, the Kathryn O. Greenberg Immigrant Justice Clinic at Cardozo School of Law, and Freedom for Immigrants aggregated survey data from 150 immigrants across the country subject to ankle shackles in connection with their participation in ICE's ATD programs. This report documented the significant psychological, physical and economic harm ankle shackles have on individuals and communities.² These harms include numbness and sustained swelling from the ankle shackle, anxiety and sleep disruption, and social stigma and loss of work on account of wearing the ankle shackle in public.³

In addition, at routine check-in appointments, ICE officials or agency subcontractors have made the following demands of immigrants subject to supervision:

- Mother of three, who struggles with dementia, asked to provide the names and addresses of all of her children and whether or not she lives with them, and asked to submit copies of undocumented children's birth certificates;
- Man with family in home country asked to conscript his family's assistance in procuring a new birth certificate for purposes of obtaining a travel document, although his family lives hours away from the closest government building that could provide such documents and the country itself is marred by civil unrest;
- Man ordered released from ICE custody on bond is instead released with an ankle monitor, weekly house arrest and biweekly check-ins through contracted supervision program;
- Stateless refugee whose most recent supervision order started in 2004 and who has reported over 50 times on that order, including 4 weeks in a row, threatened with immediate detention by ICE officers unless the refugee did the impossible and obtained travel documents; and
- ICE officer gave stateless woman a birth certificate that did not have her correct identifying information, told her to apply for a passport, and threatened her with detention if the woman refused.

Such demands have been unexpected, exceed the four corners of OSUPs, and have sweeping implications for *all* community members, whether or not they are directly subject to supervision. Knowledge of formal government policies and procedures allegedly empowering ICE to make such requests is essential to preparation for check-ins and other forms of supervision. "For the people presenting themselves to immigration authorities, including more than a million already facing final orders of removal from the United States, each check-in can feel perilous."⁴ The

² Tosca Giustini et al., *Immigrant Cyber Prisons: Ending the Use of Electronic Ankle Shackles* at 2, CARDOZO LAW ET AL., (2021) <https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/60ec661ec578326ec3032d52/1626105377079/Immigration+Cyber+Prisons+report.pdf> (last accessed Aug. 19, 2021).

³ *Id.* at 3.

⁴ Michael E. Miller, *They fear being deported. But 2.9 million immigrants must check in with ICE anyway*, THE

information sought in this request will provide greater clarity to those checking-in, and will also enable public oversight and monitoring of ICE's supervision tactics.

Further, this information is critical to present debates regarding the future and direction of ICE-operated supervision programs. On July 13, 2021, the Democratically-controlled House Appropriations Committee advanced a bill that would allocate \$475 million to ICE for ATD programs,⁵ a figure over \$30 million in excess of what the Biden Administration proposed in its May 28th FY 2022 Budget.⁶ The bill additionally would allocate over \$20 million for Homeland Advanced Recognition Technology, “a planned databased for storing biometric data including digital fingerprints, facial images and scans of irises.”⁷ Then, on August 17, 2021, DHS announced an ATD Case Management Pilot Program—designed to “supplement” existing ATD programs—which will allow DHS to partner with non-profit organizations to provide case management, purportedly “to ensure that noncitizens in removal proceedings have access to legal information and other critical services” including “departure planning and reintegration services for individuals returning to their home countries.”⁸ These events reflect a unique moment that will determine the development of key government policies, protocols and guidance related to immigration enforcement and its use of detention, surveillance, and supervision. In this situation, it is more critical than ever that the public have access to information that will inform legal and policy decisions, so that they can engage the elected officials at the helm of decision making.

B. Definitions

Supervision Program(s): For purposes of this request, the term “supervision programs” refers to supervision, surveillance and monitoring pursuant to OSUP, OREC, parole, bond, and any ATD programs – including but not limited to the Intensive Supervision Appearance Program (“ISAP”), technology-only monitoring programs, Population Management programs, and other forms of supervision for immigrants which are administered by ICE and third party contractors, including non-governmental actors.

Record(s): For purposes of this request, the term “records” includes all records or communications preserved in electronic or written form, including but not limited to correspondence, documents, data, spreadsheets, videotapes, audiotapes, e-mails, text messages, social media communication, online messaging, faxes, files, guidance, guidelines, evaluations, legal opinions, instructions, analyses, directives, memoranda, agreements, notes, orders,

WASHINGTON POST (Apr. 25, 2019, 10:01 AM), https://www.washingtonpost.com/local/they-fear-being-deported-but-29-million-immigrants-must-check-in-with-ice-anyway/2019/04/25/ac74efce-6309-11e9-9ff2-abc984dc9eec_story.html (last accessed Aug. 19, 2021).

⁵ See Chris Mills Rodrigo, *Homeland Security Funding Package Pours Millions into Migrant Surveillance*, THE HILL (Jul. 13, 2021; 4:03 P.M.), <https://thehill.com/policy/technology/562811-homeland-security-funding-package-pours-millions-into-surveillance>.

⁶ DEP'T OF HOMELAND SECURITY, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, U.S. BUDGET OVERVIEW: FISCAL YEAR 2022 CONGRESSIONAL JUSTIFICATION, https://www.dhs.gov/sites/default/files/publications/u.s._immigration_and_customs_enforcement.pdf. The bill proposes a total allocation of over \$8 billion for ICE overall. *Id.*

⁷ *Id.*

⁸ Press Release, *DHS Announces Alternatives to Detention Case Management Pilot Program*, U.S. DEP'T OF HOMELAND SECURITY, (Aug. 17, 2021) <https://www.dhs.gov/news/2021/08/17/dhs-announces-alternatives-detention-case-management-pilot-program> (last accessed Aug. 19, 2021).

contracts, policies, procedures, protocols, reports, rules, manuals, technical specifications, training manuals, and studies. This includes records kept in written form, electronic format on computers and/or other electronic storage devices, electronic communications, compact discs, and/or videotapes, and any other sub-regulatory guidance.

Throughout this request, if and when responsive records involve individuals who were ordered removed, detained, released, and/or placed in Alternatives to Detention (“ATD”) programs or involve policies related to those agency actions prior to the formation of DHS in 2003, the term “DHS” and/or “ICE” shall include the former Immigration and Naturalization Services (“INS”). Any reference to Enforcement and Removal Operations (“ERO”) shall include its predecessor division, Detention and Removal Operations (“DRO”).

C. Requests

Requesters, through this FOIA, seek the following records prepared, received, transmitted, collected, and/or maintained by ICE from December 19, 2019 to present.

1. Any and all records received, maintained, or created by ICE’s New York and Newark Field Offices, or ICE Headquarters, related to the creation, implementation, or oversight of supervision programs including, but not limited to, OREC, OSUP, parole, bond, and ATD (including ISAP and the ATD Case Management Pilot Program). Records should include, but are not limited to:
 - a. Policies, practices, guidelines, protocols, and instructions for, and communications regarding, OREC, OSUP, parole, bond, ATD (including ISAP and the ATD Case Management Pilot Program) and other community-based supervision programs, including documents related to program oversight;
 - b. Policies, practices, guidelines, protocols, instructions, training manuals, memoranda, communications, and any other record used to train ICE officers and other DHS employees in the administration, regulation, provision, and oversight of supervision programs, including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program);
 - c. Policies, practices, guidelines, protocols, instructions, training manuals, memoranda, communications, and any other record used to train third-party contractors in the administration, regulation, provision, and oversight of supervision programs, including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program);
 - d. Policies, practices, guidelines, protocols, formal and informal guidance, and communications for securing a travel document from individuals under a supervision program, including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program);
 - e. Policies, practices, guidelines, protocols, formal and informal guidance, and communications for securing any other document (e.g., birth certificates, proof

- of work, proof of address, etc.) from individuals under a supervision program, including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program);
- f. Policies, practices, guidelines, protocols, formal and informal guidance, and communications applicable when individuals on supervision programs do not present a travel document requested or demanded by ICE officials and/or private companies contracted to provide ATD services;
 - g. Policies, practices, guidelines, protocols, formal and informal guidance, and communications applicable when individuals on supervision programs do not present any other document or documentation requested or demanded by ICE officials and/or private companies contracted to provide ATD services;
 - h. Policies, practices, guidelines, protocols, formal and informal guidance, and communications relating to ICE's determination of whether someone is eligible for placement in a supervision program including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program);
 - i. Policies, practices, guidelines, protocols, formal and informal guidance, and communications relating to ICE's selection of the terms of supervision by which individuals must comply, including, but not limited to, the frequency of in-person check-ins, scheduling and re-scheduling of check-ins, imposition or removal of ankle monitors, home visits, telephonic monitoring, SmartLink monitoring, and documentation individuals must bring to check-ins;
 - j. Policies, practices, guidelines, protocols, formal and informal guidance, and communications relating to ICE's review of supervision conditions, including but not limited to regular or periodic reviews of supervision conditions and criteria and procedures used to assess requests for reconsideration of supervision conditions;
 - k. Policies, practices, guidelines, protocols, formal and informal guidance, and communications for determining whether and when to deescalate start stint technology (*e.g.*, from BILOC8 to SmartLink);
 - l. Policies, practices, guidelines, protocols, formal and informal guidance, and communications relating to the level of supervision and conditions imposed on individuals participating in supervision programs, including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program);
 - m. Template copies and/or a list of database fields for supervision contracts used for individuals subject to supervision programs, including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program);
 - n. Copies of all individual supervision contracts for qualified individuals with disabilities subject to supervision programs, including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program) within the requested time period;
 - o. Policies, practices, guidelines, protocols, formal and informal guidance, and

- communications relating to qualified individuals with disabilities subject to supervision programs;
- p. Policies, practices, guidelines, protocols, formal and informal guidance, and communications relating to consequences for failure to comply with the terms of an individualized supervision program, including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program);
 - q. Policies, practices, guidelines, protocols, formal and informal guidance, and communications relating to when ICE requests or demands assistance from family members in obtaining documents, and any other authority to require or demand third-party cooperation in obtaining documents;
 - r. Policies, practices, guidelines, protocols, formal or informal guidance, and communications relating to the circumstances under which an ATD participant's contact list may be contacted;
 - s. Policies, practices, guidelines, protocols, formal and informal guidance, and communications for accompaniment to in-person check-ins with ICE by third-parties, including: (i) family; (ii) friends and loved ones; (iii) faith and community leaders; (iv) legal practitioners; and (v) other advocates;
 - t. Policies, practices, guidelines, protocols, formal and informal guidance, and communications for accompaniment to in-person check-ins with third party contractors, by third-parties, including: (i) family; (ii) friends and loved ones; (iii) faith and community leaders; (iv) legal practitioners; and (v) other advocates;
 - u. Policies, practices, guidelines, protocols, formal and informal guidance, and communications relating to scheduling of check-ins with ICE and/or third party contractors on Saturdays, Sundays, and other times outside of normal business hours;
 - v. Policies, practices, guidelines, protocols, formal and informal guidance, and communications regarding individuals' right or ability to communicate through any medium to a person or persons of their choosing after being arrested and detained at or immediately following a check-in;
 - w. Policies, practices, guidelines, protocols, formal and informal guidance, and communications issued or sent by ICE to private security contractors, including but not limited to those who monitor the waiting room for immigrants checking-in with ICE pursuant to supervision programs;
 - x. Policies, practices, guidelines, protocols, formal and informal guidance and communications relating to issuance of administrative stays of removal for individuals subject to supervision programs;
 - y. Policies, practices, guidelines, protocols, formal and informal guidance, and communications relating to fielding requests for and scheduling a reasonable fear interview (RFI) for OSUP participants;
 - z. Any internal quotas relating to the termination (including detention or re-detention) of OSUP participants;

- aa. Policies, practices, guidelines, protocols, formal and informal guidance, and communications relating to qualified individuals with disabilities participating in supervision programs, including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program);
 - bb. Any and all records relating to individuals and/or their designees subject to supervision programs, including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program), who have invoked the Rehabilitation Act of 1973 (as amended);
 - cc. Policies, practices, guidelines, protocols, formal and informal guidance, and communications relating to custody reviews and supervision program placement for individuals who are returned to the U.S. from abroad by ICE after deportation;
2. Any records relating to agreements or contracts between any private entity or entities and ICE for the procurement of services and/or technology used by ICE in the ATD program during the period from December 2019 to present. This request includes any ISAP contract in force, as well as any agreements or contracts between or among providers of ATD equipment and services – such as BI Inc., the Geo Group Incorporated, or any other contracting company – and ICE that require ICE to purchase ATD-related equipment or ATD-related services. This request additionally includes rental agreements between or among providers of ATD equipment and services – such as BI Incorporated, the Geo Group Incorporated, and any contracting company – and property owners for ISAP locations in the New York City and Newark areas;
3. Any and all national “ISAP Monthly Progress Reports” within the requested time-period;
4. Any and all records received, maintained, or created by ICE related to the mobile phone application “BI SmartLink” and its development, including but not limited to:
 - a. All data sets collected using the application;
 - b. The existence and use of predictive algorithms or predictive analytic tools available through Total Access or any other software program developed or managed by BI Inc.;
 - c. The use of GPS tracking data to generate risk scores, including policies, procedures, guidelines, protocols, formal and informal guidance and communications regarding the use of GPS data to monitor travel patterns and identify “high-risk areas”;
 - d. Any and all information or educational materials provided the public or individuals subject to supervision regarding ICE’s use of data gathered through the SmartLink phone application;
 - e. Any and all information relating to SmartLink’s ability to interface with or share data with BI’s TotalAccess software or other similar software programs from BI,

- Inc. or other contractors; and
- f. A list of key metrics and terms used in analyzing risk of “absconding,” as well as how these terms and metrics are defined (*e.g.*, “risk locations”);
5. Policies, practices, guidelines, protocols, formal and informal guidance, and communications regarding ICE and DHS’s development and/or use of biometric data, including, but not limited to, digital fingerprints, facial recognition technology, and iris scans;
6. Policies, practices, guidelines, protocols, formal and informal guidance, and communications regarding ICE and DHS’s development and implementation of IDENT and the Homeland Advanced Recognition Technology System (“HART”), including but not limited to:
- a. a list of Office of Biometric Identity Management (“OBIM”) mission partners;⁹
- i. a list of all HART “authorized users”;
- ii. a list of all HART “data providers”;
- b. records related to the new data architecture under HART, including migration to the Amazon Web Services (AWS) GovCloud;
7. Policies, practices, guidelines, protocols, and formal and informal guidance regarding patrolling, observing, or waiting outside of immigration courtrooms by ICE officers;
8. Any and all data related to risk classification assessments (“RCA”) for individuals reporting to the New York ICE Field Office from December 19, 2019 to present, including but not limited to, percentage of individuals classified as a low, medium or high flight risk and low, medium or high public safety risk; percentage of individuals with a final order of deportation classified as a low, medium or high flight risk and a low, medium or high public safety risk; number of instances in which ICE supervisors overrode the RCA recommendation and the attendant outcomes; and any and all information relating to whether the RCA makes accommodations, adjustments or amendments when it encounters a qualified individual with a disability;
9. Records referring to efforts to standardize supervision reporting requirements,

⁹ “OBIM’s mission partners capture biometric data and submit it to HART in order to carry out the missions and functions including law enforcement; national security; immigration screening; border enforcement; intelligence; national defense; background investigations relating to national security positions; and credentialing consistent with applicable DHS authorities.” U.S. Dep’t of Homeland Security, *Privacy Impact Assessment for the Homeland Advanced Recognition Technology System (HART) Increment 1 PIA* (Feb. 24, 2020), https://www.dhs.gov/sites/default/files/publications/privacy-pia-obim004-hartincrement1-february2020_0.pdf.

including but not limited to continuations of a November 12, 2004 memorandum addressed to Field Office Directors from Victor X. Cerda, Acting Director, with the subject line, "Orders of Supervision," with the Purpose section, "To standardize the reporting requirements for those aliens released under an Order of Supervision (OSUP) or on an Order of Release on Recognizance (ROR)";

10. Data referring to ICE's Enforcement and Removal Operations success or failure in achieving removal "goals";
11. Data referring to percentage of supervision program participants who have obtained legal representation, and any detail as to whether attorneys obtained are pro bono or private;
12. Aggregate records and data summarizing the number of individuals participating in supervision programs disaggregated by regional offices, including but not limited to:
 - a. Total number of those participating in supervision programs, separated by the type of program and/or "legal stage" (e.g., whether individuals are pre- or post-final order);
 - b. Demographics and other information of those participating in supervision programs, including but not limited to: sex, country of birth, age, whether the participant is a qualified individual with a disability, preferred language, English proficiency, legal stage (e.g., whether individuals are pre- or post-final order), current ATD technology, initial ATD technology, whether they have legal counsel, and any other data collected; and
 - c. Number of immigrants who have been re-detained while participating in a supervision program or who have been "terminated" from a supervision program for any reason, separated by type of program, reason for termination (e.g., redetention, deportation, gaining immigration status), and "legal stage" (e.g., whether individuals are pre- or post-final order);
13. Any and all communications received, sent or maintained by the New York Field Office regarding the implementation of OSUP policies;
14. Handbooks and policy manuals originating in or used, implemented or otherwise employed by the New York Field Office or the Newark Field Office referring to ATDs and OSUPs specifically;
15. Intensive Supervision Appearance Program weekly, monthly, and annual report(s) issued within the requested time period, both nationally and for the New York and Newark Field Offices (e.g., the ISAP Connections reports);

16. GPS Summary for fiscal years 2019 through present (including, but not limited to, average number of participants per month, total cost per year for GPS, average cost per participant, total GPS days billed per month, total number of participants per month, and price per month);
17. The most recent version of the Detention and Removal Operations Policy and Procedure Manual/ Detention and Deportation Officer's Field Manual;
18. Policies, practices, guidelines, protocols, and formal and informal guidance pertaining to changes to supervision programs during the COVID-19 pandemic;

The scope of the search should not be limited to ICE-originated records and should be construed to include records that are currently in the possession of any U.S. government contractor for purposes of records management.

If, under applicable law, any of the information requested is considered exempt, please describe in detail the nature of the information withheld, the specific exemption or privilege upon which the information is withheld, and whether the portions of withheld documents containing non-exempt or non-privileged information have been provided.

Thank you in advance for your response to this request within twenty business days, as the FOIA requires. See 5 U.S.C. § 552(a)(6)(A)(i).

D. Format of Production

Requesters seek electronic records produced in the following format:

- Electronic records in PDF format, electronically searchable wherever possible;
 - 'Parent-child' relationships maintained, meaning that Requesters must be able to identify the attachments with emails;
 - Any data records in native format (i.e., Excel spreadsheets in Excel);
 - Emails should include BCC and any other hidden fields, with any other metadata preserved.

Where electronic records are too large to be sent in PDF format, via secure share drive.

E. Request for Waiver of Fees

The Requester asks that all fees associated with this FOIA request be waived. The Requester is a not-for-profit organization that works on behalf of immigrant communities. The Requester is entitled to a waiver of all costs because disclosure of the information is "likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii). *See also* 6 C.F.R. § 5.11(k) (records furnished without charge or at a reduced rate if the information is in the public interest, and disclosure is not in commercial interest of institution). A fee waiver also would fulfill Congress' intent in amending the FOIA. *See Judicial Watch, Inc. v. Rossoti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (discussing that Congress intended the FOIA to be construed broadly to favor fee waiver for noncommercial requests).

The Requester will make any information that it receives as a result of this FOIA request available to the public, including the press, at no cost. Disclosure in this case therefore meets the statutory criteria, and a fee waiver would fulfill Congress' legislative intent in amending the FOIA. *See Judicial Watch Inc. v. Rossotti*, 326 F.3d 1309 (D.C. Cir. 2003) ("Congress amended FOIA to ensure that it be 'liberally construed in favor of waivers of noncommercial requesters'").

In the alternative, if no fee waiver is granted and the fees exceed \$250.00, please contact the Requester's undersigned counsel to obtain consent to incur additional fees. Processing fees should be limited pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) ("[F]ees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by ... a representative of the news media.").

1. Disclosure of the Information is in the Public Interest

Disclosure of the requested information will contribute significantly to the public understanding of government operations and activities regarding operation of supervision programs for immigrants. 6 C.F.R. § 5.11(k)(2). The requested information impacts hundreds of thousands of immigrants who have lived and worked in the United States for many years, as well as their loved ones and community members who may be affected by their supervision conditions.

Moreover, this information is critical to ongoing executive and legislative debates at the federal level regarding the development and administration of supervision programs for immigrants.¹⁰ The information will further assist elected officials in responding to the concerns of their constituents and in instructing communities they serve how to best respond to the imposition of supervision and any changes later imposed on the conditions of supervision. The information requested is also relevant to any educational initiatives, whether hosted by elected officials or nonprofits, that seek to inform immigrants and their families of their rights at check-ins with ICE and third party contractors.

The Requester has the capacity to disseminate widely the requested information to the public. The Requester will review, analyze, and/or summarize the information obtained through this FOIA request. In addition, IDP will speak publicly and publish practice advisories or related written materials to be shared with the public, legal practitioners, advocates, and the academic community. IDP will make the information available through its website, which is accessible by members of the public. IDP will additionally disseminate relevant information through its Criminal-Immigration Helpline, which operates 24/7 to provide advice to immigrants nationwide.

The information sought is of great interest to the public at large, but not currently available in the public domain.

¹⁰ See Chris Mills Rodrigo, *Homeland Security Funding Package Pours Millions into Migrant Surveillance*, THE HILL (Jul. 13, 2021; 4:03 P.M.), <https://thehill.com/policy/technology/562811-homeland-security-funding-package-pours-millions-into-surveillance>.

2. Disclosure of the Information is Not Primarily in the Commercial Interest of the Requester

The Requester is a tax-exempt, not-for-profit charitable organization and a coalition of individuals that provides free services. IDP is a 501(c)(3) organization. Attorneys, immigrants, activists, and any other interested members of the public may obtain information about immigration-related issues through its distribution of written materials, including IDP's website, through public and educational appearances, and through operation of its Criminal-Immigration Helpline. The requested information is sought for the purpose of disseminating it to members of the public, including through posting it on IDP's website and other publications, and not for the purpose of commercial gain.

F. Expedited Processing

Expedited processing is warranted because there is "an urgency to inform the public about an actual or alleged federal government activity," and the request is made by entities "primarily engaged in disseminating information." 5 U.S.C. § 552(a)(6)(E)(v)(II). This request demonstrates that both criteria are satisfied. 6 C.F.R. § 5.5(d)(3). There is an urgent need to obtain the requested information, which is not publicly available. The records described above would accurately reflect the scope, details, and policies governing noncitizen check-ins under supervision programs nationally. It is critical to obtain this information because it will assist in helping prepare immigrants for their check-ins and in advising them of their legal rights during such processes. Moreover, as outlined above, supervision programs are the subject of present debates in Congress, and will factor largely into the budget and appropriations process.

The Requester is "primarily engaged in disseminating information" and thus warrant expedited processing. 5 U.S.C. § 552(a)(6)(E)(v)(II); *see also* 6 C.F.R. § 5.5(d)(3). DHS regulations specifically provide that "information dissemination . . . need not be [a requester's] sole occupation." 6 C.F.R. § 5.5(e)(3). IDP is an expert resources and advocacy organization that monitors the intersection of the criminal justice system and immigration system.¹¹ It disseminates information about these issues to policy makers, attorneys, the general public, and affected communities, and these materials routinely include information obtained through FOIA requests.¹² IDP publishes newsletters, know-your-rights pamphlets, and reports on immigration issues.¹³

¹¹ Mission, IMMIGRANT DEFENSE PROJECT, <https://www.immigrantdefenseproject.org/about>.

¹² IDP Resources, IMMIGRANT DEFENSE PROJECT, <https://www.immigrantdefenseproject.org/resources2/>;

Immigrant

Defense Project, *Defend Against ICE Raids and Community Arrests* (2017),

<https://www.immdefense.org/raidstoolkit/>

(including documents obtained in the *Immigrant Defense Project et al. v. ICE, et al.* FOIA litigation);

Immigrant Defense Project, *Insecure Communities, Devastated Families; New Data on Immigrant Detention and*

Deportation Practices in New York City (July 23, 2012), <https://www.immigrantdefenseproject.org/wpcontent/uploads/2012/08/NYC-FOIA-Report-2012-FINAL-Aug.pdf> (data in part provided through FOIA with ICE);

ICE Raids FOIA, IMMIGRANT DEFENSE PROJECT, <https://www.immigrantdefenseproject.org/raids-foia/>

(information

on ICE trainings and practices around home raids, obtained through ongoing FOIA litigation, available online).

¹³ Resources for Communities, IMMIGRANT DEFENSE PROJECT,

<https://www.immigrantdefenseproject.org/category/resources-for-communities/>.

G. Address for Productions

Please email responsive documents to Jessica Rofé, Esq., at jessica.rofe@nyu.edu and mail any paper copies to the following address:

Jessica Rofé, Esq.
Washington Sq. Legal Services, Inc.
245 Sullivan St., 5th Fl.
New York, NY 10012

I certify that the information contained in this request is true and correct to the best of my knowledge. *See* 6 C.F.R. § 5.5(d)(3).

Thank you for your time and attention to this matter. Should you have any questions, please do not hesitate to contact Jessica either at jessica.rofe@nyu.edu or (714) 458-2127.

Sincerely,



Marie Mark, Esq.
Director of Legal Support and Resources
Immigrant Defense Project
P.O. Box 1765
New York, New York 10027
(646) 760-0597
marie@immdefense.org

Exhibit 2

UPS CampusShip: View/Print Label

1. Ensure there are no other shipping or tracking labels attached to your package. Select the Print button on the print dialog box that appears. Note: If your browser does not support this function select Print from the File menu to print the label.

2. Fold the printed label at the solid line below. Place the label in a UPS Shipping Pouch. If you do not have a pouch, affix the folded label using clear plastic shipping tape over the entire label.

3. GETTING YOUR SHIPMENT TO UPS

Customers with a Daily Pickup

Your driver will pickup your shipment(s) as usual.

Customers without a Daily Pickup

Take your package to any location of The UPS Store®, UPS Access Point(TM) location, UPS Drop Box, UPS Customer Center, Staples® or Authorized Shipping Outlet near you. Items sent via UPS Return Services(SM) (including via Ground) are also accepted at Drop Boxes. To find the location nearest you, please visit the Resources area of CampusShip and select UPS Locations.

Schedule a same day or future day Pickup to have a UPS driver pickup all your CampusShip packages.


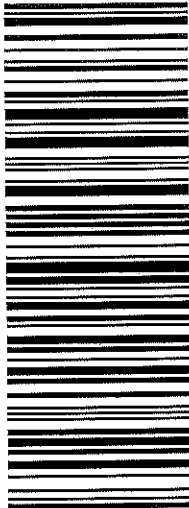
Hand the package to any UPS driver in your area.

UPS Access Point™
THE UPS STORE
9 E 8TH ST
NEW YORK, NY 10003

UPS Access Point™
MACS CLEANERS NY, INC
189 W 4TH ST
NEW YORK, NY 10014

UPS Access Point™
CVS STORE # 8900
20 UNIVERSITY PL
NEW YORK, NY 10003

FOLD HERE

<p>IMMIGRANT RIGHTS CLINIC 212-998-6459 WASHINGTON SQ. LEGAL SERVICES 245 SULLIVAN STREET NEW YORK NY 10012</p> <p>SHIP TO: GOVERNMENT INFORMATION LAW DIVISION OFFICE OF PRINCIPAL LEGAL ADVISOR FREEDOM OF INFORMATION ACT APPEAL STOP 5900 500 12TH STREET SW WASHINGTON DC 20536-5900</p>	<p>0.5 LBS LTR</p> <p>1 OF 1</p>	<p>MD 201 9-59</p> 	<p>UPS NEXT DAY AIR SAVER 1P</p> <p>TRACKING #: 1Z A5T 635 30 9893 8136</p> 
<p>BILLING: P/P</p>		<p>Chartfield Number: 631301953110Z0203XXXXX CS 22.0.18. MACNVS0 50.0A.12/2021*</p>	

FREEDOM OF INFORMATION ACT APPEAL**IMMIGRANT RIGHTS CLINIC
WASHINGTON SQUARE LEGAL SERVICES, INC.
NEW YORK UNIVERSITY SCHOOL OF LAW****245 SULLIVAN STREET, 5TH FLOOR
NEW YORK, NEW YORK 10012
TEL: 212-998-6430
FAX: 212-995-4031**ALINA DAS
NANCY MORAWETZ
JESSICA ROFÉ
*Supervising Attorneys*DAAD SHARFI
JACOB METZ-LERMAN
OLIVIA ABRECHT
Legal Interns

December 9, 2021

Office of the Principal Legal Advisor
Government Information Law Division
500 12th Street S.W., Stop 5900
Washington, D.C. 20536-5900

RE: Freedom of Information Act Appeal – Immigrant Defense Project

To Whom It May Concern:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552(a)(6), this letter is an appeal of the agency's constructive denial of a request filed by Washington Square Legal Services, Inc. on behalf of the Immigrant Defense Project ("IDP" or "Requestor") on September 2, 2021. The request (attached hereto as Exhibit A) seeks records from December 19, 2019 to present relating to the creation, implementation, and oversight of ICE's supervision programs, including but not limited to Orders of Supervision (OSUP) and Alternative to Detention programs. *See Ex. A.*¹

In the intervening months, the agency has failed to (1) provide a receipt notice or receipt number, (2) promptly provide determination and notification of right to appeal, (3) search adequately for records (4) produce any records responsive to the request, and (5) respond to Requestor's request for or provide expedited processing. ICE's constructive denial of this FOIA request is preventing the public from accessing essential information about ICE policies and practices that impact hundreds of thousands of people every year.

¹ In December 2020, IDP filed a lawsuit in the federal district court for the Southern District of New York to compel production of ICE records responsive to a near-identical FOIA that was submitted to the agency in December of 2019. *See Immigrant Defense Project et al. v. U.S. Immigration and Customs Enforcement*, No. 20-cv-10660 (SDA). By court order, the agency is currently processing responsive records at a rate of 900 pages per month. This request, filed in September 2021, followed on the original FOIA request and responds to positions taken by the agency about the scope of the original request and how it is best interpreted. This request clarifies the time period of the request and issues regarding the scope of the request. The instant FOIA request aims to fulfill the initial request's goal of ensuring that the public has access to the most up-to-date information about ICE's supervision programs. Informed by the productions from the initial request, the new request has a more limited scope that targets the information most crucial to present public discourse regarding ICE supervision programs and the ongoing information needs of those directly affected by ICE policies and procedures.

Under the Biden Administration, ICE has demonstrated a renewed commitment to detention, with detention numbers increasing over 55% since President Biden took office in January 2021.² In tandem, ICE's supervision programs have expanded dramatically in the last year; more people than ever before are subjected to increasingly invasive surveillance technology and onerous conditions of release.³ Furthermore, the Biden Administration has evidenced a commitment to the expansion of ICE's supervision programs, announcing a new Case Management Pilot Program this past summer.⁴ Given the recent expansion and impending changes to ICE's supervision programs, immediate processing of this FOIA request is imperative. As such, Requestor respectfully requests that ICE conduct an adequate search and produce any records responsive to the request on an expedited basis.

1. Failure to Provide a Receipt Notice or Receipt Number

The ICE website indicates that Requestor should have received a receipt notice in connection with this request within "3-5 business days." See U.S. Immigration and Customs Enforcement, *Submitting FOIA Request*, <https://www.ice.gov/foia/request> (last visited Nov. 9, 2021). Following Requestor's submission of its FOIA request on September 2, 2021, neither Washington Square Legal Services, Inc. nor IDP has received any communication from ICE regarding this request. On September 22, 2021 undersigned counsel sent the ICE FOIA office an email inquiring about the status of this request. See Ex. B, Email Correspondence, dated Sept. 22, 2021. Undersigned counsel received no response. On October 7, 2021, undersigned counsel again inquired with the ICE FOIA office by email about the status of this request. See Ex. C, Email Correspondence, dated Oct. 7, 2021. Again, undersigned counsel received no response. On November 2, 2021 undersigned counsel sent the ICE FOIA office a letter outlining attempts to confirm receipt of the request and inquiring again about its status. See Ex. D, Letter of Inquiry, dated Nov. 2, 2021, with Proof of Receipt by the ICE FOIA Office on Nov. 4, 2021. On November 3, 2021, undersigned counsel also sent the FOIA office an email with a copy of the letter. See Ex. E, Email Correspondence, dated Nov. 3, 2021. To date, undersigned counsel has yet to receive a response to either communication. Despite these attempts, neither Requestor nor undersigned counsel has received any receipt notice, receipt number, or any notification of a determination regarding this request. Requestor was not made aware of any search for records and no records were produced pursuant to this request.

2. Failure to Promptly Provide Determination and Notification of Right to Appeal

Under FOIA, 5 U.S.C. § 552, agencies of the federal government are required to release requested records to the public unless one or more specific statutory exemptions apply. An agency must respond to a requestor making a FOIA request within twenty working days, 5 U.S.C. §

² Alex J. Rouhandeh, *Migrants in Detention Centers Have Increased More Than 55 Percent Since Biden Took Office*, NEWSWEEK (Dec. 2, 2021; 11:55 A.M.), <https://www.newsweek.com/migrants-detention-centers-have-increased-more-rhan-55-percent-since-biden-took-office-1655433>

³ See Chris Mills Rodrigo, *Record Number of Immigrants Funneled Into Alternative Detention Programs*, THE HILL (Nov. 12, 2021; 6:00 AM), <https://thehill.com/policy/technology/581125-record-number-of-immigrants-funneled-into-alternative-detention-programs>.

⁴ See *DHS Announces Alternatives to Detention Case Management Pilot Program*, DEP'T OF HOMELAND SECURITY PRESS RELEASES (Aug. 17, 2021), <https://www.dhs.gov/news/2021/08/17/dhs-announces-alternatives-detention-case-management-pilot-program>.

552(a)(6)(A)(i), though in “unusual circumstances,” an agency may delay its response to a FOIA request for up to ten working days, but must provide notice and “the date on which a determination is expected to be dispatched,” 5 U.S.C. § 552(a)(6)(B). The agency’s determination must notify the requestor of at least the agency’s determination whether or not to fulfill the request and the requestor’s right to appeal the agency’s determination to the agency head. 5 U.S.C. § 552(a)(6)(A)(i). Specifically, an agency’s determination must: (i) determine and communicate the scope of the documents it intends to produce and withhold, and the reasons for withholding any documents; and (ii) inform the requestor that they can appeal whatever portion of the “determination” is adverse. *See Citizens for Responsibility & Ethics in Wash. v. FEC*, 711 F.3d 180, 186 (D.C. Cir. 2013).

Neither Requestor nor undersigned counsel has received any correspondence from the agency since the FOIA request was filed on September 2, 2021. As of the date of this appeal, 99 days have now passed since the request was filed. Neither a receipt notice with a receipt number, nor a determination has been provided to IDP. There is no evidence that ICE has gathered and reviewed the documents that IDP requested; ICE has not determined or communicated the scope of documents it intends to produce and withhold, nor the reasons for withholding said documents; nor has ICE informed IDP of its right to appeal. This failure to notify the Requestor of the agency’s determination violates FOIA, 5 U.S.C. § 552(a)(6)(A)(i), and corresponding agency regulations.

When an agency fails to meet the response times required by FOIA, requesting parties may deem the agency’s delay a denial of the FOIA request and appeal the denial. *See, e.g., Ruotolo v. Dep’t of Justice*, 53 F.3d 4, 8 (2d Cir. 1995) (“[A]dministrative remedies are ‘deemed exhausted’ if the agency fails to comply with the applicable time limit’ provisions of the FOIA.”). ICE has failed to respond to IDP’s FOIA request within the twenty days provided under the FOIA statute and within the ten additional days that it invoked pursuant to 5 U.S.C. § 552(a)(6)(B). As such, IDP appeals this constructive denial and is entitled to the requested records.

3. Failure to Search for Responsive Documents

Under FOIA, federal agencies are required to make reasonable efforts to search for requested records. 5 U.S.C. § 552(a)(3)(C). Searching involves reviewing, “manually or by automated means, agency records for the purpose of locating those records which are responsive to a request.” 5 U.S.C. § 552(a)(3)(D). DHS regulations provide that the agency and its components must complete the search pursuant to a FOIA request where it can do so under a “business as usual” approach, meaning that it has the capability to do so without “significant expenditure of monetary or personnel resources.” 6 C.F.R. § 5.4(i)(2). There is no evidence that ICE has begun to search for the records requested by Requestor, or that ICE has gathered and reviewed any records pursuant to this FOIA request. Thus, the agency has violated Requestor’s rights under FOIA, 5 U.S.C. § 552(a)(3), and ICE’s own regulations, 6 C.F.R. § 5.4(i).

4. Failure to Produce Responsive Documents:

Federal agencies are required to make records properly requested pursuant to FOIA promptly available to the Requestor. 5 U.S.C. § 552(a)(3)(A); *see also* 6 C.F.R. § 5.6(c).

Through this request, IDP properly asked for records within ICE's control. ICE has neither produced any records to IDP in response to its request, nor made any explicit and justified claims of statutory exemption. Further, ICE has provided no status update on IDP's FOIA request. The agency's failure to promptly make records available in response to IDP's request violates Requestor's rights under FOIA, 5 U.S.C. § 552(a)(3).

5. Failure to Respond to Request for or Provide Expedited Processing:

"Requests and appeals shall be processed on an expedited basis whenever it is determined that they involve . . . [a]n urgency to inform the public about an actual or alleged Federal Government activity, if made by [entities which are] primarily engaged in disseminating information." 28 C.F.R. § 16.5(e)(1); *see also* 5 U.S.C. § 552(a)(6)(E)(v)(II). "It is not enough that, within the relevant time period, the agency simply decide [sic] to later decide." *Citizens for Responsibility & Ethics in Wash. v. FEC*, 711 F.3d 180, 186 (D.C. Cir. 2013).

As the FOIA requestor, IDP properly requested expedited processing pursuant to this FOIA request. IDP is "primarily engaged in disseminating information," 6 C.F.R. § 5.5(e)(1)(ii), and pursuant to DHS regulations, this "need not be [the Requestor's] sole occupation," 6 C.F.R. § 5.5(e)(3). As stated in the original request, there is an urgent need to obtain the requested information, because it will assist in helping prepare non U.S. citizens for their check-ins and advising them of their legal rights during such processes.⁵ Despite the continuance of the COVID-19 pandemic, electronic and telephonic alternative-to-detention programs have continued unimpeded, *see* ICE Guidance on COVID-19, Overview & FAQs, <https://www.ice.gov/coronavirus>, so urgency with regards to these programs is clearly unaffected. In addition, in-person check-ins have resumed at certain field offices, including the New York City ICE Field Office. Thus, IDP must invest time and resources in reviewing the documents produced by ICE and in producing materials for widespread dissemination that account for how the COVID-19 pandemic and the new presidential administration have amended ICE policies and protocols as they pertain to supervision.

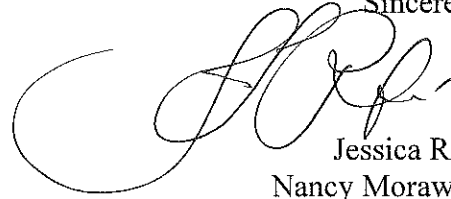
IDP is able and intends to widely disseminate the requested information. IDP is an expert resources and advocacy organization, which disseminates information to policy makers, attorneys, the general public, and affected communities.⁶ ICE has allowed 68 days to elapse since the initial FOIA request without making any determination or producing any documents to the request. This is well over the 30-day limit allotted for expedited processing under 5 U.S.C. § 552(a)(6)(E). Thus, ICE has violated the Requesters' rights to expedited processing under FOIA, 5 U.S.C. § 552(a)(6)(E), and ICE's own regulations, 6 C.F.R. § 5.5(e).

We look forward to a timely response to our appeal and the results of a search of relevant records. Thank you for your attention to this matter.

⁵ Michael E. Miller, "They fear being deported. But 2.9 million immigrants must check in with ICE anyway." THE WASHINGTON POST, Apr. 25, 2019, https://www.washingtonpost.com/local/they-fear-being-deported-but-29-million-immigrants-must-check-in-with-ice-anyway/2019/04/25/ac74efce-6309-11e9-9ff2-abc984dc9eec_story.html.

⁶ IDP Resources, IMMIGRANT DEFENSE PROJECT, <https://immigrantdefenseproject.org/resources2/>.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Rofé', with a large, sweeping flourish extending to the left.

Jessica Rofé
Nancy Morawetz
Supervising Attorneys

Olivia Abrecht
Daad Sharfi
Jacob Mertz-Lerman
Legal Interns

On Behalf of Requestor

EXHIBIT A

**VIA ELECTRONIC MAIL AND UPS NEXT DAY AIR**

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

September 2, 2021

Re: Freedom of Information Act Request

Dear FOIA Officer:

The Immigrant Defense Project (“IDP” or “Requester”) files this request pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, for information regarding the Department of Homeland Security (“DHS”)’s Immigration and Customs Enforcement (“ICE”) policies, practices and procedures concerning the supervision and monitoring of immigrants pursuant to Orders of Supervision (“OSUP”), release on recognizance (“OREC”), Alternatives to Detention (“ATDs”), parole, bond, or any other population management program.

IDP is a national expert resource and advocacy organization that provides training, advice, and support to immigrant communities, legal practitioners, and advocates seeking to advance the rights of immigrants, and monitors the intersection of the criminal legal system and immigration system. IDP disseminates information about these issues to policy makers, attorneys, the general public, and affected communities. These materials routinely include information obtained in FOIA requests.¹

A. Purpose of Request

The purpose of this request is to obtain information for the public about ICE policies, practices, and procedures related to the agency’s Population Management, OSUP, OREC, parole, bond, and ATD programs, as well as any other supervision program. As an organization that provides no-cost services to immigrants, immigrant communities, legal practitioners, advocates, and activists seeking to advance the rights of immigrants, IDP has an interest in understanding the implementation and impact of these policies and procedures, how they have been and are being developed, and what goals the agency has in enforcing them.

¹ See, e.g., Immigrant Defense Project, ICE Raids FOIA, <https://www.immigrantdefenseproject.org/raids-foia/> (last accessed Aug. 19, 2021) (disseminating documents on the recent history of ICE trainings and practices around home raids obtained via FOIA).

Current procedures and policies governing ICE supervision programs are not publicly known; however, record evidence of the lived experiences of individuals subject to these supervision programs demonstrates egregious conditions with far-reaching adverse consequences. For example, a recent report published by IDP, the Kathryn O. Greenberg Immigrant Justice Clinic at Cardozo School of Law, and Freedom for Immigrants aggregated survey data from 150 immigrants across the country subject to ankle shackles in connection with their participation in ICE's ATD programs. This report documented the significant psychological, physical and economic harm ankle shackles have on individuals and communities.² These harms include numbness and sustained swelling from the ankle shackle, anxiety and sleep disruption, and social stigma and loss of work on account of wearing the ankle shackle in public.³

In addition, at routine check-in appointments, ICE officials or agency subcontractors have made the following demands of immigrants subject to supervision:

- Mother of three, who struggles with dementia, asked to provide the names and addresses of all of her children and whether or not she lives with them, and asked to submit copies of undocumented children's birth certificates;
- Man with family in home country asked to conscript his family's assistance in procuring a new birth certificate for purposes of obtaining a travel document, although his family lives hours away from the closest government building that could provide such documents and the country itself is marred by civil unrest;
- Man ordered released from ICE custody on bond is instead released with an ankle monitor, weekly house arrest and biweekly check-ins through contracted supervision program;
- Stateless refugee whose most recent supervision order started in 2004 and who has reported over 50 times on that order, including 4 weeks in a row, threatened with immediate detention by ICE officers unless the refugee did the impossible and obtained travel documents; and
- ICE officer gave stateless woman a birth certificate that did not have her correct identifying information, told her to apply for a passport, and threatened her with detention if the woman refused.

Such demands have been unexpected, exceed the four corners of OSUPs, and have sweeping implications for *all* community members, whether or not they are directly subject to supervision. Knowledge of formal government policies and procedures allegedly empowering ICE to make such requests is essential to preparation for check-ins and other forms of supervision. "For the people presenting themselves to immigration authorities, including more than a million already facing final orders of removal from the United States, each check-in can feel perilous."⁴ The

² Tosca Giustini et al., *Immigrant Cyber Prisons: Ending the Use of Electronic Ankle Shackles* at 2, CARDOZO LAW ET AL., (2021) <https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/60ec661ec578326ec3032d52/1626105377079/Immigration+Cyber+Prisons+report.pdf> (last accessed Aug. 19, 2021).

³ *Id.* at 3.

⁴ Michael E. Miller, *They fear being deported. But 2.9 million immigrants must check in with ICE anyway*, THE

information sought in this request will provide greater clarity to those checking-in, and will also enable public oversight and monitoring of ICE's supervision tactics.

Further, this information is critical to present debates regarding the future and direction of ICE-operated supervision programs. On July 13, 2021, the Democratically-controlled House Appropriations Committee advanced a bill that would allocate \$475 million to ICE for ATD programs,⁵ a figure over \$30 million in excess of what the Biden Administration proposed in its May 28th FY 2022 Budget.⁶ The bill additionally would allocate over \$20 million for Homeland Advanced Recognition Technology, “a planned databased for storing biometric data including digital fingerprints, facial images and scans of irises.”⁷ Then, on August 17, 2021, DHS announced an ATD Case Management Pilot Program—designed to “supplement” existing ATD programs—which will allow DHS to partner with non-profit organizations to provide case management, purportedly “to ensure that noncitizens in removal proceedings have access to legal information and other critical services” including “departure planning and reintegration services for individuals returning to their home countries.”⁸ These events reflect a unique moment that will determine the development of key government policies, protocols and guidance related to immigration enforcement and its use of detention, surveillance, and supervision. In this situation, it is more critical than ever that the public have access to information that will inform legal and policy decisions, so that they can engage the elected officials at the helm of decision making.

B. Definitions

Supervision Program(s): For purposes of this request, the term “supervision programs” refers to supervision, surveillance and monitoring pursuant to OSUP, OREC, parole, bond, and any ATD programs – including but not limited to the Intensive Supervision Appearance Program (“ISAP”), technology-only monitoring programs, Population Management programs, and other forms of supervision for immigrants which are administered by ICE and third party contractors, including non-governmental actors.

Record(s): For purposes of this request, the term “records” includes all records or communications preserved in electronic or written form, including but not limited to correspondence, documents, data, spreadsheets, videotapes, audiotapes, e-mails, text messages, social media communication, online messaging, faxes, files, guidance, guidelines, evaluations, legal opinions, instructions, analyses, directives, memoranda, agreements, notes, orders,

WASHINGTON POST (Apr. 25, 2019, 10:01 AM), https://www.washingtonpost.com/local/they-fear-being-deported-but-29-million-immigrants-must-check-in-with-ice-anyway/2019/04/25/ac74efce-6309-11e9-9ff2-abc984dc9eec_story.html (last accessed Aug. 19, 2021).

⁵ See Chris Mills Rodrigo, *Homeland Security Funding Package Pours Millions into Migrant Surveillance*, THE HILL (Jul. 13, 2021; 4:03 P.M.), <https://thehill.com/policy/technology/562811-homeland-security-funding-package-pours-millions-into-surveillance>.

⁶ DEP'T OF HOMELAND SECURITY, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, U.S. BUDGET OVERVIEW: FISCAL YEAR 2022 CONGRESSIONAL JUSTIFICATION, https://www.dhs.gov/sites/default/files/publications/u.s._immigration_and_customs_enforcement.pdf. The bill proposes a total allocation of over \$8 billion for ICE overall. *Id.*

⁷ *Id.*

⁸ Press Release, *DHS Announces Alternatives to Detention Case Management Pilot Program*, U.S. DEP'T OF HOMELAND SECURITY, (Aug. 17, 2021) <https://www.dhs.gov/news/2021/08/17/dhs-announces-alternatives-detention-case-management-pilot-program> (last accessed Aug. 19, 2021).

contracts, policies, procedures, protocols, reports, rules, manuals, technical specifications, training manuals, and studies. This includes records kept in written form, electronic format on computers and/or other electronic storage devices, electronic communications, compact discs, and/or videotapes, and any other sub-regulatory guidance.

Throughout this request, if and when responsive records involve individuals who were ordered removed, detained, released, and/or placed in Alternatives to Detention (“ATD”) programs or involve policies related to those agency actions prior to the formation of DHS in 2003, the term “DHS” and/or “ICE” shall include the former Immigration and Naturalization Services (“INS”). Any reference to Enforcement and Removal Operations (“ERO”) shall include its predecessor division, Detention and Removal Operations (“DRO”).

C. Requests

Requesters, through this FOIA, seek the following records prepared, received, transmitted, collected, and/or maintained by ICE from December 19, 2019 to present.

1. Any and all records received, maintained, or created by ICE’s New York and Newark Field Offices, or ICE Headquarters, related to the creation, implementation, or oversight of supervision programs including, but not limited to, OREC, OSUP, parole, bond, and ATD (including ISAP and the ATD Case Management Pilot Program). Records should include, but are not limited to:
 - a. Policies, practices, guidelines, protocols, and instructions for, and communications regarding, OREC, OSUP, parole, bond, ATD (including ISAP and the ATD Case Management Pilot Program) and other community-based supervision programs, including documents related to program oversight;
 - b. Policies, practices, guidelines, protocols, instructions, training manuals, memoranda, communications, and any other record used to train ICE officers and other DHS employees in the administration, regulation, provision, and oversight of supervision programs, including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program);
 - c. Policies, practices, guidelines, protocols, instructions, training manuals, memoranda, communications, and any other record used to train third-party contractors in the administration, regulation, provision, and oversight of supervision programs, including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program);
 - d. Policies, practices, guidelines, protocols, formal and informal guidance, and communications for securing a travel document from individuals under a supervision program, including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program);
 - e. Policies, practices, guidelines, protocols, formal and informal guidance, and communications for securing any other document (e.g., birth certificates, proof

- of work, proof of address, etc.) from individuals under a supervision program, including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program);
- f. Policies, practices, guidelines, protocols, formal and informal guidance, and communications applicable when individuals on supervision programs do not present a travel document requested or demanded by ICE officials and/or private companies contracted to provide ATD services;
 - g. Policies, practices, guidelines, protocols, formal and informal guidance, and communications applicable when individuals on supervision programs do not present any other document or documentation requested or demanded by ICE officials and/or private companies contracted to provide ATD services;
 - h. Policies, practices, guidelines, protocols, formal and informal guidance, and communications relating to ICE's determination of whether someone is eligible for placement in a supervision program including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program);
 - i. Policies, practices, guidelines, protocols, formal and informal guidance, and communications relating to ICE's selection of the terms of supervision by which individuals must comply, including, but not limited to, the frequency of in-person check-ins, scheduling and re-scheduling of check-ins, imposition or removal of ankle monitors, home visits, telephonic monitoring, SmartLink monitoring, and documentation individuals must bring to check-ins;
 - j. Policies, practices, guidelines, protocols, formal and informal guidance, and communications relating to ICE's review of supervision conditions, including but not limited to regular or periodic reviews of supervision conditions and criteria and procedures used to assess requests for reconsideration of supervision conditions;
 - k. Policies, practices, guidelines, protocols, formal and informal guidance, and communications for determining whether and when to deescalate start stint technology (*e.g.*, from BILOC8 to SmartLink);
 - l. Policies, practices, guidelines, protocols, formal and informal guidance, and communications relating to the level of supervision and conditions imposed on individuals participating in supervision programs, including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program);
 - m. Template copies and/or a list of database fields for supervision contracts used for individuals subject to supervision programs, including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program);
 - n. Copies of all individual supervision contracts for qualified individuals with disabilities subject to supervision programs, including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program) within the requested time period;
 - o. Policies, practices, guidelines, protocols, formal and informal guidance, and

- communications relating to qualified individuals with disabilities subject to supervision programs;
- p. Policies, practices, guidelines, protocols, formal and informal guidance, and communications relating to consequences for failure to comply with the terms of an individualized supervision program, including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program);
 - q. Policies, practices, guidelines, protocols, formal and informal guidance, and communications relating to when ICE requests or demands assistance from family members in obtaining documents, and any other authority to require or demand third-party cooperation in obtaining documents;
 - r. Policies, practices, guidelines, protocols, formal or informal guidance, and communications relating to the circumstances under which an ATD participant's contact list may be contacted;
 - s. Policies, practices, guidelines, protocols, formal and informal guidance, and communications for accompaniment to in-person check-ins with ICE by third-parties, including: (i) family; (ii) friends and loved ones; (iii) faith and community leaders; (iv) legal practitioners; and (v) other advocates;
 - t. Policies, practices, guidelines, protocols, formal and informal guidance, and communications for accompaniment to in-person check-ins with third party contractors, by third-parties, including: (i) family; (ii) friends and loved ones; (iii) faith and community leaders; (iv) legal practitioners; and (v) other advocates;
 - u. Policies, practices, guidelines, protocols, formal and informal guidance, and communications relating to scheduling of check-ins with ICE and/or third party contractors on Saturdays, Sundays, and other times outside of normal business hours;
 - v. Policies, practices, guidelines, protocols, formal and informal guidance, and communications regarding individuals' right or ability to communicate through any medium to a person or persons of their choosing after being arrested and detained at or immediately following a check-in;
 - w. Policies, practices, guidelines, protocols, formal and informal guidance, and communications issued or sent by ICE to private security contractors, including but not limited to those who monitor the waiting room for immigrants checking-in with ICE pursuant to supervision programs;
 - x. Policies, practices, guidelines, protocols, formal and informal guidance and communications relating to issuance of administrative stays of removal for individuals subject to supervision programs;
 - y. Policies, practices, guidelines, protocols, formal and informal guidance, and communications relating to fielding requests for and scheduling a reasonable fear interview (RFI) for OSUP participants;
 - z. Any internal quotas relating to the termination (including detention or re-detention) of OSUP participants;

- aa. Policies, practices, guidelines, protocols, formal and informal guidance, and communications relating to qualified individuals with disabilities participating in supervision programs, including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program);
 - bb. Any and all records relating to individuals and/or their designees subject to supervision programs, including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program), who have invoked the Rehabilitation Act of 1973 (as amended);
 - cc. Policies, practices, guidelines, protocols, formal and informal guidance, and communications relating to custody reviews and supervision program placement for individuals who are returned to the U.S. from abroad by ICE after deportation;
2. Any records relating to agreements or contracts between any private entity or entities and ICE for the procurement of services and/or technology used by ICE in the ATD program during the period from December 2019 to present. This request includes any ISAP contract in force, as well as any agreements or contracts between or among providers of ATD equipment and services – such as BI Inc., the Geo Group Incorporated, or any other contracting company – and ICE that require ICE to purchase ATD-related equipment or ATD-related services. This request additionally includes rental agreements between or among providers of ATD equipment and services – such as BI Incorporated, the Geo Group Incorporated, and any contracting company – and property owners for ISAP locations in the New York City and Newark areas;
3. Any and all national “ISAP Monthly Progress Reports” within the requested time-period;
4. Any and all records received, maintained, or created by ICE related to the mobile phone application “BI SmartLink” and its development, including but not limited to:
 - a. All data sets collected using the application;
 - b. The existence and use of predictive algorithms or predictive analytic tools available through Total Access or any other software program developed or managed by BI Inc.;
 - c. The use of GPS tracking data to generate risk scores, including policies, procedures, guidelines, protocols, formal and informal guidance and communications regarding the use of GPS data to monitor travel patterns and identify “high-risk areas”;
 - d. Any and all information or educational materials provided the public or individuals subject to supervision regarding ICE’s use of data gathered through the SmartLink phone application;
 - e. Any and all information relating to SmartLink’s ability to interface with or share data with BI’s TotalAccess software or other similar software programs from BI,

- Inc. or other contractors; and
- f. A list of key metrics and terms used in analyzing risk of “absconding,” as well as how these terms and metrics are defined (*e.g.*, “risk locations”);
5. Policies, practices, guidelines, protocols, formal and informal guidance, and communications regarding ICE and DHS’s development and/or use of biometric data, including, but not limited to, digital fingerprints, facial recognition technology, and iris scans;
 6. Policies, practices, guidelines, protocols, formal and informal guidance, and communications regarding ICE and DHS’s development and implementation of IDENT and the Homeland Advanced Recognition Technology System (“HART”), including but not limited to:
 - a. a list of Office of Biometric Identity Management (“OBIM”) mission partners;⁹
 - i. a list of all HART “authorized users”;
 - ii. a list of all HART “data providers”;
 - b. records related to the new data architecture under HART, including migration to the Amazon Web Services (AWS) GovCloud;
 7. Policies, practices, guidelines, protocols, and formal and informal guidance regarding patrolling, observing, or waiting outside of immigration courtrooms by ICE officers;
 8. Any and all data related to risk classification assessments (“RCA”) for individuals reporting to the New York ICE Field Office from December 19, 2019 to present, including but not limited to, percentage of individuals classified as a low, medium or high flight risk and low, medium or high public safety risk; percentage of individuals with a final order of deportation classified as a low, medium or high flight risk and a low, medium or high public safety risk; number of instances in which ICE supervisors overrode the RCA recommendation and the attendant outcomes; and any and all information relating to whether the RCA makes accommodations, adjustments or amendments when it encounters a qualified individual with a disability;
 9. Records referring to efforts to standardize supervision reporting requirements,

⁹ “OBIM’s mission partners capture biometric data and submit it to HART in order to carry out the missions and functions including law enforcement; national security; immigration screening; border enforcement; intelligence; national defense; background investigations relating to national security positions; and credentialing consistent with applicable DHS authorities.” U.S. Dep’t of Homeland Security, *Privacy Impact Assessment for the Homeland Advanced Recognition Technology System (HART) Increment 1 PIA* (Feb. 24, 2020), https://www.dhs.gov/sites/default/files/publications/privacy-pia-obim004-hartincrement1-february2020_0.pdf.

including but not limited to continuations of a November 12, 2004 memorandum addressed to Field Office Directors from Victor X. Cerda, Acting Director, with the subject line, "Orders of Supervision," with the Purpose section, "To standardize the reporting requirements for those aliens released under an Order of Supervision (OSUP) or on an Order of Release on Recognizance (ROR)";

10. Data referring to ICE's Enforcement and Removal Operations success or failure in achieving removal "goals";
11. Data referring to percentage of supervision program participants who have obtained legal representation, and any detail as to whether attorneys obtained are pro bono or private;
12. Aggregate records and data summarizing the number of individuals participating in supervision programs disaggregated by regional offices, including but not limited to:
 - a. Total number of those participating in supervision programs, separated by the type of program and/or "legal stage" (e.g., whether individuals are pre- or post-final order);
 - b. Demographics and other information of those participating in supervision programs, including but not limited to: sex, country of birth, age, whether the participant is a qualified individual with a disability, preferred language, English proficiency, legal stage (e.g., whether individuals are pre- or post-final order), current ATD technology, initial ATD technology, whether they have legal counsel, and any other data collected; and
 - c. Number of immigrants who have been re-detained while participating in a supervision program or who have been "terminated" from a supervision program for any reason, separated by type of program, reason for termination (e.g., redetention, deportation, gaining immigration status), and "legal stage" (e.g., whether individuals are pre- or post-final order);
13. Any and all communications received, sent or maintained by the New York Field Office regarding the implementation of OSUP policies;
14. Handbooks and policy manuals originating in or used, implemented or otherwise employed by the New York Field Office or the Newark Field Office referring to ATDs and OSUPs specifically;
15. Intensive Supervision Appearance Program weekly, monthly, and annual report(s) issued within the requested time period, both nationally and for the New York and Newark Field Offices (e.g., the ISAP Connections reports);

16. GPS Summary for fiscal years 2019 through present (including, but not limited to, average number of participants per month, total cost per year for GPS, average cost per participant, total GPS days billed per month, total number of participants per month, and price per month);
17. The most recent version of the Detention and Removal Operations Policy and Procedure Manual/ Detention and Deportation Officer's Field Manual;
18. Policies, practices, guidelines, protocols, and formal and informal guidance pertaining to changes to supervision programs during the COVID-19 pandemic;

The scope of the search should not be limited to ICE-originated records and should be construed to include records that are currently in the possession of any U.S. government contractor for purposes of records management.

If, under applicable law, any of the information requested is considered exempt, please describe in detail the nature of the information withheld, the specific exemption or privilege upon which the information is withheld, and whether the portions of withheld documents containing non-exempt or non-privileged information have been provided.

Thank you in advance for your response to this request within twenty business days, as the FOIA requires. See 5 U.S.C. § 552(a)(6)(A)(i).

D. Format of Production

Requesters seek electronic records produced in the following format:

- Electronic records in PDF format, electronically searchable wherever possible;
 - 'Parent-child' relationships maintained, meaning that Requesters must be able to identify the attachments with emails;
 - Any data records in native format (i.e., Excel spreadsheets in Excel);
 - Emails should include BCC and any other hidden fields, with any other metadata preserved.

Where electronic records are too large to be sent in PDF format, via secure share drive.

E. Request for Waiver of Fees

The Requester asks that all fees associated with this FOIA request be waived. The Requester is a not-for-profit organization that works on behalf of immigrant communities. The Requester is entitled to a waiver of all costs because disclosure of the information is "likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii). *See also* 6 C.F.R. § 5.11(k) (records furnished without charge or at a reduced rate if the information is in the public interest, and disclosure is not in commercial interest of institution). A fee waiver also would fulfill Congress' intent in amending the FOIA. *See Judicial Watch, Inc. v. Rossoti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (discussing that Congress intended the FOIA to be construed broadly to favor fee waiver for noncommercial requests).

The Requester will make any information that it receives as a result of this FOIA request available to the public, including the press, at no cost. Disclosure in this case therefore meets the statutory criteria, and a fee waiver would fulfill Congress' legislative intent in amending the FOIA. *See Judicial Watch Inc. v. Rossotti*, 326 F.3d 1309 (D.C. Cir. 2003) ("Congress amended FOIA to ensure that it be 'liberally construed in favor of waivers of noncommercial requesters'").

In the alternative, if no fee waiver is granted and the fees exceed \$250.00, please contact the Requester's undersigned counsel to obtain consent to incur additional fees. Processing fees should be limited pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) ("[F]ees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by ... a representative of the news media.").

1. Disclosure of the Information is in the Public Interest

Disclosure of the requested information will contribute significantly to the public understanding of government operations and activities regarding operation of supervision programs for immigrants. 6 C.F.R. § 5.11(k)(2). The requested information impacts hundreds of thousands of immigrants who have lived and worked in the United States for many years, as well as their loved ones and community members who may be affected by their supervision conditions.

Moreover, this information is critical to ongoing executive and legislative debates at the federal level regarding the development and administration of supervision programs for immigrants.¹⁰ The information will further assist elected officials in responding to the concerns of their constituents and in instructing communities they serve how to best respond to the imposition of supervision and any changes later imposed on the conditions of supervision. The information requested is also relevant to any educational initiatives, whether hosted by elected officials or nonprofits, that seek to inform immigrants and their families of their rights at check-ins with ICE and third party contractors.

The Requester has the capacity to disseminate widely the requested information to the public. The Requester will review, analyze, and/or summarize the information obtained through this FOIA request. In addition, IDP will speak publicly and publish practice advisories or related written materials to be shared with the public, legal practitioners, advocates, and the academic community. IDP will make the information available through its website, which is accessible by members of the public. IDP will additionally disseminate relevant information through its Criminal-Immigration Helpline, which operates 24/7 to provide advice to immigrants nationwide.

The information sought is of great interest to the public at large, but not currently available in the public domain.

¹⁰ See Chris Mills Rodrigo, *Homeland Security Funding Package Pours Millions into Migrant Surveillance*, THE HILL (Jul. 13, 2021; 4:03 P.M.), <https://thehill.com/policy/technology/562811-homeland-security-funding-package-pours-millions-into-surveillance>.

2. Disclosure of the Information is Not Primarily in the Commercial Interest of the Requester

The Requester is a tax-exempt, not-for-profit charitable organization and a coalition of individuals that provides free services. IDP is a 501(c)(3) organization. Attorneys, immigrants, activists, and any other interested members of the public may obtain information about immigration-related issues through its distribution of written materials, including IDP's website, through public and educational appearances, and through operation of its Criminal-Immigration Helpline. The requested information is sought for the purpose of disseminating it to members of the public, including through posting it on IDP's website and other publications, and not for the purpose of commercial gain.

F. Expedited Processing

Expedited processing is warranted because there is "an urgency to inform the public about an actual or alleged federal government activity," and the request is made by entities "primarily engaged in disseminating information." 5 U.S.C. § 552(a)(6)(E)(v)(II). This request demonstrates that both criteria are satisfied. 6 C.F.R. § 5.5(d)(3). There is an urgent need to obtain the requested information, which is not publicly available. The records described above would accurately reflect the scope, details, and policies governing noncitizen check-ins under supervision programs nationally. It is critical to obtain this information because it will assist in helping prepare immigrants for their check-ins and in advising them of their legal rights during such processes. Moreover, as outlined above, supervision programs are the subject of present debates in Congress, and will factor largely into the budget and appropriations process.

The Requester is "primarily engaged in disseminating information" and thus warrant expedited processing. 5 U.S.C. § 552(a)(6)(E)(v)(II); *see also* 6 C.F.R. § 5.5(d)(3). DHS regulations specifically provide that "information dissemination . . . need not be [a requester's] sole occupation." 6 C.F.R. § 5.5(e)(3). IDP is an expert resources and advocacy organization that monitors the intersection of the criminal justice system and immigration system.¹¹ It disseminates information about these issues to policy makers, attorneys, the general public, and affected communities, and these materials routinely include information obtained through FOIA requests.¹² IDP publishes newsletters, know-your-rights pamphlets, and reports on immigration issues.¹³

¹¹ Mission, IMMIGRANT DEFENSE PROJECT, <https://www.immigrantdefenseproject.org/about>.

¹² IDP Resources, IMMIGRANT DEFENSE PROJECT, <https://www.immigrantdefenseproject.org/resources2/>;
Immigrant

Defense Project, *Defend Against ICE Raids and Community Arrests* (2017),
<https://www.immdefense.org/raidstoolkit/>

(including documents obtained in the *Immigrant Defense Project et al. v. ICE, et al.* FOIA litigation);
Immigrant Defense Project, *Insecure Communities, Devastated Families; New Data on Immigrant Detention and Deportation Practices in New York City* (July 23, 2012), <https://www.immigrantdefenseproject.org/wpcontent/uploads/2012/08/NYC-FOIA-Report-2012-FINAL-Aug.pdf> (data in part provided through FOIA with ICE);
ICE Raids FOIA, IMMIGRANT DEFENSE PROJECT, <https://www.immigrantdefenseproject.org/raids-foia/>
(information

on ICE trainings and practices around home raids, obtained through ongoing FOIA litigation, available online).

¹³ Resources for Communities, IMMIGRANT DEFENSE PROJECT,
<https://www.immigrantdefenseproject.org/category/resources-for-communities/>

G. Address for Productions

Please email responsive documents to Jessica Rofé, Esq., at jessica.rofe@nyu.edu and mail any paper copies to the following address:

Jessica Rofé, Esq.
Washington Sq. Legal Services, Inc.
245 Sullivan St., 5th Fl.
New York, NY 10012

I certify that the information contained in this request is true and correct to the best of my knowledge. *See* 6 C.F.R. § 5.5(d)(3).

Thank you for your time and attention to this matter. Should you have any questions, please do not hesitate to contact Jessica either at jessica.rofe@nyu.edu or (714) 458-2127.

Sincerely,



Marie Mark, Esq.
Director of Legal Support and Resources
Immigrant Defense Project
P.O. Box 1765
New York, New York 10027
(646) 760-0597
marie@immdefense.org

EXHIBIT B

From: Rofe, Jessica
Sent: Wednesday, September 22, 2021 9:19 PM
To: ice-foia@ice.dhs.gov
Cc: Marie Mark
Subject: Re: Freedom of Information Act Request Submitted on Behalf of the Immigrant Defense Project

Dear ICE FOIA Officer,

I write to follow-up on the below request and confirm the agency's receipt thereof.

Whenever you have a moment, can you please let me know the status of the below request?

Thank you.

Regards,
Jessica Rofé

Jessica L. Rofé
Toni Rembe and Arthur Rock Immigrant Defense Fellow
Supervising Attorney
Immigrant Rights Clinic
New York University School of Law
Furman Hall
245 Sullivan Street
New York, NY 10012
Tel: 212 992 7245
Fax: 212 995 4031
Email: rofej@mercury.law.nyu.edu

EXHIBIT C



Olivia Abrecht <oja242@nyu.edu>

Fw: Freedom of Information Act Request Submitted on Behalf of the Immigrant Defense Project

Rofe, Jessica <rofej@mercury.law.nyu.edu>

Thu, Oct 7, 2021 at 12:29 PM

To: "ice-foia@ice.dhs.gov" <ice-foia@ice.dhs.gov>, "ICE-FOIA@dhs.gov" <ICE-FOIA@dhs.gov>

Cc: Marie Mark <marie@immdefense.org>, Olivia J Abrecht <oja242@nyu.edu>, Jacob P Metz-Lerman <jpm9673@nyu.edu>, Daad Sharfi <ds6505@nyu.edu>, "Morawetz, Nancy" <nancy.morawetz@nyu.edu>

Dear ICE FOIA Officer,

I hope this message finds you healthy and safe. I write to confirm receipt of the below FOIA request (which I attach again, for reference). We have yet to receive a receipt notice for this FOIA request, despite having submitted it on September 2, 2021, and note that the ICE FOIA website indicates that requesters should receive an acknowledgment letter "within 3-5 business days after [ICE] receive[s] [the] request."

Can you please confirm that your office has received the request?

Thanks very much for your attention to this matter.

Kind regards,

[Quoted text hidden]

2021 09 02 NEW 2021 FOIA request (final)-with signature.pdf
354K

EXHIBIT D

UPS CampusShip: View/Print Label

1. Ensure there are no other shipping or tracking labels attached to your package. Select the Print button on the print dialog box that appears. Note: If your browser does not support this function select Print from the File menu to print the label.

2. Fold the printed label at the solid line below. Place the label in a UPS Shipping Pouch. If you do not have a pouch, affix the folded label using clear plastic shipping tape over the entire label.

3. GETTING YOUR SHIPMENT TO UPS

Customers with a Daily Pickup

Your driver will pickup your shipment(s) as usual.

Customers without a Daily Pickup

Take your package to any location of The UPS Store®, UPS Access Point™ location, UPS Drop Box, UPS Customer Center, Staples® or Authorized Shipping Outlet near you. Items sent via UPS Return Services(SM) (including via Ground) are also accepted at Drop Boxes. To find the location nearest you, please visit the Resources area of CampusShip and select UPS Locations.


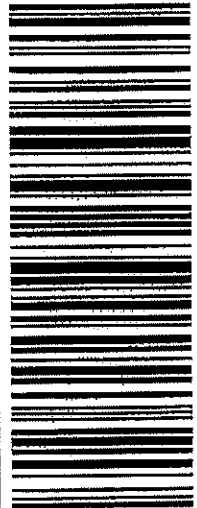

Schedule a same day or future day Pickup to have a UPS driver pickup all your CampusShip packages. Hand the package to any UPS driver in your area.

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NEW YORK, NY 10003

UPS Access Point™
MACS CLEANERS NY, INC
189 W 4TH ST
NEW YORK, NY 10014

UPS Access Point™
CVS STORE # 8900
20 UNIVERSITY PL
NEW YORK, NY 10003

FOLD HERE

<p>IMMIGRANT RIGHTS CLINIC 212-958-6459 WASHINGTON SQ. LEGAL SERVICES 245 SULLIVAN STREET NEW YORK, NY 10012</p> <p>SHIP TO: U.S. ICE FOIA OFFICE STOP 5009 500 12TH ST SW WASHINGTON DC 20536-5009</p>	<p>0.2 LBS LTR</p> <p>1 OF 1</p>	<p>MD 201 9-59</p> 	<p>UPS NEXT DAY AIR SAVER 1P</p> <p>TRACKING #: 1Z A5T 635 30 9594 5937</p> 	<p>BILLING: P/P</p> <p>Chartfield Number: 631301953110Z0203XXXXX CS 22.0-1E. MACN056-45.0A 10/2021*</p> 
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IMMIGRANT RIGHTS CLINIC
WASHINGTON SQUARE LEGAL SERVICES, INC.
245 SULLIVAN STREET, 5TH FLOOR
NEW YORK, NEW YORK 10012
TEL: 212-998-6430

November 2, 2021

VIA UPS OVERNIGHT DELIVERY

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

**RE: Freedom of Information Act Request on Behalf of Immigrant Defense Project,
Filed via email on September 2, 2021**

Dear FOIA Officer,

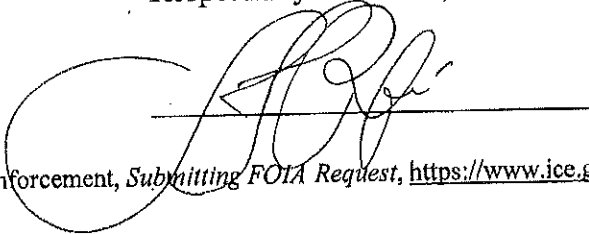
We write to inquire about the status of a Freedom of Information Act ("FOIA") request submitted by our office on behalf of the Immigrant Defense Project ("IDP") on September 2, 2021. *See* Exh. 1, FOIA Request Filed on Behalf of Immigrant Defense Project, dated Sept. 2, 2021, and attendant email correspondence. The ICE website indicates that our office should have received a receipt notice in connection with this request "within 3-5 business days."¹ We have not yet received a receipt notice. On September 22, 2021 and October 7, 2021, we followed up and inquired about the missing receipt notice but have yet to receive a response to our email inquiries. *See* Exh. 2, Email Correspondence dated Sept. 22, 2021 and Oct. 7, 2021.

At your earliest convenience, we ask that you provide us with a receipt number for our September 2021 FOIA request, a receipt notice indicating the initial date of filing as September 2, 2021, and a status update on the instant request.

Enclosed, please find the following documents in support of this inquiry:

1. Exhibit 1: a copy of our FOIA request, dated and submitted electronically on September 2, 2021, with attendant email correspondence; and
2. Exhibit 2: a print out of email correspondence dated September 22, 2021 and October 7, 2021, inquiring about the receipt notice for the abovementioned FOIA request.

Respectfully submitted,



¹ *See* U.S. Immigration and Customs Enforcement, *Submitting FOIA Request*, <https://www.ice.gov/foia/request> (last visited Nov. 2, 2021).

Jessica Rofé, Esq.
Nancy Morawetz, Esq.
Daad Sharfi, *Legal Intern*
Jacob Metz-Lerman, *Legal Intern*
Olivia Abrecht, *Legal Intern*
Washington Square Legal Services, Inc.
NYU Immigrant Rights Clinic
245 Sullivan Street, 5th Floor
New York, NY 10012
Tel: (714) 458-2127
jessica.rofe@nyu.edu

EXHIBIT 1

**VIA ELECTRONIC MAIL AND UPS NEXT DAY AIR**

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

September 2, 2021

Re: Freedom of Information Act Request

Dear FOIA Officer:

The Immigrant Defense Project (“IDP” or “Requester”) files this request pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, for information regarding the Department of Homeland Security (“DHS”)’s Immigration and Customs Enforcement (“ICE”) policies, practices and procedures concerning the supervision and monitoring of immigrants pursuant to Orders of Supervision (“OSUP”), release on recognizance (“OREC”), Alternatives to Detention (“ATDs”), parole, bond, or any other population management program.

IDP is a national expert resource and advocacy organization that provides training, advice, and support to immigrant communities, legal practitioners, and advocates seeking to advance the rights of immigrants, and monitors the intersection of the criminal legal system and immigration system. IDP disseminates information about these issues to policy makers, attorneys, the general public, and affected communities. These materials routinely include information obtained in FOIA requests.¹

A. Purpose of Request

The purpose of this request is to obtain information for the public about ICE policies, practices, and procedures related to the agency’s Population Management, OSUP, OREC, parole, bond, and ATD programs, as well as any other supervision program. As an organization that provides no-cost services to immigrants, immigrant communities, legal practitioners, advocates, and activists seeking to advance the rights of immigrants, IDP has an interest in understanding the implementation and impact of these policies and procedures, how they have been and are being developed, and what goals the agency has in enforcing them.

¹ See, e.g., Immigrant Defense Project, ICE Raids FOIA, <https://www.immigrantdefenseproject.org/raids-foia/> (last accessed Aug. 19, 2021) (disseminating documents on the recent history of ICE trainings and practices around home raids obtained via FOIA).

Current procedures and policies governing ICE supervision programs are not publicly known; however, record evidence of the lived experiences of individuals subject to these supervision programs demonstrates egregious conditions with far-reaching adverse consequences. For example, a recent report published by IDP, the Kathryn O. Greenberg Immigrant Justice Clinic at Cardozo School of Law, and Freedom for Immigrants aggregated survey data from 150 immigrants across the country subject to ankle shackles in connection with their participation in ICE's ATD programs. This report documented the significant psychological, physical and economic harm ankle shackles have on individuals and communities.² These harms include numbness and sustained swelling from the ankle shackle, anxiety and sleep disruption, and social stigma and loss of work on account of wearing the ankle shackle in public.³

In addition, at routine check-in appointments, ICE officials or agency subcontractors have made the following demands of immigrants subject to supervision:

- Mother of three, who struggles with dementia, asked to provide the names and addresses of all of her children and whether or not she lives with them, and asked to submit copies of undocumented children's birth certificates;
- Man with family in home country asked to conscript his family's assistance in procuring a new birth certificate for purposes of obtaining a travel document, although his family lives hours away from the closest government building that could provide such documents and the country itself is marred by civil unrest;
- Man ordered released from ICE custody on bond is instead released with an ankle monitor, weekly house arrest and biweekly check-ins through contracted supervision program;
- Stateless refugee whose most recent supervision order started in 2004 and who has reported over 50 times on that order, including 4 weeks in a row, threatened with immediate detention by ICE officers unless the refugee did the impossible and obtained travel documents; and
- ICE officer gave stateless woman a birth certificate that did not have her correct identifying information, told her to apply for a passport, and threatened her with detention if the woman refused.

Such demands have been unexpected, exceed the four corners of OSUPs, and have sweeping implications for *all* community members, whether or not they are directly subject to supervision. Knowledge of formal government policies and procedures allegedly empowering ICE to make such requests is essential to preparation for check-ins and other forms of supervision. "For the people presenting themselves to immigration authorities, including more than a million already facing final orders of removal from the United States, each check-in can feel perilous."⁴ The

² Tosca Giustini et al., *Immigrant Cyber Prisons: Ending the Use of Electronic Ankle Shackles* at 2, CARDOZO LAW ET AL., (2021) <https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/60ec661ec578326ec3032d52/1626105377079/Immigration+Cyber+Prisons+report.pdf> (last accessed Aug. 19, 2021).

³ *Id.* at 3.

⁴ Michael E. Miller, *They fear being deported. But 2.9 million immigrants must check in with ICE anyway*, THE

information sought in this request will provide greater clarity to those checking-in, and will also enable public oversight and monitoring of ICE's supervision tactics.

Further, this information is critical to present debates regarding the future and direction of ICE-operated supervision programs. On July 13, 2021, the Democratically-controlled House Appropriations Committee advanced a bill that would allocate \$475 million to ICE for ATD programs,⁵ a figure over \$30 million in excess of what the Biden Administration proposed in its May 28th FY 2022 Budget.⁶ The bill additionally would allocate over \$20 million for Homeland Advanced Recognition Technology, "a planned databased for storing biometric data including digital fingerprints, facial images and scans of irises."⁷ Then, on August 17, 2021, DHS announced an ATD Case Management Pilot Program—designed to "supplement" existing ATD programs—which will allow DHS to partner with non-profit organizations to provide case management, purportedly "to ensure that noncitizens in removal proceedings have access to legal information and other critical services" including "departure planning and reintegration services for individuals returning to their home countries."⁸ These events reflect a unique moment that will determine the development of key government policies, protocols and guidance related to immigration enforcement and its use of detention, surveillance, and supervision. In this situation, it is more critical than ever that the public have access to information that will inform legal and policy decisions, so that they can engage the elected officials at the helm of decision making.

B. Definitions

Supervision Program(s): For purposes of this request, the term "supervision programs" refers to supervision, surveillance and monitoring pursuant to OSUP, OREC, parole, bond, and any ATD programs – including but not limited to the Intensive Supervision Appearance Program ("ISAP"), technology-only monitoring programs, Population Management programs, and other forms of supervision for immigrants which are administered by ICE and third party contractors, including non-governmental actors.

Record(s): For purposes of this request, the term "records" includes all records or communications preserved in electronic or written form, including but not limited to correspondence, documents, data, spreadsheets, videotapes, audiotapes, e-mails, text messages, social media communication, online messaging, faxes, files, guidance, guidelines, evaluations, legal opinions, instructions, analyses, directives, memoranda, agreements, notes, orders,

WASHINGTON POST (Apr. 25, 2019, 10:01 AM), https://www.washingtonpost.com/local/they-fear-being-deported-but-29-million-immigrants-must-check-in-with-ice-anyway/2019/04/25/ac74efce-6309-11e9-9ff2-abc984dc9eec_story.html (last accessed Aug. 19, 2021).

⁵ See Chris Mills Rodrigo, *Homeland Security Funding Package Pours Millions into Migrant Surveillance*, THE HILL (Jul. 13, 2021; 4:03 P.M.), <https://thehill.com/policy/technology/562811-homeland-security-funding-package-pours-millions-into-surveillance>.

⁶ DEP'T OF HOMELAND SECURITY, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, U.S. BUDGET OVERVIEW: FISCAL YEAR 2022 CONGRESSIONAL JUSTIFICATION, https://www.dhs.gov/sites/default/files/publications/u.s._immigration_and_customs_enforcement.pdf. The bill proposes a total allocation of over \$8 billion for ICE overall. *Id.*

⁷ *Id.*

⁸ Press Release, *DHS Announces Alternatives to Detention Case Management Pilot Program*, U.S. DEP'T OF HOMELAND SECURITY, (Aug. 17, 2021) <https://www.dhs.gov/news/2021/08/17/dhs-announces-alternatives-detention-case-management-pilot-program> (last accessed Aug. 19, 2021).

contracts, policies, procedures, protocols, reports, rules, manuals, technical specifications, training manuals, and studies. This includes records kept in written form, electronic format on computers and/or other electronic storage devices, electronic communications, compact discs, and/or videotapes, and any other sub-regulatory guidance.

Throughout this request, if and when responsive records involve individuals who were ordered removed, detained, released, and/or placed in Alternatives to Detention (“ATD”) programs or involve policies related to those agency actions prior to the formation of DHS in 2003, the term “DHS” and/or “ICE” shall include the former Immigration and Naturalization Services (“INS”). Any reference to Enforcement and Removal Operations (“ERO”) shall include its predecessor division, Detention and Removal Operations (“DRO”).

C. Requests

Requesters, through this FOIA, seek the following records prepared, received, transmitted, collected, and/or maintained by ICE from December 19, 2019 to present.

1. Any and all records received, maintained, or created by ICE’s New York and Newark Field Offices, or ICE Headquarters, related to the creation, implementation, or oversight of supervision programs including, but not limited to, OREC, OSUP, parole, bond, and ATD (including ISAP and the ATD Case Management Pilot Program). Records should include, but are not limited to:
 - a. Policies, practices, guidelines, protocols, and instructions for, and communications regarding, OREC, OSUP, parole, bond, ATD (including ISAP and the ATD Case Management Pilot Program) and other community-based supervision programs, including documents related to program oversight;
 - b. Policies, practices, guidelines, protocols, instructions, training manuals, memoranda, communications, and any other record used to train ICE officers and other DHS employees in the administration, regulation, provision, and oversight of supervision programs, including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program);
 - c. Policies, practices, guidelines, protocols, instructions, training manuals, memoranda, communications, and any other record used to train third-party contractors in the administration, regulation, provision, and oversight of supervision programs, including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program);
 - d. Policies, practices, guidelines, protocols, formal and informal guidance, and communications for securing a travel document from individuals under a supervision program, including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program);
 - e. Policies, practices, guidelines, protocols, formal and informal guidance, and communications for securing any other document (e.g., birth certificates, proof

- of work, proof of address, etc.) from individuals under a supervision program, including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program);
- f. Policies, practices, guidelines, protocols, formal and informal guidance, and communications applicable when individuals on supervision programs do not present a travel document requested or demanded by ICE officials and/or private companies contracted to provide ATD services;
 - g. Policies, practices, guidelines, protocols, formal and informal guidance, and communications applicable when individuals on supervision programs do not present any other document or documentation requested or demanded by ICE officials and/or private companies contracted to provide ATD services;
 - h. Policies, practices, guidelines, protocols, formal and informal guidance, and communications relating to ICE's determination of whether someone is eligible for placement in a supervision program including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program);
 - i. Policies, practices, guidelines, protocols, formal and informal guidance, and communications relating to ICE's selection of the terms of supervision by which individuals must comply, including, but not limited to, the frequency of in-person check-ins, scheduling and re-scheduling of check-ins, imposition or removal of ankle monitors, home visits, telephonic monitoring, SmartLink monitoring, and documentation individuals must bring to check-ins;
 - j. Policies, practices, guidelines, protocols, formal and informal guidance, and communications relating to ICE's review of supervision conditions, including but not limited to regular or periodic reviews of supervision conditions and criteria and procedures used to assess requests for reconsideration of supervision conditions;
 - k. Policies, practices, guidelines, protocols, formal and informal guidance, and communications for determining whether and when to deescalate start stint technology (e.g., from BILOC8 to SmartLink);
 - l. Policies, practices, guidelines, protocols, formal and informal guidance, and communications relating to the level of supervision and conditions imposed on individuals participating in supervision programs, including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program);
 - m. Template copies and/or a list of database fields for supervision contracts used for individuals subject to supervision programs, including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program);
 - n. Copies of all individual supervision contracts for qualified individuals with disabilities subject to supervision programs, including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program) within the requested time period;
 - o. Policies, practices, guidelines, protocols, formal and informal guidance, and

- communications relating to qualified individuals with disabilities subject to supervision programs;
- p. Policies, practices, guidelines, protocols, formal and informal guidance, and communications relating to consequences for failure to comply with the terms of an individualized supervision program, including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program);
 - q. Policies, practices, guidelines, protocols, formal and informal guidance, and communications relating to when ICE requests or demands assistance from family members in obtaining documents, and any other authority to require or demand third-party cooperation in obtaining documents;
 - r. Policies, practices, guidelines, protocols, formal or informal guidance, and communications relating to the circumstances under which an ATD participant's contact list may be contacted;
 - s. Policies, practices, guidelines, protocols, formal and informal guidance, and communications for accompaniment to in-person check-ins with ICE by third-parties, including: (i) family; (ii) friends and loved ones; (iii) faith and community leaders; (iv) legal practitioners; and (v) other advocates;
 - t. Policies, practices, guidelines, protocols, formal and informal guidance, and communications for accompaniment to in-person check-ins with third party contractors, by thirdparties, including: (i) family; (ii) friends and loved ones; (iii) faith and community leaders; (iv) legal practitioners; and (v) other advocates;
 - u. Policies, practices, guidelines, protocols, formal and informal guidance, and communications relating to scheduling of check-ins with ICE and/or third party contractors on Saturdays, Sundays, and other times outside of normal business hours;
 - v. Policies, practices, guidelines, protocols, formal and informal guidance, and communications regarding individuals' right or ability to communicate through any medium to a person or persons of their choosing after being arrested and detained at or immediately following a check-in;
 - w. Policies, practices, guidelines, protocols, formal and informal guidance, and communications issued or sent by ICE to private security contractors, including but not limited to those who monitor the waiting room for immigrants checking-in with ICE pursuant to supervision programs;
 - x. Policies, practices, guidelines, protocols, formal and informal guidance and communications relating to issuance of administrative stays of removal for individuals subject to supervision programs;
 - y. Policies, practices, guidelines, protocols, formal and informal guidance, and communications relating to fielding requests for and scheduling a reasonable fear interview (RFI) for OSUP participants;
 - z. Any internal quotas relating to the termination (including detention or re-detention) of OSUP participants;

- aa. Policies, practices, guidelines, protocols, formal and informal guidance, and communications relating to qualified individuals with disabilities participating in supervision programs, including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program);
 - bb. Any and all records relating to individuals and/or their designees subject to supervision programs, including, but not limited to, OREC, OSUP, parole, bond, and ATD programs (including ISAP and the ATD Case Management Pilot Program), who have invoked the Rehabilitation Act of 1973 (as amended);
 - cc. Policies, practices, guidelines, protocols, formal and informal guidance, and communications relating to custody reviews and supervision program placement for individuals who are returned to the U.S. from abroad by ICE after deportation;
2. Any records relating to agreements or contracts between any private entity or entities and ICE for the procurement of services and/or technology used by ICE in the ATD program during the period from December 2019 to present. This request includes any ISAP contract in force, as well as any agreements or contracts between or among providers of ATD equipment and services – such as BI Inc., the Geo Group Incorporated, or any other contracting company – and ICE that require ICE to purchase ATD-related equipment or ATD-related services. This request additionally includes rental agreements between or among providers of ATD equipment and services – such as BI Incorporated, the Geo Group Incorporated, and any contracting company – and property owners for ISAP locations in the New York City and Newark areas;
3. Any and all national “ISAP Monthly Progress Reports” within the requested time-period;
4. Any and all records received, maintained, or created by ICE related to the mobile phone application “BI SmartLink” and its development, including but not limited to:
 - a. All data sets collected using the application;
 - b. The existence and use of predictive algorithms or predictive analytic tools available through Total Access or any other software program developed or managed by BI Inc.;
 - c. The use of GPS tracking data to generate risk scores, including policies, procedures, guidelines, protocols, formal and informal guidance and communications regarding the use of GPS data to monitor travel patterns and identify “high-risk areas”;
 - d. Any and all information or educational materials provided the public or individuals subject to supervision regarding ICE’s use of data gathered through the SmartLink phone application;
 - e. Any and all information relating to SmartLink’s ability to interface with or share data with BI’s TotalAccess software or other similar software programs from BI,

- Inc. or other contractors; and
- f. A list of key metrics and terms used in analyzing risk of “absconding,” as well as how these terms and metrics are defined (e.g., “risk locations”);
5. Policies, practices, guidelines, protocols, formal and informal guidance, and communications regarding ICE and DHS’s development and/or use of biometric data, including, but not limited to, digital fingerprints, facial recognition technology, and iris scans;
 6. Policies, practices, guidelines, protocols, formal and informal guidance, and communications regarding ICE and DHS’s development and implementation of IDENT and the Homeland Advanced Recognition Technology System (“HART”), including but not limited to:
 - a. a list of Office of Biometric Identity Management (“OBIM”) mission partners;⁹
 - i. a list of all HART “authorized users”;
 - ii. a list of all HART “data providers”;
 - b. records related to the new data architecture under HART, including migration to the Amazon Web Services (AWS) GovCloud;
 7. Policies, practices, guidelines, protocols, and formal and informal guidance regarding patrolling, observing, or waiting outside of immigration courtrooms by ICE officers;
 8. Any and all data related to risk classification assessments (“RCA”) for individuals reporting to the New York ICE Field Office from December 19, 2019 to present, including but not limited to, percentage of individuals classified as a low, medium or high flight risk and low, medium or high public safety risk; percentage of individuals with a final order of deportation classified as a low, medium or high flight risk and a low, medium or high public safety risk; number of instances in which ICE supervisors overrode the RCA recommendation and the attendant outcomes; and any and all information relating to whether the RCA makes accommodations, adjustments or amendments when it encounters a qualified individual with a disability;
 9. Records referring to efforts to standardize supervision reporting requirements,

⁹ “OBIM’s mission partners capture biometric data and submit it to HART in order to carry out the missions and functions including law enforcement; national security; immigration screening; border enforcement; intelligence; national defense; background investigations relating to national security positions; and credentialing consistent with applicable DHS authorities.” U.S. Dep’t of Homeland Security, *Privacy Impact Assessment for the Homeland Advanced Recognition Technology System (HART) Increment 1 PIA* (Feb. 24, 2020), https://www.dhs.gov/sites/default/files/publications/privacy-pia-obim004-hartincrement1-february2020_0.pdf.

including but not limited to continuations of a November 12, 2004 memorandum addressed to Field Office Directors from Victor X. Cerda, Acting Director, with the subject line, "Orders of Supervision," with the Purpose section, "To standardize the reporting requirements for those aliens released under an Order of Supervision (OSUP) or on an Order of Release on Recognizance (ROR)";

10. Data referring to ICE's Enforcement and Removal Operations success or failure in achieving removal "goals";
11. Data referring to percentage of supervision program participants who have obtained legal representation, and any detail as to whether attorneys obtained are pro bono or private;
12. Aggregate records and data summarizing the number of individuals participating in supervision programs disaggregated by regional offices, including but not limited to:
 - a. Total number of those participating in supervision programs, separated by the type of program and/or "legal stage" (e.g., whether individuals are pre- or post-final order);
 - b. Demographics and other information of those participating in supervision programs, including but not limited to: sex, country of birth, age, whether the participant is a qualified individual with a disability, preferred language, English proficiency, legal stage (e.g., whether individuals are pre- or post-final order), current ATD technology, initial ATD technology, whether they have legal counsel, and any other data collected; and
 - c. Number of immigrants who have been re-detained while participating in a supervision program or who have been "terminated" from a supervision program for any reason, separated by type of program, reason for termination (e.g., re-detention, deportation, gaining immigration status), and "legal stage" (e.g., whether individuals are pre- or post-final order);
13. Any and all communications received, sent or maintained by the New York Field Office regarding the implementation of OSUP policies;
14. Handbooks and policy manuals originating in or used, implemented or otherwise employed by the New York Field Office or the Newark Field Office referring to ATDs and OSUPs specifically;
15. Intensive Supervision Appearance Program weekly, monthly, and annual report(s) issued within the requested time period, both nationally and for the New York and Newark Field Offices (e.g., the ISAP Connections reports);

16. GPS Summary for fiscal years 2019 through present (including, but not limited to, average number of participants per month, total cost per year for GPS, average cost per participant, total GPS days billed per month, total number of participants per month, and price per month);
17. The most recent version of the Detention and Removal Operations Policy and Procedure Manual/ Detention and Deportation Officer's Field Manual;
18. Policies, practices, guidelines, protocols, and formal and informal guidance pertaining to changes to supervision programs during the COVID-19 pandemic;

The scope of the search should not be limited to ICE-originated records and should be construed to include records that are currently in the possession of any U.S. government contractor for purposes of records management.

If, under applicable law, any of the information requested is considered exempt, please describe in detail the nature of the information withheld, the specific exemption or privilege upon which the information is withheld, and whether the portions of withheld documents containing non-exempt or non-privileged information have been provided.

Thank you in advance for your response to this request within twenty business days, as the FOIA requires. See 5 U.S.C. § 552(a)(6)(A)(i).

D. Format of Production

Requesters seek electronic records produced in the following format:

- Electronic records in PDF format, electronically searchable wherever possible;
 - 'Parent-child' relationships maintained, meaning that Requesters must be able to identify the attachments with emails;
 - Any data records in native format (i.e., Excel spreadsheets in Excel);
 - Emails should include BCC and any other hidden fields, with any other metadata preserved.

Where electronic records are too large to be sent in PDF format, via secure share drive.

E. Request for Waiver of Fees

The Requester asks that all fees associated with this FOIA request be waived. The Requester is a not-for-profit organization that works on behalf of immigrant communities. The Requester is entitled to a waiver of all costs because disclosure of the information is "likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii). See also 6 C.F.R. § 5.11(k) (records furnished without charge or at a reduced rate if the information is in the public interest, and disclosure is not in commercial interest of institution). A fee waiver also would fulfill Congress' intent in amending the FOIA. See *Judicial Watch, Inc. v. Rossoti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (discussing that Congress intended the FOIA to be construed broadly to favor fee waiver for noncommercial requests).

The Requester will make any information that it receives as a result of this FOIA request available to the public, including the press, at no cost. Disclosure in this case therefore meets the statutory criteria, and a fee waiver would fulfill Congress' legislative intent in amending the FOIA. *See Judicial Watch Inc. v. Rossotti*, 326 F.3d 1309 (D.C. Cir. 2003) ("Congress amended FOIA to ensure that it be 'liberally construed in favor of waivers of noncommercial requesters'").

In the alternative, if no fee waiver is granted and the fees exceed \$250.00, please contact the Requester's undersigned counsel to obtain consent to incur additional fees. Processing fees should be limited pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) ("[F]ees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by ... a representative of the news media.").

1. Disclosure of the Information is in the Public Interest

Disclosure of the requested information will contribute significantly to the public understanding of government operations and activities regarding operation of supervision programs for immigrants. 6 C.F.R. § 5.11(k)(2). The requested information impacts hundreds of thousands of immigrants who have lived and worked in the United States for many years, as well as their loved ones and community members who may be affected by their supervision conditions.

Moreover, this information is critical to ongoing executive and legislative debates at the federal level regarding the development and administration of supervision programs for immigrants.¹⁰ The information will further assist elected officials in responding to the concerns of their constituents and in instructing communities they serve how to best respond to the imposition of supervision and any changes later imposed on the conditions of supervision. The information requested is also relevant to any educational initiatives, whether hosted by elected officials or nonprofits, that seek to inform immigrants and their families of their rights at check-ins with ICE and third party contractors.

The Requester has the capacity to disseminate widely the requested information to the public. The Requester will review, analyze, and/or summarize the information obtained through this FOIA request. In addition, IDP will speak publicly and publish practice advisories or related written materials to be shared with the public, legal practitioners, advocates, and the academic community. IDP will make the information available through its website, which is accessible by members of the public. IDP will additionally disseminate relevant information through its Criminal-Immigration Helpline, which operates 24/7 to provide advice to immigrants nationwide.

The information sought is of great interest to the public at large, but not currently available in the public domain.

¹⁰ See Chris Mills Rodrigo, *Homeland Security Funding Package Pours Millions into Migrant Surveillance*, THE HILL (Jul. 13, 2021, 4:03 P.M.), <https://thehill.com/policy/technology/562811-homeland-security-funding-package-pours-millions-into-surveillance>.

2. Disclosure of the Information is Not Primarily in the Commercial Interest of the Requester

The Requester is a tax-exempt, not-for-profit charitable organization and a coalition of individuals that provides free services. IDP is a 501(c)(3) organization. Attorneys, immigrants, activists, and any other interested members of the public may obtain information about immigration-related issues through its distribution of written materials, including IDP's website, through public and educational appearances, and through operation of its Criminal-Immigration Helpline. The requested information is sought for the purpose of disseminating it to members of the public, including through posting it on IDP's website and other publications, and not for the purpose of commercial gain.

F. Expedited Processing

Expedited processing is warranted because there is "an urgency to inform the public about an actual or alleged federal government activity," and the request is made by entities "primarily engaged in disseminating information." 5 U.S.C. § 552(a)(6)(E)(v)(II). This request demonstrates that both criteria are satisfied. 6 C.F.R. § 5.5(d)(3). There is an urgent need to obtain the requested information, which is not publicly available. The records described above would accurately reflect the scope, details, and policies governing noncitizen check-ins under supervision programs nationally. It is critical to obtain this information because it will assist in helping prepare immigrants for their check-ins and in advising them of their legal rights during such processes. Moreover, as outlined above, supervision programs are the subject of present debates in Congress, and will factor largely into the budget and appropriations process.

The Requester is "primarily engaged in disseminating information" and thus warrant expedited processing. 5 U.S.C. § 552(a)(6)(E)(v)(II); *see also* 6 C.F.R. § 5.5(d)(3). DHS regulations specifically provide that "information dissemination . . . need not be [a requester's] sole occupation." 6 C.F.R. § 5.5(e)(3). IDP is an expert resources and advocacy organization that monitors the intersection of the criminal justice system and immigration system.¹¹ It disseminates information about these issues to policy makers, attorneys, the general public, and affected communities, and these materials routinely include information obtained through FOIA requests.¹² IDP publishes newsletters, know-your-rights pamphlets, and reports on immigration issues.¹³

¹¹ Mission, IMMIGRANT DEFENSE PROJECT, <https://www.immigrantdefenseproject.org/about>.

¹² IDP Resources, IMMIGRANT DEFENSE PROJECT, <https://www.immigrantdefenseproject.org/resources2/>;

Immigrant

Defense Project, *Defend Against ICE Raids and Community Arrests* (2017),

<https://www.immdefense.org/raidstoolkit/>

(including documents obtained in the *Immigrant Defense Project et al. v. ICE, et al.* FOIA litigation);

Immigrant Defense Project, *Insecure Communities, Devastated Families; New Data on Immigrant Detention and*

Deportation Practices in New York City (July 23, 2012), <https://www.immigrantdefenseproject.org/wpcontent/uploads/2012/08/NYC-FOIA-Report-2012-FINAL-Aug.pdf> (data in part provided through FOIA with ICE);

ICE Raids FOIA, IMMIGRANT DEFENSE PROJECT, <https://www.immigrantdefenseproject.org/raids-foia/>

(information

on ICE trainings and practices around home raids, obtained through ongoing FOIA litigation, available online).

¹³ Resources for Communities, IMMIGRANT DEFENSE PROJECT,

<https://www.immigrantdefenseproject.org/category/resources-for-communities/>.

G. Address for Productions

Please email responsive documents to Jessica Rofé, Esq., at jessica.rofe@nyu.edu and mail any paper copies to the following address:

Jessica Rofé, Esq.
Washington Sq. Legal Services, Inc.
245 Sullivan St., 5th Fl.
New York, NY 10012

I certify that the information contained in this request is true and correct to the best of my knowledge. *See* 6 C.F.R. § 5.5(d)(3).

Thank you for your time and attention to this matter. Should you have any questions, please do not hesitate to contact Jessica either at jessica.rofe@nyu.edu or (714) 458-2127.

Sincerely,



Marie Mark, Esq.
Director of Legal Support and Resources
Immigrant Defense Project
P.O. Box 1765
New York, New York 10027
(646) 760-0597
marie@immdefense.org

EXHIBIT 2

11/1/21, 4:47 PM

Fw: Freedom of Information Act Request Submitted on Behalf of the Immigrant Defense Project - oja242@nyu.edu - New York University Mail

A057

From: Rofe, Jessica
Sent: Thursday, September 2, 2021 6:48 PM
To: ice-foia@ice.dhs.gov
Cc: Marie Mark
Subject: Freedom of Information Act Request Submitted on Behalf of the Immigrant Defense Project

Dear FOIA Officer,

Enclosed please find a Freedom of Information Act Request, submitted on behalf of the Immigrant Defense Project ("IDP"). Should you have any questions regarding this request, please do not hesitate to contact me by cell at (714) 458-2127.

Thank you very much for your attention to this matter.

Warm regards,
Jessica Rofé

Jessica L. Rofé
Toni Rembe and Arthur Rock Immigrant Defense Fellow
Supervising Attorney
Immigrant Rights Clinic
New York University School of Law
Furman Hall
245 Sullivan Street
New York, NY 10012
Tel: 212 992 7245
Cell: 714 458 2127
Fax: 212 995 4031
Email: rofej@mercury.law.nyu.edu

11/1/21, 4:48 PM

Fw: Freedom of Information Act Request Submitted on Behalf of the Immigrant Defense Project - oja242@nyu.edu - New York University Mail A058

From: Rofe, Jessica
Sent: Wednesday, September 22, 2021 9:19 PM
To: ice-foia@ice.dhs.gov
Cc: Marie Mark
Subject: Re: Freedom of Information Act Request Submitted on Behalf of the Immigrant Defense Project

Dear ICE FOIA Officer,

I write to follow-up on the below request and confirm the agency's receipt thereof.

Whenever you have a moment, can you please let me know the status of the below request?

Thank you.

Regards,
Jessica Rofé

Jessica L. Rofé
Toni Rembe and Arthur Rock Immigrant Defense Fellow
Supervising Attorney
Immigrant Rights Clinic
New York University School of Law
Furman Hall
245 Sullivan Street
New York, NY 10012
Tel: 212 992 7245
Fax: 212 995 4031
Email: rofej@mercury.law.nyu.edu

11/1/21, 4:48 PM

Fw: Freedom of Information Act Request Submitted on Behalf of the Immigrant Defense Project - oja242@nyu.edu - New York University Mail

A059

Rofe, Jessica

Oct 7, 2021, 12:29 PM

to ice-foia@ice.dhs.gov, ICE-FOIA@dhs.gov, Marle, me, Jacob, Daad, Nancy

Dear ICE FOIA Officer,

I hope this message finds you healthy and safe. I write to confirm receipt of the below FOIA request (which I attach again, for reference). We have yet to receive a receipt notice for this FOIA request, despite having submitted it on September 2, 2021, and note that the ICE FOIA website indicates that requesters should receive an acknowledgment letter "within 3-5 business days after [ICE] receive[s] [the] request."

Can you please confirm that your office has received the request?

Thanks very much for your attention to this matter.

Kind regards,

...

(Message clipped) [View entire message](#)

Proof of Delivery

Dear Customer,

This notice serves as proof of delivery for the shipment listed below.

Tracking Number

1ZA5T6353095945937

Weight

0.20 LBS

Service

UPS Next Day Air Saver®

Shipped / Billed On

11/02/2021

Delivered On

11/03/2021 10:18 A.M.

Delivered To

CAPITOL HEIGHTS, MD, US

Received By

GILL

Left At

Inside Delivery

Thank you for giving us this opportunity to serve you. Details are only available for shipments delivered within the last 120 days. Please print for your records if you require this information after 120 days.

Sincerely,

UPS

Tracking results provided by UPS: 12/09/2021 2:36 P.M. EST

EXHIBIT E



Daad Sharfi <ds6505@nyu.edu>

Fw: Freedom of Information Act Request Submitted on Behalf of the Immigrant Defense Project

Olivia Abrecht <oja242@nyu.edu>

Wed, Nov 3, 2021 at 8:57 AM

To: "ice-foia@ice.dhs.gov" <ice-foia@ice.dhs.gov>, "ICE-FOIA@dhs.gov" <ICE-FOIA@dhs.gov>

Cc: Marie Mark <marie@immdefense.org>, Jacob P Metz-Lerman <jpm9673@nyu.edu>, Daad Sharfi

<ds6505@nyu.edu>, "Morawetz, Nancy" <nancy.morawetz@nyu.edu>, "Rofe, Jessica" <rofej@mercury.law.nyu.edu>

Dear FOIA Officer,

Attached, please find a letter on behalf of the Immigrant Defense Project that was mailed to ICE on November 2, 2021 via UPS overnight delivery. The letter requests a receipt notice for a Freedom of Information Act Request first submitted on September 2, 2021. In addition to the letter, we have included two exhibits. Exhibit 1 is a copy of our September 2021 FOIA request with attendant email correspondence. Exhibit 2 includes print outs of our email correspondence requesting a receipt notice on September 22, 2021 and October 7, 2021. We ask that you provide us with (1) a receipt number for our September 2021 FOIA request, (2) a receipt notice indicating the initial date of filing as September 2, 2021, and (3) a status update on the instant request.

Thank you very much for your attention to this matter.

With regards,

Olivia Abrecht

[Quoted text hidden]

--

Olivia Abrecht

NYU School of Law | *Class of 2022*

pronoun: she/her



2021 11 02 Letter to ICE FOIA Office.pdf

1150K

Exhibit 3

U.S. Department of Homeland Security
500 12th ST. SW; STOP 5009
Washington, DC 20536-5009



U.S. Immigration
and Customs
Enforcement

December 20, 2021

Jessica Rofe
Immigrant Defense Project
245 Sullivan Street, 5th Fl
New York, NY 10012

Dear Ms. Rofe:

The Department of Homeland Security has received your letter appealing the adverse determination of your Freedom of Information Act/Privacy Act (FOIA/PA) request by U.S. Immigration and Customs Enforcement. Your appeal, **postmarked *or* electronically transmitted** on **December 09, 2021**, was received on **December 20, 2021**.

The Government Information Law Division acknowledges your appeal request of **2022-ICFO-03920** and is assigning it number **2022-ICAP-00268** for tracking purposes. Please reference this number in any future communications about your appeal.

A high number of FOIA/PA requests have been received by the Department. Accordingly, we have adopted the court-sanctioned practice of generally handling backlogged appeals on a first-in, first-out basis.¹ While we will make every effort to process your appeal on a timely basis, there may be some delay in resolving this matter. Should you have any questions concerning the processing of your appeal, please contact Marcus Francis, ICE FOIA Office/Public Liaison at (866) 633-1182, or by email at ice-foia@dhs.gov.

Sincerely,

/s/**MCuestas** for

Shiraz Panthaky
Chief
Government Information Law Division
ICE Office of the Principal Legal Advisor
U.S. Department of Homeland Security

¹ Appeals of expedited treatment denials will be handled on an expedited basis.

Exhibit 4

U.S. Department of Homeland Security
500 12th St. SW; STOP 5009
Washington, DC 20536-5009



U.S. Immigration
and Customs
Enforcement

January 19, 2022

Jessica Rofé
Immigrant Defense Project
245 Sullivan Street, 5th Fl
New York, NY 10012

RE: 2022-ICAP-00268, 2022-ICFO-03920

Dear Ms. Rofé:

This is in response to your letter dated December 9, 2021, and received by U.S. Immigration and Customs Enforcement (ICE) on December 20, 2021, appealing the constructive denial of Immigrant Defense Project's (IDP) Freedom of Information Act (FOIA) request by the ICE FOIA Office. IDP's FOIA request, dated September 2, 2021, sought records related to ICE's "policies, practices and procedures concerning the supervision and monitoring of immigrants pursuant to orders of supervision, release on recognizance, alternatives to detention, parole, bond, or any other population management program."

Your appeal letter challenged the constructive denial of IDP's FOIA request based upon ICE FOIA's failure to provide a response within either the twenty (20) days provided by statute, or the additional 10-day extension invoked by the ICE FOIA Office. In many instances, an agency cannot meet these time limits due to a high volume of requests, resource limitations, or other reasons.

ICE has begun processing IDP's request on a "first-in, first-out basis" and is currently still in the process of responding to IDP's request. ICE is therefore remanding your appeal to the ICE FOIA Office for the completion of processing, including tasking to the appropriate program office(s) to obtain any responsive records, as appropriate, with a direct response to you.

Should you have any questions regarding this appeal remand, please contact ICE at ice-foia@dhs.gov. In the subject line of the email please include the word "appeal," your appeal number, which is **2022-ICAP-00268**, and the FOIA case number, which is **2022-ICFO-03920**.

Sincerely,

Caitlin O'Leary Trujillo

for Shiraz Panthaky

Chief

Government Information Law Division
ICE Office of the Principal Legal Advisor
U.S. Department of Homeland Security

Exhibit 5



December 19, 2019

VIA ELECTRONIC MAIL AND UPS NEXT DAY AIR

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

Re: Freedom of Information Act Request

Dear FOIA Officer:

The Immigrant Defense Project (“IDP”) and the New Sanctuary Coalition (“NSC”) (collectively, “Requesters”) file this request pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, for information regarding the Department of Homeland Security (“DHS”)’s Immigration and Customs Enforcement (“ICE”) policies and protocols concerning the supervision and monitoring of immigrants pursuant to Orders of Supervision and other alternatives to detention.

IDP is a national expert resource and advocacy organization that provides training, advice, and support to immigrant communities, legal practitioners, and advocates seeking to advance the rights of noncitizens, and monitors the intersection of the criminal legal system and immigration system. It disseminates information about these issues to policy makers, attorneys, the general public, and affected communities. These materials routinely include information obtained in FOIA requests.¹ NSC is a New York City-based coalition of individuals and faith communities that directly supports immigrants facing deportation through community support, activism, and pro se

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legal clinics. It provides legal support and referrals through programs and clinics staffed by volunteer lawyers and trained laypeople who spread knowledge of immigrants' rights.

A. Purpose of Request

The purpose of this request is to obtain information for the public about ICE policies, practices, and procedures related to their Population Management, Alternatives to Detention, and Order of Supervision programs, as well as any other supervision programs. As organizations that provide direct, no-cost services to immigrant communities, legal practitioners, advocates, and activists seeking to advance the rights of noncitizens, IDP and NSC have an interest in understanding the implementation and impact of these policies, how they were developed and what goals agencies have in enforcing them.

The current procedures and policies governing ICE supervision programs are not publicly known and have been characterized by egregious supervision requirements that have far-reaching consequences. For example, the following demands have recently been made of noncitizens placed in/participating in these supervision programs:

- Mother of three, who struggles with dementia, asked to provide the names and addresses of all her children and whether or not she lives with them, and asked to submit copies of children's birth certificates who are undocumented;
- Man with family in home country asked to conscript his family's assistance in obtaining a new birth certificate for purposes of obtaining a travel document, although his family lives hours away from the closest government building that could provide such documents and the country itself is marred by civil unrest;
- Man ordered released from ICE custody on bond is instead released with an ankle monitor, weekly house arrest and biweekly check-ins through contracted supervision program;
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- ICE officer gave stateless woman a birth certificate that did not have her correct identifying information, told her to apply for a passport, and threatened her with detention if the woman refused.

Such demands have been unexpected, exceed the four corners of Orders of Supervision, and have sweeping implications for community members, citizen and noncitizen alike. Knowledge of formal government policies and procedures empowering ICE to make such requests is essential to preparation for check-ins. As stated by a recent article in *The Washington Post*, "[f]or the people presenting themselves to immigration authorities, including more than a million already

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facing final orders of removal from the United States, each check-in can feel perilous.”² The information sought in this request will provide greater clarity to those checking-in, and will also enable public oversight and monitoring of ICE’s supervision tactics.

B. Definitions

Supervision Program(s): For purposes of this request, the term “supervision programs” refers to Orders of Supervision (“OSUPs”) and Alternative to Detention (“ATD”) programs – including but not limited to the Intensive Supervision Appearance Program (“ISAP”), technology-only monitoring programs, Population Management programs, and other forms of supervision for noncitizens which are administered by DHS and third party contractors, including non-government actors.

Record(s): For purposes of this request, the term “records” includes all records or communications preserved in electronic or written form, including but not limited to correspondence, documents, data, spreadsheets, videotapes, audiotapes, e-mails, text messages, social media communication, online messaging, faxes, files, guidance, guidelines, evaluations, legal opinions, instructions, analyses, directives, memoranda, agreements, notes, orders, contracts, policies, procedures, protocols, reports, rules, manuals, technical specifications, training manuals, and studies. This includes records kept in written form, electronic format on computers and/or other electronic storage devices, electronic communications and/or videotapes, and any other sub-regulatory guidance.

Throughout this request, if and when responsive records involve individuals who were ordered removed, detained, released, and/or placed in Alternatives to Detention (“ATD”) programs or involve policies related to those agency actions prior to the formation of DHS in 2003, the term “DHS” and/or “ICE” shall include the former Immigration and Naturalization Services (“INS”). Any reference to Enforcement and Removal Operations (“ERO”) shall include its predecessor division, Detention and Removal Operations (“DRO”).

C. Requests

Requesters, through this FOIA, seek the following records prepared, received, transmitted, collected, and/or maintained by ICE from January 20, 2017 to the date of this request.

1. Any and all records received, maintained, or created by ICE related to the creation, implementation or oversight of Population Management, ATD, and other supervision programs, including but not limited:

² Michael E. Miller, “They fear being deported. But 2.9 million immigrants must check in with ICE anyway.” THE WASHINGTON POST, Apr. 25, 2019, 10:01 AM, https://www.washingtonpost.com/local/they-fear-being-deported-but-29-million-immigrants-must-check-in-with-ice-anyway/2019/04/25/ac74efce-6309-11e9-9ff2-abc984dc9eec_story.html.

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- a. Applicable standards for community-based supervision programs;
- b. Policies, procedures, guidelines, instructions, quotas or other materials concerning ICE oversight or involvement in Population Management, ATD or other supervision programs;
- c. Training manuals, guides, memoranda, and other documents used to train ICE officers, DHS employees, or third-party contractors in the administration, regulation, or provision of Population Management, ATD, and other supervision programs;
- d. Policies, practices, guidelines, protocols, and guidance for retention of any and all records pertaining to each person under a supervision program;
- e. Policies, practices, guidelines, protocols, and guidance for securing a passport, travel document or any other document or documentation from individuals under a supervision program;
- f. Policies, practices, guidelines, protocols, and guidance applicable when individuals on supervision programs do not present a passport, travel document, or any other document or documentation requested or demanded by ICE officials and/or private companies contracted to provide ATD services;
- g. Policies, practices, guidelines, protocols, and guidance relating to ICE's selection of the terms by which individuals must comply with their supervision programs, including but not limited to the frequency of in-person check-ins, scheduling and re-scheduling of check-ins, imposition or removal of ankle monitors (including due to medical conditions or hardship), home visits, telephonic monitoring, and documentation individuals must bring to check-ins;
- h. A randomized sampling of individualized supervision contracts;
- i. Policies, practices, guidelines, protocols, and guidance relating to consequences for failure to comply with the terms of an individualized supervision program;
- j. Policies, practices, guidelines, protocols, and guidance relating to the level of supervision and conditions imposed on individuals participating in supervision programs;
- k. Policies, practices, guidelines, protocols, and guidance relating to when ICE requests or demands assistance from family members in obtaining documents, and any other authority to require or demand third-party cooperation in obtaining documents;
- l. Policies, practices, guidelines, protocols, and guidance relating to the circumstances under which an ATD participant's contact list may be contacted;
- m. Policies, practices and protocols for accompaniment to in-person check-ins by third parties, including:
 - i. Family;
 - ii. Friends;
 - iii. Faith and community leaders;
 - iv. Legal practitioners; and
 - v. Other advocates;

Freedom of Information Act Request

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- n. Policies, practices, guidelines, protocols, and guidance relating to scheduling of check-ins on Saturdays, Sundays, and other times outside of normal business hours;
 - o. Policies, practices, guidelines, protocols, and guidance regarding individuals' right or ability to communicate through any medium to a person or persons of their choosing after being arrested and detained at or immediately following a check-in;
 - p. Instructions, policies, practices, protocols, and communications issued or sent by ICE to private security contractors, including but not limited to those who monitor the waiting room for noncitizens checking-in with ICE pursuant to supervision programs;
 - q. Policies, practices, guidelines, protocols, guidance and communications relating to issuance of administrative stays of removal for individuals subject to supervision programs;
 - r. Policies, practices, guidelines, protocols, and guidance relating to fielding requests for and scheduling a reasonable fear interview (RFI) for OSUP participants;
 - s. Any policies, practices, guidelines, protocols, or guidance differentiating treatment among OSUP participants;
 - t. Any internal quotas relating to the detention and/or re-detention of OSUP participants; and
 - u. Any policy, practice, guidelines, protocols, or guidance that cite to 8 U.S.C. § 1231(a)(3) *et seq* or 8 C.F.R. § 241.5(a) *et seq*.
2. Policies, practices, guidelines, protocols, and guidance for cases for which there is demonstrated interest from the press, reporters, politicians, or community leaders;
 3. Any records relating to or concerning agreements or contracts between any private entity or entities and ICE for the procurement of services and/or technology used by ICE in the ATD program during the period from January 20, 2017 to present. This request includes any agreements or contracts between providers of ATD equipment and services – such as BI Incorporated, the Geo Group Incorporated, or any contracting company – and ICE that require ICE to purchase a minimum quantity of ATD-related equipment or a minimum amount of ATD-related services. This request additionally includes rental agreements between providers of ATD equipment and services – such as BI Incorporated, the Geo Group Incorporated, and any contracting company – and property owners for ISAP locations in the New York City area;
 4. Any and all “ISAP Monthly Progress Reports” received by ICE within the requested time period;
 5. Records referring to efforts to standardize supervision reporting requirements, including but not limited to continuations of a November 12, 2004 memorandum addressed to Field Office Directors from Victor X. Cerda, Acting Director, with the subject line, “Orders of Supervision,” with the Purpose section, “To standardize the reporting requirements for those aliens released under an Order of Supervision (OSUP) or on an Order of Release on Recognizance (ROR)”;
 6. Aggregate records and data summarizing the number of individuals participating in supervision programs, including but not limited to:

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- a. Total number of those participating in supervision programs, separated by the type of program and/or whether those individuals are pre- or post-final order of removal;
 - b. Demographics of those participating in supervision programs – including but not limited to race, gender, nationality, and age – separated by type of program and/or whether those individuals are pre- or post-final order of removal; and
 - c. Number of noncitizens who have been re-detained while participating in a supervision program, separated by type of program, whether those individuals are pre- or post-final order of removal, and reason for re-detention;
7. Handbooks and policy manuals referring to ATDs and OSUPs specifically;
 8. Any and all records received, maintained, or created by ICE related to the mobile phone application “BI SmartLink” and its development, including but not limited to:
 - a. Policies, practices, protocols, guidelines, and communications regarding the use of facial recognition technology; and
 - b. All data sets collected using the application;
 9. Policies, practices, guidelines, protocols, and guidance regarding patrolling, observing, or waiting outside of immigration courtrooms by ICE officers;
 10. Any and all data related to risk classification assessments (“RCA”) for individuals reporting to the New York ICE Field Office during the relevant time period, including but not limited to, percentage of individuals classified as a low, medium or high flight risk and low, medium or high public safety risk; percentage of individuals with a final order of deportation classified as a low, medium or high flight risk and a low, medium or high public safety risk; number of instances in which ICE supervisors overrode the RCA recommendation and the attendant outcomes; and
 11. Statement of Work between private contractors administering supervision programs and DHS.

The scope of the search should not be limited to ICE-originated records and should be construed to include records that are currently in the possession of any U.S. government contractor for purposes of records management.

If, under applicable law, any of the information requested is considered exempt, please describe in detail the nature of the information withheld, the specific exemption or privilege upon which the information is withheld, and whether the portions of withheld documents containing non-exempt or non-privileged information have been provided.

Thank you in advance for your response to this request within twenty business days, as the FOIA requires. *See* 5 U.S.C. § 552(a)(6)(A)(i).

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D. Format of Production

Requesters seek both paper and electronic records produced in the following format:

- Paper records; and
- Electronic records in PDF format, electronically searchable wherever possible.
 - Each paper record in a separately saved file;
 - ‘Parent-child’ relationships maintained, meaning that Requesters must be able to identify the attachments with emails;
 - Any data records in native format (i.e., Excel spreadsheets in Excel);
 - Emails should include BCC and any other hidden fields, with any other metadata preserved.

E. Request for Waiver of Fees

The Requesters ask that all fees associated with this FOIA request be waived. Requesters are not-for-profit organizations that work on behalf of immigrant communities. Both Requesters are entitled to a waiver of all costs because disclosure of the information is “likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii). *See also* 6 C.F.R. § 5.11(k) (records furnished without charge or at a reduced rate if the information is in the public interest, and disclosure is not in commercial interest of institution). A fee waiver also would fulfill Congress’ intent in amending the FOIA. *See Judicial Watch, Inc. v. Rossoti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (discussing that Congress intended the FOIA to be construed broadly to favor fee waiver for noncommercial requests).

Requesters will make any information that they receive as a result of this FOIA request available to the public, including the press, at no cost. Disclosure in this case therefore meets the statutory criteria, and a fee waiver would fulfill Congress’ legislative intent in amending the FOIA. *See Judicial Watch Inc. v. Rossotti*, 326 F.3d 1309 (D.C. Cir. 2003) (“Congress amended FOIA to ensure that it be ‘liberally construed in favor of waivers of noncommercial requesters”).

In the alternative, if no fee waiver is granted and the fees exceed \$250.00, please contact the Requesters’ undersigned counsel to obtain consent to incur additional fees. Processing fees should be limited pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) (“[F]ees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by ... a representative of the news media.”).

1. Disclosure of the Information is in the Public Interest

Disclosure of the requested information will contribute significantly to the public understanding of government operations and activities regarding operation of ATD programs,

Freedom of Information Act Request

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OSUPs, and other forms of supervision for noncitizens. 6 C.F.R. § 5.11(k)(2). The requested information impacts millions of noncitizens who have lived and worked in the United States for many years, as well as their family members and community members who may be affected by the conditions of their supervision.³

The information will also assist elected officials in responding to the concerns of their constituencies and in instructing communities they serve how to best respond to the imposition of supervision and any changes later imposed on the conditions of supervision. The information requested is also relevant to any educational initiatives, whether hosted by elected officials or nonprofits, that seek to inform noncitizens and their families of their rights at check-ins with ICE and third party contractors.

Requesters have the capacity to disseminate widely the requested information to the public. Requesters will review, analyze, and/or summarize the information obtained through this FOIA request. In addition, IDP and NSC will speak publicly and publish practice advisories or related written materials to be shared with the public, legal practitioners, advocates, and the academic community. IDP will make the information available through its website, which is accessible by members of the public. IDP will additionally disseminate relevant information through its Criminal-Immigration Helpline, which operates 24/7 to provide advice to noncitizens nationwide. NSC will additionally disseminate relevant information in its direct interactions with noncitizens. Finally, IDP and NSC have frequent contact with national print and electronic news media and plan to share with interested media the information gleaned from the FOIA disclosures.

The information sought is of great interest to the public at large, but not currently available in the public domain.

2. Disclosure of the Information is Not Primarily in the Commercial Interest of the Requesters

Requesters are a tax-exempt, not-for-profit charitable organization and a coalition of individuals that provides free services. IDP is a 501(c)(3) organization. Attorneys, noncitizens, activists, and any other interested members of the public may obtain information about immigration-related issues through its distribution of written materials, including IDP's website, through public and educational appearances, and through operation of its Criminal-Immigration Helpline. NSC is an immigrant-led network providing not-for-profit direct services to immigrants and their loved ones. Its services are offered free of cost to thousands of noncitizens on a daily basis, primarily through its accompaniment program and pro se immigration clinics. The requested information is sought for the purpose of disseminating it to members of the public, including through posting it on IDP's website and other publications, and not for the purpose of commercial gain.

³ *Id.*

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F. Expedited Processing

Expedited processing is warranted because there is “an urgency to inform the public about an actual or alleged federal government activity,” and the request is made by entities “primarily engaged in disseminating information.” 5 U.S.C. § 552(a)(6)(E)(v)(II). This request demonstrates that both criteria are satisfied. 6 C.F.R. § 5.5(d)(3).

There is an urgent need to obtain the requested information, which is not publicly available. The records described above would accurately reflect the scope, details, and policies governing noncitizen check-ins under supervision programs nationally. It is critical to obtain this information because it will assist in helping prepare noncitizens for their check-ins and in advising them of their legal rights during such processes.⁴

The Requesters are “primarily engaged in disseminating information” and thus warrant expedited processing. 5 U.S.C. § 552(a)(6)(E)(v)(II); *see also* 6 C.F.R. § 5.5(d)(3). DHS regulations specifically provide that “information dissemination . . . need not be [a requester’s] sole occupation.” 6 C.F.R. § 5.5(e)(3). IDP is an expert resources and advocacy organization that monitors the intersection of the criminal justice system and immigration system.⁵ It disseminates information about these issues to policy makers, attorneys, the general public, and affected communities, and these materials routinely include information obtained through FOIA requests.⁶ IDP publishes newsletters, know-your-rights pamphlets, and reports on immigration issues.⁷

NSC is a New York City-based coalition of individuals and faith communities that directly supports immigrants facing deportation through community support, activism, and pro se legal clinics. It provides legal support and referrals through programs and clinics staffed by volunteer lawyers and trained laypeople who spread knowledge of immigrants’ rights; assist with

⁴ Michael E. Miller, “They fear being deported. But 2.9 million immigrants must check in with ICE anyway.” THE WASHINGTON POST, Apr. 25, 2019, 10:01 AM, https://www.washingtonpost.com/local/they-fear-being-deported-but-29-million-immigrants-must-check-in-with-ice-anyway/2019/04/25/ac74efce-6309-11e9-9ff2-abc984dc9eec_story.html.

⁵ Mission, IMMIGRANT DEFENSE PROJECT, <https://www.immigrantdefenseproject.org/about>.

⁶ IDP Resources, IMMIGRANT DEFENSE PROJECT, <https://www.immigrantdefenseproject.org/resources2/>; Immigrant Defense Project, Defend Against ICE Raids and Community Arrests (2017), <https://www.immdefense.org/raids-toolkit/> (including documents obtained in the *Immigrant Defense Project et al. v. ICE, et al.* FOIA litigation); Immigrant Defense Project, Insecure Communities, Devastated Families; New Data on Immigrant Detention and Deportation Practices in New York City (July 23, 2012), <https://www.immigrantdefenseproject.org/wp-content/uploads/2012/08/NYC-FOIA-Report-2012-FINAL-Aug.pdf> (data in part provided through FOIA with ICE); ICE Raids FOIA, IMMIGRANT DEFENSE PROJECT, <https://www.immigrantdefenseproject.org/raids-foia/> (information on ICE trainings and practices around home raids, obtained through ongoing FOIA litigation, available online).

⁷ Resources for Communities, IMMIGRANT DEFENSE PROJECT, <https://www.immigrantdefenseproject.org/category/resources-for-communities/>.

Freedom of Information Act Request
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immigration applications; advice on pro se defense at court appearances; and advocate to increase immigrants' access in detention centers to legal defense tools.⁸

Address for Productions

Please email responsive documents to Jessica Rofé, Esq., at jessica.rofe@nyu.edu and mail paper copies of these documents to the following address:

Jessica Rofé, Esq.
Washington Square Legal Services, Inc.
245 Sullivan Street, 5th Floor
New York, NY 10012

I certify that the information contained in this request is true and correct to the best of my knowledge. *See* 6 C.F.R. § 5.5(d)(3).

Thank you for your time and attention to this matter. Should you have any questions regarding this request, please contact us at (212) 992-7245.

Sincerely,



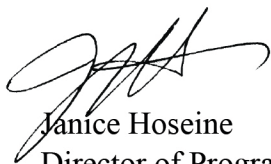
Marie Mark, Esq.
Director of Legal Support and Resources
Immigrant Defense Project
40 W. 39th St., 5th Floor
New York, NY 10018
marie@immdefense.org

⁸ Welcome to New Sanctuary Coalition, NEW SANCTUARY COALITION, <https://www.newsanctuarynyc.org/>.

Freedom of Information Act Request

December 17, 2019

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Janice Hoseine

Director of Programs

New Sanctuary Coalition

239 Thompson Street

New York, NY 10012

janice@newsanctuarynyc.org



December 19, 2019

VIA ELECTRONIC MAIL AND UPS NEXT DAY AIR

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

Re: Freedom of Information Act Request

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December 17, 2019

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Freedom of Information Act Request

December 17, 2019

Page 3

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Throughout this request, if and when responsive records involve individuals who were ordered removed, detained, released, and/or placed in Alternatives to Detention (“ATD”) programs or involve policies related to those agency actions prior to the formation of DHS in 2003, the term “DHS” and/or “ICE” shall include the former Immigration and Naturalization Services (“INS”). Any reference to Enforcement and Removal Operations (“ERO”) shall include its predecessor division, Detention and Removal Operations (“DRO”).

C. Requests

Requesters, through this FOIA, seek the following records prepared, received, transmitted, collected, and/or maintained by ICE from January 20, 2017 to the date of this request.

1. Any and all “ISAP Monthly Progress Reports” received by ICE within the requested time period for the New York Field Office;

² Michael E. Miller, “They fear being deported. But 2.9 million immigrants must check in with ICE anyway.” THE WASHINGTON POST, Apr. 25, 2019, 10:01 AM, https://www.washingtonpost.com/local/they-fear-being-deported-but-29-million-immigrants-must-check-in-with-ice-anyway/2019/04/25/ac74efce-6309-11e9-9ff2-abc984dc9eec_story.html.

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2. Records referring to efforts to standardize supervision reporting requirements, including but not limited to continuations of a November 12, 2004 memorandum addressed to Field Office Directors from Victor X. Cerda, Acting Director, with the subject line, "Orders of Supervision," with the Purpose section, "To standardize the reporting requirements for those aliens released under an Order of Supervision (OSUP) or on an Order of Release on Recognizance (ROR)";
3. Data referring to ICE's Enforcement and Removal Operations success or failure in achieving removal "goals";
4. Data referring to percentage of supervision program participants who have obtained legal representation, and any detail as to whether attorneys obtained are pro bono or private;
5. Aggregate records and data summarizing the number of individuals participating in supervision programs at the New York Field Office, including but not limited to:
 - a. Total number of those participating in supervision programs, separated by the type of program and/or "legal stage" (e.g., whether individuals are pre- or post-final order);
 - b. Demographics of those participating in supervision programs – including but not limited to race, gender, nationality, age, and relevant deportability ground(s) – separated by type of program and/or "legal stage" (e.g., whether individuals are pre- or post-final order); and
 - c. Number of noncitizens who have been re-detained while participating in a supervision program, separated by type of program, and/or "legal stage" (e.g., whether individuals are pre- or post-final order), and reason for re-detention;
6. Any and all communications received, sent or maintained by the New York Field Office regarding the administration of OSUPs;
7. Handbooks and policy manuals referring to ATDs and OSUPs specifically;
8. Intensive Supervision Appearance Program annual report(s) issued within the requested time period;
9. GPS Summary for fiscal years 2017 through 2019 (including, but not limited to, average number of participants per month, total cost per year for GPS, average cost per participant, total GPS days billed per month, total number of participants per month, and price (daily rate) per month);
10. The most recent version of the Detention and Removal Operations Policy and Procedure Manual/ Detention and Deportation Officer's Field Manual;
11. Any continuations of a November 12, 2004 memorandum addressed to Field Office Directors from Victor X. Cerda, Acting Director, with the subject line, "Orders of Supervision," with the Purpose section, "To standardize the reporting requirements for those aliens released under an Order of Supervision (OSUP) or on an Order of Release on Recognizance (ROR)";
12. Any records related to ICE's current risk classification assessment ("RCA") tool; and
13. Statement of Work between private contractors administering supervision programs and DHS.

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The scope of the search should not be limited to ICE-originated records and should be construed to include records that are currently in the possession of any U.S. government contractor for purposes of records management.

If, under applicable law, any of the information requested is considered exempt, please describe in detail the nature of the information withheld, the specific exemption or privilege upon which the information is withheld, and whether the portions of withheld documents containing non-exempt or non-privileged information have been provided.

Thank you in advance for your response to this request within twenty business days, as the FOIA requires. *See* 5 U.S.C. § 552(a)(6)(A)(i).

D. Format of Production

Requesters seek both paper and electronic records produced in the following format:

- Paper records; and
- Electronic records in PDF format, electronically searchable wherever possible.
 - Each paper record in a separately saved file;
 - ‘Parent-child’ relationships maintained, meaning that Requesters must be able to identify the attachments with emails;
 - Any data records in native format (i.e., Excel spreadsheets in Excel);
 - Emails should include BCC and any other hidden fields, with any other metadata preserved.

E. Request for Waiver of Fees

The Requesters ask that all fees associated with this FOIA request be waived. Requesters are not-for-profit organizations that work on behalf of immigrant communities. Both Requesters are entitled to a waiver of all costs because disclosure of the information is “likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii). *See also* 6 C.F.R. § 5.11(k) (records furnished without charge or at a reduced rate if the information is in the public interest, and disclosure is not in commercial interest of institution). A fee waiver also would fulfill Congress’ intent in amending the FOIA. *See Judicial Watch, Inc. v. Rossoti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (discussing that Congress intended the FOIA to be construed broadly to favor fee waiver for noncommercial requests).

Requesters will make any information that they receive as a result of this FOIA request available to the public, including the press, at no cost. Disclosure in this case therefore meets the statutory criteria, and a fee waiver would fulfill Congress’ legislative intent in amending the

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FOIA. *See Judicial Watch Inc. v. Rossotti*, 326 F.3d 1309 (D.C. Cir. 2003) (“Congress amended FOIA to ensure that it be ‘liberally construed in favor of waivers of noncommercial requesters’”).

In the alternative, if no fee waiver is granted and the fees exceed \$250.00, please contact the Requesters’ undersigned counsel to obtain consent to incur additional fees. Processing fees should be limited pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) (“[F]ees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by ... a representative of the news media.”).

1. Disclosure of the Information is in the Public Interest

Disclosure of the requested information will contribute significantly to the public understanding of government operations and activities regarding operation of ATD programs, OSUPs, and other forms of supervision for noncitizens. 6 C.F.R. § 5.11(k)(2). The requested information impacts millions of noncitizens who have lived and worked in the United States for many years, as well as their family members and community members who may be affected by the conditions of their supervision.³

The information will also assist elected officials in responding to the concerns of their constituencies and in instructing communities they serve how to best respond to the imposition of supervision and any changes later imposed on the conditions of supervision. The information requested is also relevant to any educational initiatives, whether hosted by elected officials or nonprofits, that seek to inform noncitizens and their families of their rights at check-ins with ICE and third party contractors.

Requesters have the capacity to disseminate widely the requested information to the public. Requesters will review, analyze, and/or summarize the information obtained through this FOIA request. In addition, IDP and NSC will speak publicly and publish practice advisories or related written materials to be shared with the public, legal practitioners, advocates, and the academic community. IDP will make the information available through its website, which is accessible by members of the public. IDP will additionally disseminate relevant information through its Criminal-Immigration Helpline, which operates 24/7 to provide advice to noncitizens nationwide. NSC will additionally disseminate relevant information in its direct interactions with noncitizens. Finally, IDP and NSC have frequent contact with national print and electronic news media and plan to share with interested media the information gleaned from the FOIA disclosures.

The information sought is of great interest to the public at large, but not currently available in the public domain.

³ *Id.*

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2. Disclosure of the Information is Not Primarily in the Commercial Interest of the Requesters

Requesters are a tax-exempt, not-for-profit charitable organization and a coalition of individuals that provides free services. IDP is a 501(c)(3) organization. Attorneys, noncitizens, activists, and any other interested members of the public may obtain information about immigration-related issues through its distribution of written materials, including IDP's website, through public and educational appearances, and through operation of its Criminal-Immigration Helpline. NSC is an immigrant-led network providing not-for-profit direct services to immigrants and their loved ones. Its services are offered free of cost to thousands of noncitizens on a daily basis, primarily through its accompaniment program and pro se immigration clinics. The requested information is sought for the purpose of disseminating it to members of the public, including through posting it on IDP's website and other publications, and not for the purpose of commercial gain.

F. Expedited Processing

Expedited processing is warranted because there is "an urgency to inform the public about an actual or alleged federal government activity," and the request is made by entities "primarily engaged in disseminating information." 5 U.S.C. § 552(a)(6)(E)(v)(II). This request demonstrates that both criteria are satisfied. 6 C.F.R. § 5.5(d)(3).

There is an urgent need to obtain the requested information, which is not publicly available. The records described above would accurately reflect the scope, details, and policies governing noncitizen check-ins under supervision programs nationally. It is critical to obtain this information because it will assist in helping prepare noncitizens for their check-ins and in advising them of their legal rights during such processes.⁴

The Requesters are "primarily engaged in disseminating information" and thus warrant expedited processing. 5 U.S.C. § 552(a)(6)(E)(v)(II); *see also* 6 C.F.R. § 5.5(d)(3). DHS regulations specifically provide that "information dissemination . . . need not be [a requester's] sole occupation." 6 C.F.R. § 5.5(e)(3). IDP is an expert resources and advocacy organization that monitors the intersection of the criminal justice system and immigration system.⁵ It disseminates information about these issues to policy makers, attorneys, the general public, and affected communities, and these materials routinely include information obtained through FOIA

⁴ Michael E. Miller, "They fear being deported. But 2.9 million immigrants must check in with ICE anyway." THE WASHINGTON POST, Apr. 25, 2019, 10:01 AM, https://www.washingtonpost.com/local/they-fear-being-deported-but-29-million-immigrants-must-check-in-with-ice-anyway/2019/04/25/ac74efce-6309-11e9-9ff2-abc984dc9eec_story.html.

⁵ Mission, IMMIGRANT DEFENSE PROJECT, <https://www.immigrantdefenseproject.org/about>.

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requests.⁶ IDP publishes newsletters, know-your-rights pamphlets, and reports on immigration issues.⁷

NSC is a New York City-based coalition of individuals and faith communities that directly supports immigrants facing deportation through community support, activism, and pro se legal clinics. It provides legal support and referrals through programs and clinics staffed by volunteer lawyers and trained laypeople who spread knowledge of immigrants' rights; assist with immigration applications; advice on pro se defense at court appearances; and advocate to increase immigrants' access in detention centers to legal defense tools.⁸

Address for Productions

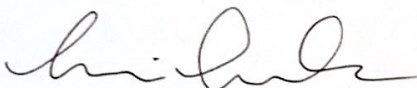
Please email responsive documents to Jessica Rofé, Esq., at jessica.rofe@nyu.edu and mail paper copies of these documents to the following address:

Jessica Rofé, Esq.
Washington Square Legal Services, Inc.
245 Sullivan Street, 5th Floor
New York, NY 10012

I certify that the information contained in this request is true and correct to the best of my knowledge. See 6 C.F.R. § 5.5(d)(3).

Thank you for your time and attention to this matter. Should you have any questions regarding this request, please contact us at (212) 992-7245.

Sincerely,



Marie Mark, Esq.

⁶ IDP Resources, IMMIGRANT DEFENSE PROJECT, <https://www.immigrantdefenseproject.org/resources2/>; Immigrant Defense Project, Defend Against ICE Raids and Community Arrests (2017), <https://www.immdefense.org/raids-toolkit/> (including documents obtained in the *Immigrant Defense Project et al. v. ICE, et al.* FOIA litigation); Immigrant Defense Project, Insecure Communities, Devastated Families; New Data on Immigrant Detention and Deportation Practices in New York City (July 23, 2012), <https://www.immigrantdefenseproject.org/wp-content/uploads/2012/08/NYC-FOIA-Report-2012-FINAL-Aug.pdf> (data in part provided through FOIA with ICE); ICE Raids FOIA, IMMIGRANT DEFENSE PROJECT, <https://www.immigrantdefenseproject.org/raids-foia/> (information on ICE trainings and practices around home raids, obtained through ongoing FOIA litigation, available online).

⁷ Resources for Communities, IMMIGRANT DEFENSE PROJECT, <https://www.immigrantdefenseproject.org/category/resources-for-communities/>.

⁸ Welcome to New Sanctuary Coalition, NEW SANCTUARY COALITION, <https://www.newsanctuarynyc.org/>.

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