

# Exhibit A

**From:** Melissa Chua <mchua@nylag.org>  
**Sent:** Tuesday, September 29, 2020 3:02 PM  
**To:** Ice-foia@dhs.gov; foia@hq.dhs.gov  
**Subject:** Freedom of Information Act Request  
**Attachments:** NYLAG FOIA Request to ICE FINAL.pdf

Please see the attached request under the Freedom of Information Act.

Sincerely,  
Melissa Chua

**Melissa Chua**

*Associate Director, Immigrant Protection Unit*

*Pronouns: She, her, hers*

7 Hanover Square | New York, NY 10004

t: 212.613.6547





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

Department of Homeland Security  
Jimmy Wolfrey  
Privacy Office, Mail Stop 0655  
2707 Martin Luther King Jr. AVE SE  
Washington, DC 20528-065  
foia@hq.dhs.gov

*VIA ELECTRONIC MAIL*

September 29, 2020

RE: Freedom of Information Act Request for Records Relating to Deployment of  
Immigration & Customs Enforcement Personnel to Protests in New York City

To Whom It May Concern:

This request for records is submitted pursuant to the Freedom of Information Act, 5 U.S.C. § 552 et seq. (“FOIA”), on behalf of the New York Legal Assistance Group (“NYLAG”), for records related to the mobilization of personnel from Immigration & Customs Enforcement (“ICE”) and Homeland Security Investigations (“HSI”), or any other agencies within the Department of Homeland Security (“DHS”), in response to protests in New York City. NYLAG is a nonprofit legal services organization that seeks these records in the public interest and for non-commercial use. We ask that you please direct this request to all appropriate offices and departments within each agency.

## **I. Background**

In recent months, in response to the May 25, 2020 killing of George Floyd, protesters have rallied against police violence in New York City. According to numerous press reports, federal agents, including ICE and HSI officers, are playing a central role in monitoring these protests. For example, in early June, a U.S. citizen (and army veteran) was violently arrested by ICE and/or HSI officers while participating in a protest on the Upper West Side of New York City. An ICE official confirmed that its agents were involved in the arrest.<sup>1</sup> In a statement to CNN,

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<sup>1</sup> Mazin Sidahmed, *Video Shows ICE Agents Arresting a Protester in NYC*, DOCUMENTED (June 5, 2020), <https://documentedny.com/2020/06/05/video-shows-ice-agents-arresting-a-protestor-in-nyc/>.

ICE admitted that its “personnel and Special Response Teams have been deployed to protect agency facilities and assets in support of the Federal Protective Service and assist local, state and federal law enforcement partners as needed.”<sup>2</sup>

The deployment of law enforcement personnel from ICE and HSI raises a number of serious concerns. First, it is unclear what legal authority, if any, the federal government had in deploying ICE and HSI personnel. Second, although an ICE spokesperson stated that ICE personnel would not be conducting immigration enforcement,<sup>3</sup> ICE has not made clear whether ICE personnel would be conducting surveillance, collecting information, or performing other law enforcement functions in addition to protecting agency facilities and assisting local law enforcement. Third, the presence of ICE personnel, who are routinely associated with conducting immigration raids, may deter minorities and immigrants from exercising their First Amendment rights to peacefully protest.

In light of this, NYLAG respectfully requests that ICE provide the following records on an expedited basis.

## II. Definitions

1. Agreement(s). In this request the term “agreement(s)” refers to any contract, arrangement, or understanding, formal or informal, oral or written, between two or more persons or entities, including, but not limited to, memoranda of understanding.
2. CLEAR. In this request the term “CLEAR” refers to the Thomson Reuters CLEAR software, an online investigation software.
3. Communication(s). In this request the term “communication(s)” means the disclosure, exchange, or transmittal of information or opinion, however made, including but not limited to e-mails, text messages, phone calls or radio transmissions that were recorded, or other electronic transmissions made over agency infrastructure.
4. Local Government(s). In this request the term “local government(s)” includes state/local government, municipal corporations, tribal governments, tribal business entities, and Alaska Native Corporations.
5. Protest(s). In this request the term “protest(s)” includes, but is not limited to, physical gatherings such as assemblies, rallies, vigils, or public demonstrations of any kind.
6. Record(s). In this request the term “record(s)” includes, but is not limited to, all Records or communications preserved in electronic (including metadata) or written form, such as

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<sup>2</sup> Priscilla Alvarez, *ICE deploying personnel and teams nationwide in response to protest unrest*, CNN (June 1, 2020), [https://www.cnn.com/us/live-news/george-floyd-protests-06-01-20/h\\_0871e84fa1e97f5df617c4fe7880de7e](https://www.cnn.com/us/live-news/george-floyd-protests-06-01-20/h_0871e84fa1e97f5df617c4fe7880de7e).

<sup>3</sup> *Id.*

agenda, analyses, audio tapes, correspondence, data, documents, emails, evaluations, faxes, files, guidance, guidelines, instructions, internal policy guidance, legal opinions or memoranda, monitoring mechanisms, notes, operating procedures, orders, policies, presentations, procedures, protocols, reports, rules, studies, talking points, technical manuals, technical specifications, training materials, videotapes, or any other Record of any kind.

7. Surveillance. In this request the term “surveillance” means any form of physical or non-physical/virtual observation, monitoring, recording, or transcription, whether conducted by an individual or through automated means such as by software, aerial surveillance vehicles (“drones”) or mounted cameras.
8. Target List(s). In this request the term “target list(s)” means any list(s) of individuals and associated data assembled and/or created by any government agency or privately-contracted vendor for a government agency that is sent and/or used by any component of DHS to identify, track, surveil and/or arrest people.
9. Thomson Reuters/TRSS. In this request the term “Thomson Reuters/TRSS” refers to Thomson Reuters Special Services.

### **III. Request for Information**

1. Records relating to the authorization of ICE, HSI, or any other DHS personnel to respond to, assist in responding to, and/or support other law enforcement efforts related to Protests occurring in New York City between May 25, 2020, and the date of this request. This includes policies, operating procedures, rules, internal policy guidance, training materials, monitoring mechanisms, email messages, legal opinions or memoranda.
2. Records relating to any questioning, arrest, or surveillance activities of ICE, HSI, or any other DHS personnel related to Protests occurring in New York City between May 25, 2020, and the date of this request. This includes the presence of ICE HSI agents outside or around New York Police precincts, any limitations placed on ICE infogathered associated with such activities, any information or datasharing between NYPD and DHS/ICE.
3. Any and all records relating to the process ICE, HSI, or DHS use or have used to determine targets for Surveillance at Protests occurring in New York City between May 25, 2020, and the date of this request, including any Target Lists. Such records include, but are not limited to, the following:
  - Manuals, policies, or other guidance describing the use of CLEAR database in ICE operations;

- Any and all records, including slides or other materials from trainings, on how target lists are built or created, including the keywords “TRSS” or “Thomson Reuters” or “CLEAR”;
  - Target lists sent from ICE to Thomson Reuters/TRSS and Thomson Reuters/TRSS response to those lists, including information regarding all personal data<sup>4</sup> searched and lists of all targets confirmed or rejected as “false positives”;
  - All related communications between ICE and Thomson Reuters/TRSS including responses by ICE to the target lists.
4. Any Communications or Agreements with Local Government in New York City, including but not limited to the NYPD, relating to the deployment of ICE, HSI, or DHS personnel, equipment, and/or resources to support law enforcement efforts in New York City. Please also provide a list of all divisions of New York City Local Government (including, but not limited to, any task forces within the NYPD) that have Agreements with ICE, HSI, or DHS.
  5. Communications or Agreements between ICE, HSI, or DHS, on the one hand, and Local Government in New York City, such as the NYPD, on the other hand, relating to the deployment of ICE, HSI, or DHS personnel, equipment, and/or resources to support law enforcement efforts undertaken in connection with Protests occurring in New York City between May 25, 2020, and the date of this request.
  6. Presentations or other documents distributed in connection with meetings and/or teleconferences between ICE, HSI, or DHS personnel and Local Government in New York City, such as the NYPD. Such Records include, but are not limited to, meeting agenda, meeting minutes, presentations or other materials distributed either in electronic format or hardcopy to meeting participants, and any other materials used by or shown to meeting participants.
  7. Any Communications between ICE, HSI, or DHS personnel and private security companies or personnel relating to the deployment of ICE, HSI, or DHS personnel, equipment, and/or resources to support law enforcement efforts undertaken in connection with Protests occurring in New York City between May 25, 2020, and the date of this request.
  8. Records relating to information that ICE, HSI, or DHS personnel collected or sought to collect from protesters before, during, and after Protests occurring in New York City between May 25, 2020 and the date of this request, including the intended use of such Records.
  9. Records relating to any arrests conducted by ICE, HSI, or other DHS personnel at Protests occurring in New York City between May 25, 2020, and the date of this request.

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<sup>4</sup> We are not requesting personal information for individuals on this list.

Please redact any personally identifying information (such as names, social security numbers, addresses, and phone numbers) from the arrest records, but not a report of the arrest incident and other non-personally identifying information. For purposes of this request, arrest records include Field Operations Worksheet, or Form I-213.

#### **IV. Format of Production**

Please search for responsive records regardless of format, medium, or physical characteristics, and including electronic records. Please provide the requested documents in the following format:

- Provided via email or on a CD, DVD, hard drive or other hardcopy media;
- In PDF format wherever possible;
- Electronically searchable wherever possible;
- Each paper record in a separately saved file;
- “Parent-child” relationships maintained, meaning that the Requester 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.

#### **V. Request for Expedited Processing**

NYLAG requests expedited processing of this request because there is a “compelling need” for the information. *See* 5 U.S.C. § 552(a)(6)(E)(i)(I). A “compelling need” exists where there is an “urgency to inform the public concerning actual or alleged Federal Government activity,” and the requesting party is “primarily engaged in disseminating information.” 6 C.F.R. § 5.5(e)(ii).

There is an urgent need to inform the public of the legitimacy of ICE and HSI personnel’s presence at protests in New York City, especially given the increased surveillance that ICE is conducting in sanctuary cities, including New York City, under the so-called Operation Palladium.<sup>5</sup> In addition, President Trump has recently threatened to send even more federal agents to New York City to crack down protests.<sup>6</sup> The reasoning behind sending additional federal law enforcement is unclear and would only induce more anxiety among minorities and immigrants, who already feel unsafe under the constant surveillance, and could limit their right to exercise their First Amendment rights.

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<sup>5</sup> Caitlin Dickerson, Zolan Kanno-Youngs, and Annie Correal, “*Flood the Streets*”: ICE Targets Sanctuary Cities with Increased Surveillance, N.Y. TIMES (Mar. 3, 2020), <https://www.nytimes.com/2020/03/05/us/ICE-BORTAC-sanctuary-cities.html>.

<sup>6</sup> Jake Offenhartz, *Trump Threatens to Send Federal Agents to Police NYC: “I’m Going to Do Something”*, GOTHAMIST (July 20, 2020), <https://gothamist.com/news/trump-threatens-send-federal-agents-police-nyc-im-going-do-something>.

NYLAG and its advocacy partners disseminate information to the public free of charge through their websites and the production of reports. In conjunction with their community partners, NYLAG conducts presentations and prepares and circulates flyers in multiple languages throughout the community and to disseminate information about immigration enforcement, immigration benefits, and the rights of immigrants. Specifically, NYLAG conducts Know Your Rights presentations in communities around New York City to educate and to protect the rights of immigrants and protesters. In addition, NYLAG and its advocacy partners participate in public hearings before government officials to share information about immigration law and enforcement. Finally, NYLAG and its advocacy partners disseminate information through its website and social media channels to raise awareness about immigration policy and enforcement.

## **VI. Request for Fee Waiver**

Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii), NYLAG requests the waiver of all fees associated with this request. Disclosure of the requested information to NYLAG is in the public interest because it is likely to contribute significantly to public understanding of the presence of ICE and HSI personnel at protests in New York City, and ICE's activities more generally. This request will serve no commercial interest because NYLAG is a nonprofit organization dedicated to providing free legal services to low-income New Yorkers, many of whom are minorities and/or immigrants. NYLAG seeks the requested information to assist it in conducting Know Your Rights presentations in communities around New York City to educate and to protect the rights of immigrants and protesters. NYLAG will also use the requested information to educate the public on issues of social justice and equality, and will disseminate such information to other nonprofit entities that are engaged in social justice work.

Should you deny this waiver request, NYLAG is willing to pay fees up to a maximum of \$25. If you estimate that the fees will exceed this limit, please advise the undersigned of the costs before proceeding.

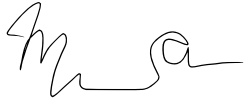
NYLAG looks forward to receiving a determination pursuant to each request within twenty business days as required by 5 U.S.C. § 552(a)(6)(A)(i). Please also inform us on a rolling basis of the existence of any records responsive to any request as you identify them, regardless of whether additional records responsive to that or other requests may be identified in the future. We are willing to accept records in electronic format.

If for any reason any request is denied, please inform us of the reason(s) for the denial in writing. If this Request is denied in whole or in part, NYLAG asks that DHS and ICE identify the specific exemptions of FOIA for each denied Request. NYLAG requests that DHS and ICE release all segregable portions of otherwise exempt material, and reserves the right to appeal a decision to withhold any records, or to deny NYLAG's application for expedited processing or fee waiver. If you have any questions regarding this request, please contact Melissa Chua by phone at 212-613-5088 or by email at [mchua@nylag.org](mailto:mchua@nylag.org).



Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Chua', with a stylized flourish at the end.

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