

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

NATIONAL IMMIGRATION PROJECT OF
THE NATIONAL LAWYERS GUILD
1200 18th Street NW, Suite 700
Washington, DC 20036,

AMERICAN IMMIGRATION COUNCIL,
PMB2026
2001 L Street N.W., Suite 500
Washington, DC 20036,

Plaintiffs,

v.

UNITED STATES IMMIGRATION AND
CUSTOMS ENFORCEMENT,
500 12th Street, SW
Washington, D.C. 20536,

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY
245 Murray Lane, SW
Mail Stop 0485
Washington, DC 20528-0485

Defendants.

**FIRST AMENDED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

Case No. 1:25-cv-01878-JMC

INTRODUCTION

1. This action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 *et seq.*, seeks the prompt release of agency records concerning certain policies and directives of Defendant United States Immigration and Customs Enforcement (“ICE”), specifically those implementing Presidential Proclamation 10,888, “Guaranteeing the States Protection Against Invasion,” 90 Fed. Reg. 8333 (Jan. 20, 2025) (hereinafter “Proclamation”) and Executive Order 14,165, “Securing

Our Borders,” 90 Fed. Reg. 8467 (Jan. 20, 2025) (hereinafter “Executive Order”), and pertaining to the release of people detained by ICE.

2. On January 20, 2025, President Trump proclaimed that “an invasion is ongoing at the southern border” and “restricted” migrants arriving at this border “from invoking provisions of the INA [Immigration and Nationality Act] that would permit their continued presence in the United States.” Proclamation, 90 Fed. Reg. at 8334, 8335 § 2.

3. The President instructed the Secretary of Homeland Security to “take all appropriate action to repel, repatriate, or remove any alien engaged in the invasion across the southern border of the United States.” *Id.* at 8336 § 5.

4. On the same day, the President also set by Executive Order a national policy of “[d]etaining, to the maximum extent authorized by law, aliens apprehended on suspicion of violating Federal or State law, until such time as they are removed from the United States.” 90 Fed. Reg. at 8467 § 2(c).

5. The President instructed the Secretary of Homeland Security to “issue new policy guidance or propose regulations regarding . . . the termination of the practice commonly known as ‘catch-and-release,’” whereby noncitizens are routinely released into the United States shortly after their detention for supposed violations of immigration law. *Id.* at 8468 § 5. He further ordered the Secretary to “ensure that all future parole determinations fully comply with this order and with applicable law.” *Id.* at 8468 § 7(c).

6. ICE has detained noncitizens at a higher rate since the Executive Order and the Proclamation were issued, denying their parole applications, decreasing the use of bond and alternatives to detention, asserting in immigration court that all immigrants who entered without

inspection are subject to mandatory detention, and appealing immigration judges' decisions to the contrary (triggering an automatic stay of that decision).

7. Plaintiffs National Immigration Project of the National Lawyers Guild ("National Immigration Project") and American Immigration Council submitted FOIA requests (the "Requests") to ICE on February 11, 2025, and May 1, 2025, respectively, seeking the release of records relating to the processes and/or directives concerning the detention and release of noncitizens.

8. The records sought are a matter of great public concern regarding ICE's policies and/or directives for reviewing and approving the release of any noncitizen from its custody. Congress spends billions of taxpayer dollars each year to fund ICE and its decision-making processes, which is consistently a topic of significant public debate. However, much of the specific information about ICE's decision-making processes, including its process for releasing noncitizens, is unavailable to the public. The information Plaintiffs seek through these Requests will contribute significantly to the public understanding of government conduct, specifically the implementation of the President's Proclamation and Executive Order and the related ICE custody determinations.

9. To date, neither ICE nor Defendant U.S. Department of Homeland Security ("DHS") have released any responsive records, notwithstanding the FOIA's requirement that agencies make determinations on requests within, at most, 30 working days.

10. Having not received any final determination on, or records responsive to, their Requests, Plaintiffs now bring this FOIA action for injunctive and other appropriate relief.

11. Plaintiffs now ask the Court for injunctive and other appropriate relief requiring Defendants to conduct a thorough search for, and immediately process and release, any responsive

records. Plaintiffs also seek an order enjoining Defendants from withholding non-exempt, responsive records.

JURISDICTION AND VENUE

12. The Court has subject-matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. § 552(a)(4)(B). The Court also has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 5 U.S.C. §§ 701–06.

13. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B) because it is the District of Columbia.

PARTIES

14. Plaintiff National Immigration Project is a national non-profit that provides technical and litigation support to immigrant communities, legal practitioners, and advocates seeking to advance the rights of noncitizens. The National Immigration Project provides training to the bar on immigration consequences of criminal conduct, is the author of four treatises on immigration law published by Thomson Reuters, and pursues litigation that aims to extend the rights of all noncitizens in the United States, regardless of immigration status. In addition, National Immigration Project staff present, and regularly publish, practice advisories on immigration law topics, which are disseminated to its members as well as to a large public audience through its website. The National Immigration Project also regularly publishes FOIA disclosures to the media and the public through its website.

15. Plaintiff American Immigration Council is a tax-exempt, not-for-profit education and charitable organization under Section 501(c)(3) of the Internal Revenue Code. The Council strives to strengthen the United States by shaping immigration policies and practices through innovative programs, cutting-edge research, and strategic legal and advocacy efforts grounded in

evidence, compassion, justice, and fairness. Plaintiff American Immigration Council presents, and regularly publishes on immigration law topics, and such publications are disseminated to its members as well as to a large public audience through its website. The American Immigration Council also regularly publishes FOIA disclosures to the media and the public through its website.

16. Defendant ICE is an agency of the U.S. government within the meaning of 5 U.S.C. § 551(1), 5 U.S.C. § 552(f), and 5 U.S.C. § 702. Defendant ICE is a subcomponent of DHS. It is responsible for long-term custody of noncitizens in removal proceedings and paroling immigration detainees from detention. ICE has possession, custody, and control of the records that Plaintiffs seek.

17. Defendant DHS is an agency of the U.S. government within the meaning of 5 U.S.C. § 551(1), 5 U.S.C. § 552(f), and 5 U.S.C. § 702. DHS is the parent agency of ICE. It “has a decentralized system for responding to FOIA requests” where requests for “DHS records” are directed to and processed by FOIA offices in each of DHS’s individual components. 6 C.F.R. § 5.3(a)(1)-(2). DHS rules, policies, and procedures govern the processing of FOIA requests by all its components. 6 C.F.R. § 5.1(a)-(c). As such, DHS has possession, custody, and control of the records that Plaintiffs seek. *Sanchez Mora v. U.S. Customs & Border Protection*, Civil Action No. 24-3136, 2025 WL 1713252, at *5 (D.D.C. June 18, 2025) (FOIA “requests submitted to a DHS component, such as [ICE], must also be understood as submitted to DHS, the parent agency.”)

FACTUAL BACKGROUND

Parole and Release from Immigration Detention

18. The Secretary of Homeland Security has delegated the authority to adjudicate detained noncitizens’ parole applications and release noncitizens from immigration detention to ICE.

19. Detained noncitizens who are “applicants for admission”¹ may request parole for urgent humanitarian reasons or significant public benefit. 8 U.S.C. § 1182(d)(5).

20. Detained noncitizens who were admitted to the United States or entered without inspection (“non-arriving noncitizens”) may apply for conditional parole. 8 U.S.C. § 1226(a). Those who demonstrate they are not a danger to property or people and are likely to appear for future proceedings are typically released on parole under this statutory section. 8 C.F.R. § 236.1(c)(8).

21. ICE may also release detained non-arriving noncitizens whom it has determined pose low risks of flight and to public safety on their own recognizance, under orders of supervision, or on monetary bonds.

22. Detained noncitizens may appeal ICE’s custody decision to an immigration judge under 8 C.F.R. § 236.1(d). The immigration judge may release the noncitizen on bond or conditional parole if the noncitizen is detained pursuant to 8 U.S.C. § 1226(a). *Compare* 8 U.S.C. § 1226(a), *with id.* §§ 1225(b)(2)(A), 1226(c).

New Policy Guidance

23. On January 20, 2025, the President instructed the Secretary of Homeland Security to “issue new policy guidance or propose regulations regarding . . . the termination of the practice commonly known as ‘catch-and-release,’ whereby illegal aliens are routinely released into the United States shortly after their apprehension for violations of immigration law.” 90 Fed. Reg. at 8468 § 5.

24. Shortly thereafter, DHS issued the following:

¹ “Applicants for admission” include both noncitizens who entered the United States without inspection and noncitizens who applied for admission at a port of entry but lacked valid entry documents. 8 U.S.C. § 1225(a)(1).

(a) A directive that “ends the broad abuse of humanitarian parole and returns the program to a case-by-case-basis.” Statement from a DHS Spokesperson on Directives Expanding Law Enforcement and Ending the Abuse of Humanitarian Parole (Jan. 21, 2025), *available at* <https://www.dhs.gov/news/2025/01/21/statement-dhs-spokesperson-directives-expanding-law-enforcement-and-ending-abuse>;

(b) A memorandum—“Exercising Appropriate Discretion Under Parole Authority”—that “clarifies DHS’s position regarding the scope of the parole statute, 8 U.S.C. § 1182(d)(5)” and “authorizes DHS components to pause, modify, or terminate, effective immediately, any parole program” inconsistent with DHS’s position. U.S. Department of Homeland Security, Guidance Regarding How to Exercise Enforcement Discretion (Jan. 23, 2025), *available at* https://www.dhs.gov/sites/default/files/2025-01/25_0123_er-and-parole-guidance.pdf.

25. DHS has not published this directive or this memorandum.

26. Nor has ICE published policy guidance regarding the implementation of the Proclamation, Executive Order, directive, or memorandum.

27. ICE has detained noncitizens at a higher rate since the Executive Order and the Proclamation were issued, decreasing its use of parole, bond, and alternatives to detention.

28. According to ICE detention data, ICE detained 41.35% more people in June 2025 than in December 2024 and released 65.22% fewer people on monetary bond, 85.15% fewer people under orders of supervision, 97.57% fewer people on their own recognizance, and 99.21% fewer people on parole.

29. ICE field staff have informed immigration law practitioners and detained noncitizens that new guidance bars them from releasing noncitizens from detention.

30. As of July 2025, ICE has also deemed any immigrant alleged to be inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i)—i.e., those who entered the United States without inspection—to be subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), rather than discretionary detention under 8 U.S.C. § 1226(a), and therefore eligible for release only on parole.

31. In bond redetermination proceedings in immigration court, ICE has a practice of appealing immigration judges' decisions that conclude that noncitizens who have entered the United States without inspection are not subject to mandatory detention. Such appeals trigger an automatic stay of the decision to release a noncitizen on bond for the pendency of the appeal. *See* 8 C.F.R. § 1003.19(i)(2).

Plaintiffs' Requests Under FOIA

32. Both Plaintiffs have sent FOIA Requests seeking disclosure of ICE's guidance implementing the Proclamation and Executive Order.

33. The Proclamation greatly changed the way the federal government handles noncitizens by imposing the following policy actions:

(a) Any individual the administration deems to have engaged in an "invasion" across the southern border will have their entry suspended until the President finds that the invasion has ceased.

(b) Those deemed to be partaking in the "invasion" are restricted from invoking provisions of the Immigration and Nationality Act (INA) that would allow them to stay in the U.S., including but not limited to Section 208 of the INA, 8 U.S.C. 1158.

(c) Any individual who fails, before entering the U.S., to provide federal officials with sufficient medical information and reliable criminal history and background

information as to enable fulfillment of the requirements of Sections 212(a)(1)-(3) of the INA, 8 U.S.C 1182(a)(1)-(3) is deemed detrimental to the interest of the U.S.

(d) The Secretary of Homeland Security, in coordination with the Secretary of State and the U.S. Attorney General, is directed to take actions to address illegal immigration across the southern border.

(e) The Secretary of State and Secretary of Homeland Security, alongside the U.S. Attorney General, shall take action to repel, repatriate or remove aliens involved in an invasion across the southern border.

34. Meanwhile, the Executive Order from January 20, 2025, further imposed policy actions against noncitizens. The Order:

(a) directs the construction of temporary and permanent physical barriers at the southern border of the United States and all appropriate action to deploy permanent sufficient personnel along the southern border to ensure operational control;

(b) directs that action be taken to supplement available personnel to secure the southern border and enforce immigration laws;

(c) directs the Secretary of Homeland Security to issue new policy guidance on detention of undocumented immigrants and to reinstitute the Migrant Protection Protocols (Remain in Mexico);

(d) instructs the Secretary of Homeland Security to cease using the CBP One application and terminate all categorical parole programs, including Processes for Cubans, Haitians, Nicaraguans, and Venezuelans;

(e) instructs that fingerprints be taken from all detained immigrants, and that familial relationships be verified for all immigrants encountered or apprehended.

(f) directs the Attorney General and the Secretary of Homeland Security to prioritize prosecution of offenses that relate to the borders of the United States, including human smuggling, human trafficking, child trafficking and sex trafficking; and

(g) directs the Secretary of State, in coordination with the Attorney General and Secretary of Homeland Security, to facilitate additional international cooperation and “safe third country” agreements and would allow removal of asylum seekers to those countries.

35. This Executive Order, along with the Proclamation, not only closes off major legal channels for immigration, but also significantly impacts noncitizens already in the United States by increasing the risk of detention or deportation, restricting access to work permits, and delaying immigration court proceedings.

36. Seeking to inform the public, especially immigration practitioners, about changes to ICE’s parole and detention release policies since the Proclamation and Executive Order, Plaintiffs filed the Requests with Defendant ICE on February 11, 2025, and May 1, 2025, respectively.

37. On February 11, 2025, the National Immigration Project submitted a Request to ICE (**Exhibit A**), seeking the following:

(a) A copy of the policy, written directive, memoranda, or other written guidance including email created, modified, sent, received or collected by ICE describing the requirement that the acting ICE director² personally approve every noncitizen’s release from ICE custody.

² This term, here and elsewhere, includes Acting ICE Director Caleb Vitello or anyone else in this role as well as any person appointed to the ICE Director role.

(b) Data regarding the detained noncitizens awaiting review from the acting ICE director for their releases, as of the date the search for the data is conducted:

(i) The total number of detained noncitizens awaiting release approval by the acting ICE director;

(ii) The number of detained noncitizens awaiting release approval by the acting ICE director who were granted asylum by an Immigration Judge;

(iii) The number of detained noncitizens awaiting release approval by the acting ICE director who were granted withholding of removal or protection under the Convention Against Torture by an Immigration Judge;

(iv) The number of detained noncitizens awaiting release approval by the ICE director who were granted Cancellation of Removal by an Immigration Judge;

(v) The number of detained family units awaiting release approval by the acting ICE director;

(vi) The number of detained *J.O.P v. DHS* class members awaiting release approval by the acting ICE director;

(vii) The number of detained noncitizens awaiting release approval by the ICE director whose bond has been paid as evidenced by an executed ICE Form I-352;

(viii) The number of detained noncitizens awaiting release approval by the acting ICE director whose removal proceedings were terminated by an Immigration Judge and DHS did not reserve appeal; and

(ix) The location of each detained noncitizen awaiting release approval by the acting ICE director.

(c) Data regarding the noncitizens previously impacted by the acting ICE director's review of their custody, from January 20, 2025 through the date the search is conducted:

(i) The total number of detained noncitizens denied release by the acting ICE director;

(ii) The number of days from when each noncitizen was eligible for release to when the acting ICE director denied release;

(iii) The location of each detained noncitizen who was denied release by the acting ICE director;

(iv) The total number of noncitizens released from ICE custody following the ICE director's review and approval;

(v) The number of detained noncitizens who were granted asylum by an Immigration Judge and were released from ICE custody following the acting ICE director's review and approval;

(vi) The number of detained noncitizens who were granted withholding of removal or protection under the Convention Against Torture by an Immigration Judge and were released from ICE custody following the acting ICE director's review and approval;

(vii) The number of detained noncitizens who were granted Cancellation of Removal by an Immigration Judge and were released from ICE custody following the acting ICE director's review and approval;

(viii) The number of detained family units who were released from ICE custody following the acting ICE director's review and approval;

(ix) The number of detained *J.O.P v. DHS* class members who were released from ICE custody following the acting ICE director's review and approval;

(x) The number of detained noncitizens whose bond was paid as evidenced by an executed ICE Form I-352 and who were released from ICE custody following the acting ICE director's review and approval;

(xi) The number of detained noncitizens whose removal proceedings were terminated by an Immigration Judge and DHS did not appeal who were released from ICE custody following that acting ICE director's review and approval;

(xii) Where each noncitizen was detained prior to their release from ICE custody following acting ICE director's review and approval; and

(xiii) For each category (3)(e) through (3)(k), the number of days from when the noncitizen was eligible for release to when the acting ICE director approved the noncitizen's release.

38. Then, on May 1, 2025, the American Immigration Counsel submitted a Request to ICE (**Exhibit B**), seeking the following:

(a) All memoranda, musters, guidance, and other similar records implementing Sections 2(c), 5, and 7(c) of the Executive Order; and

(b) All memoranda, musters, guidance, and other similar records implementing the Proclamation.

39. Plaintiffs sought waivers of search, review, and reproduction fees on the ground that disclosure of the requested records is "in the public interest because it is likely to contribute significantly to the public understanding of the operations or activities of the government," specifically ICE custody determinations. 5 U.S.C. § 552(a)(4)(A)(iii); *see also* 6 C.F.R. § 5.11(k).

40. Both Plaintiffs also sought a waiver of search and review fees on the grounds that they request the information for “the purpose of disseminating it to members of the public and the organization’s members” and that the records are “not for the purpose of commercial gain.” 5 U.S.C. § 552(a)(4)(A)(ii)(II); *see also* 6 C.F.R. § 5.11(d)(1).

41. In addition, Plaintiff, National Immigration Project, sought expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E) and 6 C.F.R. § 5.5(e), because there is a “compelling need” for these records. As an organization that routinely disseminates information to the public and advocates for government transparency and accountability, especially as to potential government abuses of civil rights and civil liberties, Plaintiff has an urgent need to obtain these records so it can inform the public about the federal government’s activities with respect to its treatment of noncitizens.

Defendants’ Responses to the Requests

42. With respect to Request No. 2025-ICFO-19164 sent by Plaintiff National Immigration Project and attached as **Exhibit A**, Defendants collectively responded to the Request on February 27, 2025, by email. This response denied Plaintiff’s request for expedited processing, granted Plaintiff’s request for a fee waiver, and invoked a 10-business-day extension for both Defendants’ responses under 5 U.S.C. § 552(a)(6)(B), as shown in the attached **Exhibit C**.

43. Defendants have not made any determination with respect to Request No. 2025-ICFO-19164. To date, neither ICE nor DHS has released responsive records, nor explained its basis for withholding them.

44. Plaintiff National Immigration Project has exhausted all administrative remedies because Defendants have failed to comply with the time limit of 30 working days to make a determination on its Request under the FOIA.

45. With respect to Request No. 2025-ICFO-34832 sent by Plaintiff American Immigration Council and attached as **Exhibit B**, Defendants collectively responded to the Request on May 7, 2025, by email. This response acknowledged Plaintiff's Request and invoked a 10-business-day extension for ICE's response under 5 U.S.C. § 552(a)(6)(B), as shown in the attached **Exhibit D**.

46. ICE's May 7 email also acknowledged Plaintiff American Immigration Council's request for a fee waiver, but declined to adjudicate it.

47. Defendants have not made any determination in response to Request No. 2025-ICFO-34832. To date, neither ICE nor DHS has released responsive records nor explained its basis for withholding them.

48. Plaintiff American Immigration Council has exhausted all administrative remedies because Defendants have failed to comply with the time limit of 30 working days to make a determination with respect to its Request under the FOIA.

Statutory Requirements

49. "The Freedom of Information Act was enacted to facilitate public access to government documents." *U.S. Dep't of State v. Ray*, 502 U.S. 164, 173 (1991) (citing *John Doe Agency v. John Doe Corp.*, 493 U.S. 146, 151 (1989)). Its basic purpose is "to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and hold the governors accountable to the governed." *See NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978).

50. With that purpose in mind, the FOIA statute requires federal agencies like Defendants to make determinations on Requests within 20 working days of receipt, 5 U.S.C. § 552(a)(6)(A)(i), and make responsive records promptly available thereafter, *id.* § 552(a)(3)(A).

51. An agency determination under FOIA “must at least inform the requester of the scope of the documents that the agency will produce, as well as the scope of the documents that the agency plans to withhold under any FOIA exemptions.” *Citizens for Responsibility & Ethics in Wash. v. Fed. Election Comm’n*, 711 F.3d 180, 186 (D.C. Cir. 2013). An acknowledgement of receipt noting that the request is being processed is not a determination under the FOIA statute because “it is not enough that, within the relevant time period, the agency simply decide to later decide.” *Id.*

52. An agency must timely notify requestors of its determination and the reasons for it and, in the case of an adverse determination, the right to administratively appeal. 5 U.S.C. § 552(a)(6)(A)(i)(III).

53. If there are “unusual circumstances,” an agency may extend the time limit by no more than 10 working days. *Id.* § 552(a)(6)(B)(i). To invoke that extension, the agency must provide “written notice . . . setting forth the unusual circumstances for such extension and the date on which a determination is expected to be dispatched.” *Id.*

54. An agency can extend its processing time beyond the additional 10 working days only if it provides written notice and “an opportunity to limit the scope of the request so that it may be processed within that time limit or an opportunity to arrange with the agency an alternative time frame for processing the request or a modified request.” *Id.* § 552(a)(6)(B)(ii).

55. More than 30 working days have passed since ICE invoked 10-day extensions on Plaintiffs’ Requests, but Defendants still have not made a determination on either of these Requests. The statutory time period has elapsed for all Defendants.

56. A district court has jurisdiction to enjoin an agency from withholding records and to order production of records that are subject to disclosure. 5 U.S.C. § 552(a)(4)(B).

57. FOIA also allows requesters to ask for expedited processing of their request for records if they can demonstrate a compelling need. 5 U.S.C. §552(a)(6)(E)(i). The term “compelling need” applies to requesters who are primarily engaged in disseminating information and possess the urgency to inform the public concerning actual or alleged Federal government activity. 5 U.S.C. § 552(a)(6)(E)(v)(II).

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF
(Against All Defendants)

5 U.S.C. § 552(a)(3)(A)-(D)

Failure to Make a Reasonable Effort to Search for Responsive Records

58. Plaintiffs incorporate by reference the above Paragraph Nos. 1-57.

59. Defendants are agencies subject to and within the meaning of FOIA, and they must therefore make reasonable efforts to search for requested records.

60. Upon information and belief, Defendants have in their possession responsive documents, including those specifically identified in Plaintiffs’ Requests, that they have failed to produce.

61. Upon information and belief, Defendants have not searched all locations likely to contain records responsive to Plaintiffs’ Requests using methods reasonably likely to locate these records.

62. Defendants’ failure to make a reasonable effort to search for records responsive to the Requests violates the FOIA, 5 U.S.C. § 552(a)(3), and Defendants’ corresponding regulations.

SECOND CLAIM FOR RELIEF
(Against All Defendants)

5 U.S.C. § 552(a)(3)(A), (a)(8)(A), (b)

Failure to Promptly Release Non-Exempt Records

63. Plaintiffs incorporate by reference the above Paragraph Nos. 1-57.

64. Defendants are agencies subject to and within the meaning of FOIA, and they must therefore promptly release all non-exempt records.

65. Upon information and belief, Defendants have in their possession responsive, non-exempt documents, including those specifically identified in Plaintiffs' Requests, that they have failed to produce.

66. Defendants' withholding of non-exempt agency records subject to the Requests violates the FOIA, 5 U.S.C. § 552, and Defendants' corresponding regulations.

THIRD CLAIM FOR RELIEF
(Against All Defendants)

5 U.S.C. § 552(a)(6)(E)

Failure to Process Plaintiff National Immigration Project's Requests Expeditiously

67. Plaintiff National Immigration Project incorporates by reference the above Paragraph Nos. 1-57.

68. Defendants are agencies subject to and within the meaning of FOIA, and they must therefore release all responsive, non-exempt records in an expedited timeframe when a basis exists to do so.

69. Plaintiff, National Immigration Project, is primarily engaged in disseminating information to the public. Plaintiff has the ability and intention to widely disseminate the requested information through a variety of sources, including reports, newsletters, news briefings, right-to-know handbooks, and other materials, to the public at no cost. Indeed, obtaining information about government activity, analyzing that information, and widely publishing and disseminating that information to the press and public are critical and substantial components of the National Immigration Project work and are among its primary activities.

70. The requested records pertain to the federal government's immigration detention and deportation network and the ways in which DHS spends its significant detention budget. This

is a matter of widespread media and public interest, and the requested records will inform the public of pressing and urgent federal governmental activities, actual or alleged.

71. Defendants' failure to grant expedited processing of Plaintiff National Immigration Project's Request violates the FOIA, 5 U.S.C. § 552(a)(6)(E), and Defendants' corresponding regulations.

FOURTH CLAIM FOR RELIEF
(Against All Defendants)

5 U.S.C. § 552 (a)(4)(A)(iii)
Failure to Award a Fee Waiver

72. Plaintiffs incorporate by reference the above Paragraph Nos. 1-57.

73. Plaintiffs have a legal right to a fee waiver under FOIA and Defendant DHS's implementing regulations. *See* 5 U.S.C. § 552 (a)(4)(A)(iii); 6 C.F.R. § 5.11(k)(1).

74. Defendants' failure to grant Plaintiffs a fee waiver on the Requests violates FOIA and DHS's implementing regulations.

REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

- a) Declare that Defendants' failure to make determinations on Plaintiffs' Requests and promptly produce the requested records is unlawful;
- b) Order Defendants to promptly conduct a full and adequate search for all responsive records in response to Plaintiff American Immigration Council's Requests;
- c) Order Defendants to process and release any responsive records promptly in response to Plaintiff American Immigration Council's Requests;
- d) Order Defendants to conduct a full and adequate search as soon as practicable for all responsive records in response to Plaintiff National Immigration Project's Requests;

- e) Order Defendants to process and release any responsive records in response to Plaintiff National Immigration Project's Requests as soon as practicable;
- f) Grant National Immigration Project expedited processing of its Request;
- g) Declare that the requested records are not exempt from disclosure under the Freedom of Information Act;
- h) Enjoin Defendants from withholding non-exempt, responsive records;
- i) Grant Plaintiffs fee waivers for their Requests.
- j) Award Plaintiffs their costs and reasonable attorneys' fees incurred in this action;
and
- k) Grant such other relief as the Court deems just and proper.

Respectfully submitted this 12th day of September, 2025,

/s/ Jaime A. Santos

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**Pro hac vice* application forthcoming

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**Pro hac vice* application forthcoming

† Not admitted in DC; working remotely from and admitted in Louisiana only

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