



September 24, 2025

Via DHS Secure Release

U.S. Immigration and Customs Enforcement
Attn: FOIA Office
500 12th Street SW, Stop 5009
Washington, DC 20536-5009

Re: Freedom of Information Act Request: 287(g) Agreement Training Materials

Dear FOIA Officer:

The American Immigration Council and the New York Civil Liberties Union ("NYCLU") (together referenced as "Requesters") submit the following Freedom of Information Act ("FOIA") request for records related to materials used by U.S. Immigration and Customs Enforcement ("ICE") to train law enforcement officers from local law enforcement agencies, such as sheriff deputies, police department, or university campus police, that have entered into memoranda of understanding with ICE to enforce immigration law under 8 U.S.C. § 1357(g) (hereinafter "287(g) Agreements").

Requesters seek a waiver of any applicable fees pursuant to 5 U.S.C. § 552(a)(4)(A) and 6 C.F.R. § 5.11(k) because the information requested will contribute to the public's understanding of the local law enforcement officers' duties and limits established by ICE's instructions, as well as how ICE instructs local law enforcement officers about individuals' civil rights.

We expect a response to this request within 20 working days pursuant to 5 U.S.C. § 552 (a)(6)(A)(i), unless otherwise allowed by the statute.

I. REQUEST FOR INFORMATION

Requesters seek the following records under 5 U.S.C. § 552(a)(3):

1. Materials¹ currently used by ICE in its instruction courses to train local law enforcement officers from agencies that signed 287(g) Agreements for all active models of the 287(g) program, as well as materials used during "refresher" trainings for designated immigration officers from local law

¹ The term "materials" includes, but is not limited to, manuals or other similar documents; presentations; PowerPoint slideshows or pdf copies of presentation slides; trainer's notes; training guidelines/objectives, assessments tools, handouts; training video or audio content; and recording of the online trainings.

enforcement agencies participating in any active models of the program that require such refresher training.

2. Version of materials used by ICE in effect January 1, 2025, in its instruction courses to train local law enforcement officers from agencies with active 287(g) Agreements for all models of the 287(g) program, as well as materials used during “refresher” trainings for designated immigration officers from local law enforcement agencies participating in any active models of the program that require such refresher training.

II. FORMAT OF PRODUCTION

The records requested herein also fall under the proactive disclosure provisions of the FOIA. 5 U.S.C. § 552(a)(2). Courts state that documents subject to 5 U.S.C. § 552(a)(2) must be “automatically available for public inspection.” *Jordan v. U.S. Dep’t of Justice*, 591 F.2d 753, 756 (D.C. Cir. 1978). As such, Requesters ask that ICE publish these records on its website as required by the statute.

Alternatively, Requesters seek responsive electronic records in a machine-readable, native file format, with all metadata and load files. If terms or codes are contained in the materials and are not defined, please provide a glossary or other descriptive records containing definitions of acronyms, numerical codes, or terms contained in the records responsive to this request. We request that you produce responsive materials in their entirety, including all attachments, appendices, enclosures, and/or exhibits.

III. FEE WAIVER REQUEST

Because Requesters seek a proactive disclosure of these records, the fee provisions of 6 C.F.R. § 5.11 do not apply to these types of records. Should the agency process the request exclusively under 5 U.S.C. § 552(a)(3), however, Requesters seek waiver of any applicable fees because the information sought 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 [requesters]” 5 U.S.C. § 552(a)(4)(A)(iii).

The public interest criterion is satisfied when (1) the request concerns operations or activities of the government; (2) disclosure is likely to contribute to an understanding of government operations or activities; (3) disclosure contributes to an understanding of the subject by the public at large; and (4) disclosure is likely to contribute significantly to such understanding. 6 C.F.R. § 5.11(k)(2).

The first prong of the public interest test is clearly satisfied by this request. The records sought seek further information about the duties and responsibilities bestowed upon local law enforcement officers carrying out immigration-related tasks under 287(g) agreements.

- a. *The requested records concern the operations or activities of the government.*

The records sought clearly concern the operation of DHS and ICE, its subcomponent. Informational materials about 287(g) Agreements published by ICE state that local law enforcement agencies that decide to join the program work under ICE’s supervision and oversight.² These informational materials

² Enforcement and Removal Operations, Immigration and Customs Enforcement, ERO Facts 287(g) Task Force Model (March 2025), <https://www.ice.gov/doclib/about/offices/ero/287g/factsheetTFM.pdf>.

also specify that ICE will provide virtual training for participating law enforcement agencies.³ Records of the training will shed light about how ICE is operating these programs and the information passed from ICE to the local law enforcement agencies that will be conducting arrests on ICE's behalf. Thus, the records requested clearly concern the operations of ICE, which is an agency of the U.S. government.

b. *Disclosure is "likely to contribute" to an understanding of government operations or activities.*

Disclosure of the requested records is likely to contribute to an understanding of how local law enforcement agencies are supposed to carry out arrests under the powers delegated to them by ICE under the agreements. ICE and local law enforcement's statements to the press about their officers' power under 287(g) Agreements have been inconsistent. In Ohio, for example, the sheriff of Butler County, which recently signed a 287(g) agreement, said that the sheriff's deputies trained under the program are basically ICE agents.⁴ Likewise, upon finalizing a 287(g) agreement for the South Dakota Division of Criminal Investigation (DCI), the South Dakota Attorney General said that previously the DCI was at ICE's mercy on when they were going to respond, how they were going to address it, and when they were going to begin deportation, but "now that we are part of the task force, we have the ability to do that."⁵ ICE, however, states that the 287(g) Task Force Model gives officers "limited" immigration enforcement authority while performing their routine policing duties, such as identifying undocumented immigrants during a traffic stop and sharing that information with ICE, and ICE supervisors are supposed to determine next steps after the arrests are made.⁶

Additionally, local law enforcement agencies differ on how they define their duties under the agreement. Sheriff Richard Jones, of Butler County, Ohio said he views the officers trained under the 287(g) program as ICE "agents." By contrast, the Miami-Dade County Sheriff Rosie Cordero-Stutz said her deputies would not ask for proof of immigration status during traffic stops but would do so only if that stop leads to an investigation of more serious crimes or an arrest.⁷

Further, ICE's website lacks clarity as to when the 287(g) agreements in a particular jurisdiction are active. The Wells Police Department in Maine stopped training officers under the 287(g) agreement, and as such, did not have officers authorized to carry out immigration enforcement duties under 287(g).⁸ However, ICE's website still shows that the Wells Police Department has an active 287(g) Agreement. Accordingly, there is a lack of understanding about what constitutes an active 287(g) Agreement.

The public also lacks a clear understanding about the duration of the training local law enforcement officers receive before they can begin their duties under the 287(g) Agreements. The ICE pamphlet about

³ *Id.*

⁴ Gabriel Kramer, *3 Ohio sheriff's departments ink agreements with ICE to aid in deportations*, THE OHIO NEWSROOM, May 20, 2025, <https://www.statenews.org/section/the-ohio-newsroom/2025-05-20/3-ohio-sheriffs-departments-ink-agreements-with-ice-to-aid-in-deportations>.

⁵ Grant Green, *AG Jackley and Minnehaha Sheriff Milstead detail 287(g) program*, DAKOTA NEWS NOW, May 27, 2025, <https://www.dakotanewsnw.com/2025/05/28/ag-jackley-minnehaha-sheriff-milstead-detail-287g-program/>

⁶ Kramer, *supra* n. 4.

⁷ Ana Ceballos, *What's the 287(g) task force model? Your guide to the immigration enforcement program*, MIAMI HERALD, March 12, 2025, <https://www.miamiherald.com/news/local/immigration/article301915479.html>.

⁸ Russ Reed, *Wells Police Department pauses ICE training as Maine Legislature weighs bill*, WMTVW8, May 21, 2025, <https://www.wmtv.com/article/wells-maine-police-department-pauses-ice-agreement/64840621>.

the program states that officers must receive 40 hours of training.⁹ However, a report from March 7, 2025, indicates that DHS told reporters the training is only eight hours.¹⁰

Training provided to local law enforcement agencies by ICE would augment the limited, and often contradictory, information agencies have about their duties under these agreements.

- c. *Disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requester or a narrow segment of interested persons.*

Requesters plan to contextualize, analyze, and report on any record obtained as a result of this request, as well as share documents obtained on Requesters' websites, emails to supporters, and other means of distribution. Of course, as nonprofit organizations, Requesters will publish these materials free of charge in order to disseminate information as widely as possible about how local law enforcement agencies should execute their duties under 287(g) Agreements.

Requesters have a proven track record of educating the public at large through educational materials, particularly in the topic of ICE enforcement practices. For example, in June 2023, Requester American Immigration Council published an analysis of data and records obtained from ICE about the agency's implementation of enforcement priorities.¹¹ The report brought to light important information about whether ICE followed its own guidance on the individuals ICE arrested.

To inform the public about government conduct affecting legal rights, the NYCLU publishes newsletters, press releases, know-your-rights handbooks, and numerous other materials. As an example, the NYCLU recently published a guide to 287(g) agreements in New York state.¹²

Due to the lack of information about the specific training received by local law enforcement officers deputized under the 287(g) Program, Requesters also intend to share records obtained with media outlets as requested. In light of the media interest in the subject matter and the impact disclosures will have on informing the public, as well as directly impacted individuals, this factor also weighs in favor of granting a fee waiver. *See Judicial Watch, Inc. v. U.S. Dep't of Justice*, No. Civ. 99–2315, 2000 WL 33724693 at *5 (D.D.C. Aug. 17, 2000) (finding that FOIA's fee waiver analysis focuses on the "subject and impact of the particular disclosure, not the record of the requesting party.")

⁹ ICE, *supra* n. 2.

¹⁰ Claudia Levens, *Washington and Winnebago county sheriff's departments sign agreements to work with ICE*, MILWAUKEE JOURNAL SENTINEL, March 7, 2025, <https://www.jsonline.com/story/communities/north/2025/03/07/washington-and-winnebago-county-sheriffs-offices-sign-ice-agreements/81624134007/>.

¹¹ American Immigration Council, ICE DIDN'T FOLLOW FEDERAL ENFORCEMENT PRIORITIES SET BY BIDEN ADMINISTRATION (June 27, 2023) <https://www.americanimmigrationcouncil.org/report/ice-enforcement-priorities/>.

¹² Simon McCormack and Ify Chikezie, NYCLU, WHAT ARE 287(G) AGREEMENTS AND HOW DO THEY FUEL TRUMP'S MASS DEPORTATIONS? (Apr. 24, 2025), <https://www.nyclu.org/commentary/what-are-287g-agreements-and-how-do-they-fuel-trumps-mass-deportations>.

- d. *Whether the contribution to public understanding of government operations or activities will be “significant.”*

Due to the lack of information about the specific training local law enforcement officers receive to become deputized under the 287(g) Program, the records requested will significantly contribute to the public’s understanding of ICE’s operation of this program. The federal district court for the District of Columbia has concluded that efforts by requesters to analyze and disseminate information that bring to light agency actions are significant, particularly in light of Congress’ intent to encourage an “open and accountable government” under the FOIA fee waiver provisions. See *Citizens for Resp. & Ethics in Washington*, 593 F. Supp. 2d 261, 271 (D.D.C. 2009). Requesters seek to have the records responsive to this request published on ICE’s website so that the public could easily access the information about the protocols designated immigration officers should follow when exercising their authority under 287(g) agreements. Publication of these records in this manner would significantly contribute to the public’s understanding of these activities.

Alternatively, Requesters have a proven track record of analyzing and disseminating information obtained through FOIA requests. Such analysis not only reaches the public, but it often shapes the public discourse on the subjects of the FOIA requests. Requesters’ intent to analyze the documents received from agencies through FOIA also will contribute significantly to the public’s understanding of this program. *Citizens for Resp. & Ethics in Washington*, 593 F. Supp. 2d at 271 (stating that requesters’ intent to make records publicly available and analyze said documents justified the grant of a fee waiver.) Considering the lack of information about the applicable training, the misinformation that surrounds the length of the training, and what local law enforcement officers can do under the program, more information is critical for the public to understand the limits of local law enforcement authority under these agreements. Requesters’ plans to inform the public through the specified means will contribute significantly to the public’s understanding of this policy.

- e. *Whether the requester has a commercial interest that would be furthered by the requested disclosure.*

Requesters have no commercial interest furthered by the records requested. First, Requesters primarily seek that ICE publish these records on its website as a proactive disclosure. If the agency agrees to do so, there is no commercial benefit to the Requesters derived from such type of disclosure, which evidences Requesters’ lack of a commercial interest.

If ICE does not release the requested records on the agency’s website, both the Council and the NYCLU are nonprofit organizations, which by definition have no commercial interest, and would usually qualify for a fee waiver. See *Am. Ctr. for Law & Justice v. U.S. Dep’t of Homeland Sec.*, 573 F. Supp. 3d 78, 84 (D.D.C. 2021). Rather than serving a commercial interest, disclosure furthers Requesters’ core missions. The Council’s mission is to promote the development of fair and rational immigration policies using “facts to educate the public” and using “research and analysis.”¹³ Similarly, the NYCLU is a not-for-profit corporation incorporated in New York State with over 100,000 members and supporters dedicated to the constitutional principles of liberty and equality. The NYCLU is committed to principles of transparency and accountability in government, and seeks to ensure that the public is informed about the conduct of its

¹³ American Immigration Council, About Us, <https://www.americanimmigrationcouncil.org/our-impact/mission-vision/> (last visited Sept. 23, 2025).

government in matters that affect civil liberties and civil rights. Obtaining information about governmental activity, analyzing that information, and widely publishing and disseminating it to the press and the public is a critical and substantial component of the NYCLU's work.

If the records are not published on the agency's website, Requesters intend to disseminate the organizations' analysis, and the records obtained in response to the FOIA request, through different means to their respective audiences, and the public at large free of charge.

As such, this factor weighs in favor of granting a full fee waiver, as requesters have no conceivable commercial interest that would be furthered by disclosure of the requested records.

- f. *Whether the magnitude of any identified commercial interest to the requester is sufficiently large in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester.*

Finally, the public interest in disclosing the records is compelling in light of the misinformation and lack of information about the training that local law enforcement officers receive under 287(g). Requesters have no commercial interest in ICE's disclosure of the requested records, and nonprofit organizations such as Requesters enjoy a presumption that they have no commercial interests. See *Am. Ctr. for Law & Justice*, 573 F. Supp. at 84. The information is crucial because the public must know how local law enforcement officers will carry out their duties under the 287(g) agreements, particularly if they will be authorized to request proof of immigration status during routine enforcement activity such as traffic stops. This information not only impacts noncitizens who may be arrested under the newly acquired authority granted to local law enforcement officers of recently signed 287(g) agreements, but it can also affect U.S. citizens, legal permanent residents, and individuals with legal status in the United States who may be subject to undue questioning by officers who fail to follow the training.

Hence, this factor also weighs heavily in favor of Requesters' petition for an unconditional fee waiver.

As FOIA's fee-waiver requirements must be liberally construed in favor of waivers for noncommercial requestors, a waiver of all fees is justified and warranted in this case.

Thank you for your attention to this request. If you have any questions regarding this request, please do not hesitate to contact us.

Very truly yours,

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On behalf of Requesters