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20 *(continued on next page)*

21 **UNITED STATES DISTRICT COURT FOR THE**
22 **CENTRAL DISTRICT OF CALIFORNIA**

23 NATIONAL IMMIGRATION LAW
24 CENTER; AMICA CENTER FOR
25 IMMIGRANT RIGHTS; and
26 NATIONAL IMMIGRATION
27 PROJECT,

28 Plaintiffs,

v.

U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT

Defendant.

Case No. 2:26-cv-7682

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

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10
11 **pro hac vice* application forthcoming

12 †Designated Local Counsel

INTRODUCTION

1
2 1. This is an action under the Freedom of Information Act (“FOIA”), 5
3 U.S.C. § 552. Plaintiffs the National Immigration Law Center (“NILC”), Amica
4 Center for Immigrant Rights (“Amica Center”), and the National Immigration
5 Project seek records concerning the removal of noncitizens who had pending
6 appeals before the Board of Immigration Appeals (“BIA”) or who held grants of
7 withholding of removal or protection under the Convention Against Torture
8 (“CAT”) at the time of their removal in violation of U.S. legal statutes and
9 regulations.

10 2. Plaintiffs requested guidance documents, directives, communications,
11 data, and related records reflecting how U.S. Immigration and Customs
12 Enforcement (“ICE”) and its components have carried out the removal of
13 individuals notwithstanding pending BIA appeals or grants of withholding or CAT
14 protection, as well as records concerning efforts to facilitate the return of such
15 individuals.

16 3. Disclosure of the requested records will contribute significantly to
17 public understanding of the government’s unlawful removal of noncitizens who
18 possess legal protections against removal and adherence to the rule of law. This is
19 a matter of urgent and widespread public concern that has been the subject of
20 extensive national news reporting.

21 4. Defendant ICE has failed to make any determination on Plaintiffs’
22 request within the time limits FOIA prescribes, has produced no records, and has
23 not adjudicated Plaintiffs’ requests for expedited processing or a fee waiver.
24 Plaintiffs have constructively exhausted their administrative remedies and now
25 bring this action.

JURISDICTION AND VENUE

26
27 5. This Court has subject-matter jurisdiction over this action and
28 personal jurisdiction over the parties under 5 U.S.C. §§ 552(a)(4)(B). This Court

1 also has jurisdiction under 28 U.S.C. § 1331.

2 6. Venue lies in this district pursuant to 5 U.S.C. §§ 552(a)(4)(B) and 28
3 U.S.C. § 1391 because Plaintiff NILC's principal place of business is in this
4 district.

5 PARTIES

6 7. Plaintiff NILC is a national nonprofit with its principal place of
7 business in Los Angeles, California. NILC engages in policy analysis, advocacy,
8 education, and litigation to advance the rights of low-income immigrants and their
9 families, and it disseminates information to the public through its website,
10 electronic newsletters, news alerts, issue briefs, and trainings.

11 8. Plaintiff Amica Center is a national nonprofit organization that
12 provides legal services to noncitizens in ICE custody across the country and
13 publishes information on noncitizen rights to journalists, policymakers, and the
14 public.

15 9. Plaintiff the National Immigration Project is a national nonprofit that
16 provides technical and litigation support to immigrant communities, legal
17 practitioners, and advocates seeking to advance the rights of noncitizens. The
18 National Immigration Project pursues litigation that aims to extend the rights of all
19 noncitizens in the United States, regardless of immigration status. In addition, the
20 National Immigration Project's staff present, and regularly publish practice
21 advisories, on immigration law topics, which are disseminated to its members as
22 well as to a large public audience through its website. It also regularly publishes
23 FOIA disclosures to the media and the public through its website.

24 10. Defendant ICE is a component agency of the U.S. Department of
25 Homeland Security ("DHS"), a department of the Executive Branch of the United
26 States. ICE is an agency within the meaning of 5 U.S.C. § 552(f). ICE has
27 possession, custody, and control of records responsive to Plaintiffs' FOIA request,
28

1 and DHS has referred the request to ICE for processing and direct response to
2 Plaintiffs.

3 STATUTORY FRAMEWORK

4 11. FOIA is designed to promote transparency and open government by
5 providing any person a right to request federal agency records. 5 U.S.C. §
6 552(a)(3)(A).

7 12. The FOIA statute imposes strict deadlines on agencies to provide a
8 response to FOIA requests. 5 U.S.C. § 552(a)(6)(A). Agencies must comply with a
9 FOIA request by issuing a determination within twenty working days after receipt
10 of the request. 5 U.S.C. § 552(a)(6)(A)(i).

11 13. A “determination” sufficient to satisfy the statutory deadline requires
12 the agency at least to gather and review responsive documents, to determine and
13 communicate to the requester the scope of the documents it will produce and the
14 documents it will withhold (and the reasons for any withholding), and to inform
15 the requester of the right to appeal. *Citizens for Responsibility & Ethics in Wash. v.*
16 *FEC*, 711 F.3d 180, 188 (D.C. Cir. 2013). A mere acknowledgment of receipt that
17 a request is being processed is not a determination, because “it is not enough that,
18 within the relevant time period, the agency simply decide[s] to later decide.” *Id.*

19 14. If a request is received by one component of DHS and the responsive
20 records are held by another, the receiving component must re-route the request to
21 the proper component and the 20-working-day response period commences when
22 the proper component’s FOIA office receives the request, but in no event later than
23 ten working days after the request is first received by any DHS component. 6
24 C.F.R. §§ 5.4(c), 5.5(a).

25 FACTUAL BACKGROUND

26 15. Since mid-2025, Defendant ICE has engaged in a practice of
27 unlawfully removing noncitizens from the United States despite their pending
28

1 agency or judicial appeals or despite protections from removal conferred by
 2 immigration authorities on account of their fear of return under U.S. statute.
 3 Although ICE has not made the relevant data public, immigration practitioners
 4 report a dramatic increase in the number of noncitizens unlawfully removed, far
 5 exceeding historical practice. Moreover, practitioners also report that, where an
 6 unlawful removal has occurred, ICE has stonewalled efforts to facilitate the
 7 noncitizen's return to the United States.

8 16. Much of the information available to the public on ICE's unlawful
 9 removals comes from district court cases seeking orders for ICE to facilitate a
 10 noncitizen's return. *See, e.g., Solcyré Burga, The People Judges Say Trump Has*
 11 *Wrongly Deported So Far*, Time (June 25, 2025).¹ While these cases demonstrate
 12 the urgency and magnitude of ICE's practice, they represent only a handful of the
 13 total number of unlawful removals and reveal limited insight into the processes and
 14 procedures that permit ICE to conduct unlawful removals.

15 17. On April 7, 2026, Plaintiffs submitted a FOIA request (the "Request")
 16 to DHS's Privacy Office through the agency's SecureRelease online portal. The
 17 Request sought the following records:

- 18 1. Any memoranda, guidance, directives, or communications issued
 19 on or after January 20, 2025, authored, sent, or received by ICE's
 20 Office of the Principal Legal Advisor ("OPLA"), Enforcement and
 21 Removal Operations ("ERO"), Homeland Security Investigations
 22 ("HSI"), or ICE headquarters, regarding removals of individuals
 with pending appeals before the BIA;
- 23 2. Any memoranda, guidance, directives, or communications
 24 authored, sent, or received by OPLA or ICE headquarters in
 25 Washington, D.C. regarding removals of individuals with
 26 protections granted under CAT, including CAT withholding or
 CAT deferral, or INA withholding of removal under 8 U.S.C. §

27 ¹ Available at [https://time.com/7297802/trump-administration-wrongful-](https://time.com/7297802/trump-administration-wrongful-deportations/)
 28 [deportations/](https://time.com/7297802/trump-administration-wrongful-deportations/).

1231(b)(3), to the specific country or countries to which removal has been withheld or deferred;

3. Any accompanying implementation instructions, appendices, standard operating procedures, or field guidance transmitted with the above memoranda or guidance, as well as any later memoranda, directives, or emails that modify, supersede, or rescind them;
4. Any data, produced in an electronic spreadsheet format, regarding removal of individuals with pending BIA appeals or with a valid grant of withholding of removal or CAT withholding or CAT deferral protection, including, for each individual, (a) the last three digits of their A-Number or an anonymized unique identifier, (b) country of birth, (c) country of nationality, (d) country of last residence, (e) date of last order from an Immigration Judge or the BIA, (f) date of removal from the United States, and (g) last location before removal;
5. All relevant records from the ICE ERO Contact Form regarding Facilitation of Return concerning return requests for individuals with pending BIA appeals or with a valid grant of withholding of removal or CAT withholding or CAT deferral protection removed to the country in which they hold such protection;
6. Any forms that ICE headquarters, OPLA, ERO field offices (including Custody Management, Field Operations, and Removal), HSI, and/or U.S. government officials in countries of removal use as part of the process of bringing back to the United States an individual removed to their home country while a BIA appeal was pending or while protected by a grant of withholding of removal or CAT withholding or CAT deferral protection, including any form used to process Significant Public Benefit Parole in such a scenario;
7. Any communications, including emails, memoranda, or meeting notes, between ICE OPLA, ERO, or ICE headquarters and the Executive Office for Immigration Review, the Department of Justice, or the BIA regarding the removal of individuals with pending appeals or withholding/CAT protections; and

1 8. Final legal advice or analyses (including memoranda and any
2 informal electronic communications) relating to removals of
individuals with pending BIA appeals or granted withholding.

3 18. A true and correct copy of the Request is attached as Exhibit A.

4 19. Plaintiffs sought a public-interest fee waiver under 5 U.S.C. §
5 552(a)(4)(A)(iii) and expedited processing under 5 U.S.C. § 552(a)(6)(E). Exhibit
6 A.

7 20. The subject matter of the Request is a matter of urgent and widespread
8 public concern that has been the focus of extensive national news reporting.²

9 21. DHS's Privacy Office received the Request on April 13, 2026, and
10 assigned it tracking number 2026-HQFO-02282.

11 22. By letter dated May 14, 2026, the DHS Privacy Office stated that,
12 "[d]ue to the subject matter of your request," it was transferring the Request to the
13 ICE FOIA Office "for processing under the FOIA and direct response to you." The
14 letter did not gather or review any responsive records, did not state the scope of
15 any records DHS or ICE would produce or withhold, did not invoke any FOIA
16 exemption, and did not invoke unusual circumstances under 5 U.S.C. §
17 552(a)(6)(B). A copy of the letter is attached as Exhibit B.

18 23. The May 14, 2026 letter also did not adjudicate Plaintiffs' request for
19 a fee waiver or their request for expedited processing. The status of both the fee-
20 waiver request and the expedited-processing request remains "Pending Decision"
21 on the SecureRelease portal and the Request itself is marked "Closed (Referred to
22 Other Agency)."

23
24 ² See, e.g., Ximena Bustillo, *His Mistaken Deportation Was Thought to Be Unique.*
25 *But 'the Problem Is Getting Worse'*, NPR
26 (Feb. 3, 2026), [https://www.npr.org/2026/02/03/g-s1-108426/trump-kilmar-](https://www.npr.org/2026/02/03/g-s1-108426/trump-kilmar-abrego-garcia-immigration-mistaken-deportations)
27 [abrego-garcia-immigration-mistaken-deportations](https://www.npr.org/2026/02/03/g-s1-108426/trump-kilmar-abrego-garcia-immigration-mistaken-deportations); Kyle Cheney, *'Blatant*
28 *Lawlessness': Judge Decries Another 'Unlawful' Deportation*, Politico (Dec. 5,
2025), [https://www.politico.com/news/2025/12/05/blatant-lawlessness-judge-](https://www.politico.com/news/2025/12/05/blatant-lawlessness-judge-decries-another-unlawful-deportation-00679725)
[decries-another-unlawful-deportation-00679725](https://www.politico.com/news/2025/12/05/blatant-lawlessness-judge-decries-another-unlawful-deportation-00679725).

1 conduct a search reasonably calculated to uncover all responsive records. *Hamdan*
 2 *v. U.S. Dep't of Justice*, 797 F.3d 759 (9th Cir. 2015).

3 31. Defendant is wrongfully withholding records responsive to Plaintiffs'
 4 Request in violation of FOIA and applicable regulations.

5 32. Because Defendant failed to comply with the applicable time-limit
 6 provisions of FOIA, Plaintiffs have constructively exhausted their administrative
 7 remedies pursuant to 5 U.S.C. § 552(a)(6)(C)(i).

8 **Second Claim**

9 **Violation of FOIA, 5 U.S.C. § 552,**

10 **Failure to Grant a Public-Interest Fee Waiver**

11 33. Plaintiffs incorporate the foregoing paragraphs as if fully set forth
 12 herein.

13 34. Under 5 U.S.C. § 552(a)(4)(A)(iii) and 6 C.F.R. § 5.11(k), Defendant
 14 is required to waive or reduce fees associated with a FOIA request where
 15 "disclosure of the information is in the public interest because it is likely to
 16 contribute significantly to public understanding of the operations or activities of
 17 the government and is not primarily in the commercial interest of the requester."
 18 Plaintiffs have sufficiently demonstrated that they are entitled to a fee waiver under
 19 the FOIA.

20 35. By failing to grant Plaintiffs' request for a fee waiver, Defendant has
 21 denied Plaintiffs' rights under 5 U.S.C. § 552(a)(4)(A)(iii) as well as 6 C.F.R.
 22 §5.11(k), promulgated thereunder.

23 **Third Claim**

24 **Violation of FOIA, 5 U.S.C. § 552,**

25 **Failure to Grant Expedited Processing**

26 36. Plaintiffs incorporate the foregoing paragraphs as if fully set forth
 27 herein.

28 37. Plaintiffs sought expedited processing of the Request based on a

1 compelling need to inform the public concerning government activity, and they are
 2 organizations primarily engaged in disseminating information. 5 U.S.C. §
 3 552(a)(6)(E)(v)(II); 6 C.F.R. § 5.5(e). The volume of national news reporting on
 4 the subject further demonstrates the urgency to inform the public. 6 C.F.R. §
 5 5.5(e)(3).

6 38. Defendant failed to make and communicate a decision on Plaintiffs'
 7 request for expedited processing within ten calendar days, as required by 5 U.S.C.
 8 § 552(a)(6)(E)(ii)(I).

9 39. By failing to respond to Plaintiffs' request for expedited processing,
 10 Defendant has violated Plaintiffs' rights under 5 U.S.C. § 552(a)(6)(E) and
 11 Defendant's regulations.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiffs pray that this Court grant the following relief:

- 14 (1) Declare unlawful Defendant's failure to make a timely
 15 determination and its withholding of responsive records;
- 16 (2) Order Defendant to immediately and fully process Plaintiffs'
 17 FOIA Request, conduct an adequate search, and disclose all
 18 non-exempt records to Plaintiffs;
- 19 (3) Order Defendant to process Plaintiffs' Request on an expedited
 20 basis;
- 21 (4) Declare unlawful Defendant's failure to grant Plaintiffs' request
 22 for a fee waiver, and enjoin Defendant from assessing fees or
 23 costs for the processing of Plaintiffs' Request;
- 24 (5) Award Plaintiffs their costs and reasonable attorneys' fees
 25 pursuant to 5 U.S.C. § 552(a)(4)(E); and
- 26 (6) Grant such other relief as the Court may deem just and proper.

1 Dated: July 14, 2026

Respectfully submitted,

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9 **pro hac vice* application forthcoming

10 †Designated Local Counsel

Exhibit A

Re: FOIA Request for OPLA Guidance on Unlawful Removals

Dear FOIA Officer,

The Amica Center for Immigrant Rights (“Amica Center”), National Immigration Law Center (“NILC”), and National Immigration Project (together, the “Requestors”) are nonprofit, public interest organizations engaged in representation, research, education, and dissemination of information on immigration enforcement and civil liberties. Requestors submit this request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and the Department of Homeland Security (“DHS”)’s FOIA regulations, 6 C.F.R. Part 5. Unless otherwise stated, the date range for this request is April 1, 2025, through March 1, 2026.

Records¹ Requested

Please produce the following records, in their entirety:

1. Any memoranda, guidance, directives, or communications issued on or after January 20, 2025, authored, sent, or received by the U.S. Immigration and Customs Enforcement (“ICE”) Office of the Principal Legal Advisor (“OPLA”), Enforcement and Removal Operations (“ERO”), Homeland Security Investigations (“HSI”), or ICE headquarters, regarding removals of individuals with pending appeals before the Board of Immigration Appeals (BIA).
2. Any memoranda, guidance, directives, or communications authored, sent, or received by OPLA or ICE headquarters in Washington, D.C. regarding removals of individuals with protections granted under the United Nations Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (“CAT”), including CAT withholding or CAT deferral, or Immigration and Nationality Act (“INA”) withholding of removal under 8 U.S.C. § 1231(b)(3) to the specific country or countries to which removal has been withheld or deferred.
3. Any accompanying implementation instructions, appendices, standard operating procedures, or field guidance transmitted with the above memoranda or guidance, as well as any later memoranda, directives, or emails that modify, supersede, or rescind them.

¹ The term “records” as used herein includes all records or communications preserved in electronic or written form, including but not limited to correspondence, documents, data, videotapes, audiotapes, e-mails, faxes, files, guidance, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, 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.

4. Any data, produced in an electronic spreadsheet format, regarding removal of individuals with pending BIA appeals or with a valid grant of withholding of removal or CAT withholding or CAT deferral protection, including, for each individual, (a) the last three digits of their A-Number or an anonymized unique identifier,² (b) country of birth, (c) country of nationality, (d) country of last residence, (e) date of last order from an Immigration Judge or BIA, (f) date of removal from the United States, and (g) last location before removal.
5. All relevant records from the ICE ERO Contact Form regarding Facilitation of Return available at <https://www.ice.gov/webform/ero-contact-form> regarding return requests for individuals with pending BIA appeals or with a valid grant of withholding of removal or CAT withholding or CAT deferral protection removed to the country in which they have withholding of removal or CAT withholding or CAT deferral protection.
6. Any forms that ICE headquarters in Washington, D.C., OPLA, ERO field offices (including Custody Management, Field Operations, and Removal), HSI and/or U.S. government officials in countries of removal use as part of the process of bringing back to the United States an individual who has been removed to their home country while their BIA appeal was still pending or while they were protected from removal by an Immigration Judge's grant of withholding of removal or CAT withholding or CAT deferral protection. This includes, but is not limited to, any form ICE uses to process someone for Significant Public Benefit Parole in such a scenario.
7. Any communications, including emails, memoranda, or meeting notes, between ICE OPLA, ERO, or ICE headquarters and the Executive Office for Immigration Review ("EOIR"), Department of Justice (DOJ), or the Board of Immigration Appeals regarding the removal of individuals with pending appeals or withholding/CAT protections.
8. Final legal advice or analyses (including memoranda and any informal electronic communications) relating to removals of individuals with pending BIA appeals/granted withholding.

Preferred Form of Production

² When an agency relies on exempt identifying numbers as a means to track non-exempt data across its systems, it must provide an alternative way for the public to access that data such as substituting anonymized unique identifiers. *See ACLU Immigrants' Rights Project v. ICE*, 58 F.4th 643, 647 (2d Cir. 2023). Furthermore, "using a query to search for and extract a particular arrangement or subset of data already maintained in an agency's database does not amount to the creation of a new record." *Ctr. for Investigative Reporting v. DOJ*, 14 F.4th 916, 938 (9th Cir. 2021)

Any records that exist in electronic form should be provided electronically via email in their native digital file format, whenever possible. Alternatively, Requestors ask that records be provided electronically in a text-searchable, static-image format (PDF) wherever possible, in the best image quality in the agency's possession, 'Parent-child' relationships maintained, meaning that the requester must be able to identify the attachments with emails, that each paper record in a separately saved file; any data records in native format (i.e. Excel spreadsheets in Excel); emails should include BCC and any other hidden fields; and that the records be provided in separate, *Bates*-stamped files. Please produce with the records any other metadata preserved and load files. If codes are employed, please also produce any documents in your possession explaining the codes employed, and what they signify.

Helpful Identifiers and Likely Custodians

Likely custodians include: ICE's OPLA and ERO (including but not limited to the Field Office Directorate / ERO headquarters, Custody Management Division, the Enforcement Division, Field Offices / Operations, and the Removal Division), officials responsible for international coordination or parole processing, ICE's Office of the Director, and HSI Please search communication formats including but not limited to Outlook mailboxes, Teams/SharePoint sites, text message apps, and any policy or directive repositories.

Request for Public-Interest Fee Waiver (5 U.S.C. § 552(a)(4)(A)(ii) and (iii)) and Fee Category

Requestors are entitled to a fee waiver pursuant to 5 U.S.C. § 552(a)(4)(A)(ii), and the Department of Justice's implementing regulations. Amica Center, NILC, and the National Immigration Project request that all fees associated with this FOIA request be waived because disclosure of these records are also in the public interest. Under 5 U.S.C. § 552(a)(4)(A)(iii), fees may be waived where the requestor has demonstrated that (i) disclosure of the information is in the public interest in that it is likely to contribute significantly to public understanding of the operations or activities of the government; and (ii) disclosure of the information is not primarily in the commercial interest of the requestor.

Amica Center is a 501(c)(3) nonprofit organization that provides legal services to noncitizens in ICE custody across the country. Originally started as a project of the Washington Lawyers' Committee for Civil Rights and Urban Affairs, Amica Center became an independent non-profit organization in 1999. Amica Center's mission is to confront the impact that the unjust immigration system has on our clients and communities through direct legal representation, impact litigation, education, and client-centered advocacy. In addition to providing direct representation to immigrant communities, Amica Center publishes critical information on noncitizen rights, issues press releases, and shares analyses with journalists, policymakers, and

the public through newsletters, its website, and social media channels. As such, Amica Center qualifies as a “representative of the news media” under 5 U.S.C. § 552(a)(4)(A)(ii)(II).

NILC is a nonprofit national legal advocacy organization that engages in policy analysis, advocacy, education, and litigation to promote and advance the rights of low-income immigrants and their families. NILC serves as an important resource to a broad range of immigrant advocacy groups, community organizations, legal service organizations, and the general public. As a part of its work, NILC disseminates information to the public through electronic newsletters, news alerts, issue briefs, trainings, and other educational and informational materials. In addition, NILC disseminates information to individuals, tax exempt organizations, not-for-profit groups, and members through its website (<http://www.nilc.org>). On average, NILC’s website receives nearly 7,703 visits per day, our email listserv has about 230,000 subscribers, and many visitors to our website actively download our reports, brochures, and fact sheets.

The National Immigration Project is a national 501(c)(3), tax-exempt, nonprofit organization. Its members and supporters include attorneys, legal workers, law students, judges, jailhouse lawyers, grassroots advocates, community organizations, and people who have faced detention or deportation and their loved ones. The National Immigration Project provides technical and litigation assistance, participates in impact litigation, provides legal training to the bar and the bench, and regularly publishes practice advisories and community resources on immigration law topics.

Given that FOIA’s fee waiver requirements are to be “liberally construed in favor of waivers for noncommercial requesters,” a waiver of all fees is justified and warranted in this instance. *See Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (quotation omitted). If you deny the fee waiver request, we respectfully ask for a limitation of processing fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) (“fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by an educational or noncommercial scientific institution, whose purpose is scholarly or scientific research; or a representative of the news media . . .”).

DHS considers four factors set forth in 6 C.F.R. § 5.11(k)(2) when determining whether disclosure of the information is in the public interest:

- (1) “Whether the subject of the requested records concerns the ‘operations or activities of the government,’”
- (2) “Whether the disclosure is ‘likely to contribute’ to an understanding of government operations or activities,”

- (3) “Whether disclosure of the requested information will contribute to ‘public understanding’” as opposed to the individual understanding of the requestor or a narrow segment of interested persons; and
- (4) “Whether the disclosure is likely to contribute ‘significantly’ to public understanding of government operations or activities.”

Judicial Watch v. Dep’t of Justice, 365 F.3d 1108, 1126 (D.C. Cir. 2004).

The requested documents clearly concern identifiable “operations or activities” of the government. Our organizations seek records relating to the operations and activities of DHS and ICE.

The request satisfies the second criterion because disclosure is likely to contribute to a better understanding of government operations or activities related to the government’s decisions regarding the removal of individuals the government has removed with pending BIA appeals or with a valid grant of withholding of removal or CAT withholding or CAT deferral protection. Understanding those policies will enable the requestor to better advocate for and advise its clients and the public. Requestors are not aware of any documents providing information responsive to this FOIA request. Because this information is not already in the public domain, its release will significantly increase understanding of DHS’s and ICE’s operations and practices.

Requestors have the capacity and intent to disseminate widely the requested information to the public. *See Judicial Watch, Inc. v. Rossoti*, 326 F.3d 1309, 1301 (D.C. Cir. 2003) (finding a fee waiver appropriate when the requester explained how and to whom it would disseminate the information it received). Requestors will review, analyze, and/or summarize the information obtained through this FOIA. In addition, Requestors will publish related written materials to be shared with the public, organizational members, and the academic community. The National Immigration Project will make information available through its website, which is accessible by any member of the public. In 2025, the National Immigration Project website received 907,579 views with the top resource garnering 14,849 views.

Disclosure of the requested information also will contribute to “public understanding,” as opposed to understanding of a narrow segment of interested persons. The requested information will be used to better equip pro bono practitioners—both at requestors’ organizations and at the other pro bono organizations performing this type of work for individuals in similar circumstances. Release of this information to requestors will significantly advance the general public’s understanding of the relevant government agencies’ operations and activities with respect to individuals the government has removed with pending BIA appeals or with a valid grant of withholding of removal or CAT withholding or CAT deferral protection. A broad audience of attorneys and clients will benefit from disclosure. It is likely that a proper search in

response to this request will reveal a large volume of responsive information. Requestors have the capacity, legal expertise, and intention to review, analyze, and synthesize this information and make it accessible to a broad public audience. Requestors plan to draft and disseminate a summary report of information relating to DHS's and ICE's policies and practices on our website, which contain immigration-related information and news and are accessible by any member of the public. Our websites receive tens of thousands of monthly visitors, and information available on the website is shared and re-posted on other websites with large audiences.

The request satisfies the last criterion because disclosure of the requested information will contribute significantly to public understanding of DHS and ICE operations and practices in general and the agency's treatment of individuals with pending BIA appeals or with a valid grant of withholding of removal or CAT withholding or CAT deferral protection in particular. This information will be particularly helpful to immigration attorneys and other representatives of noncitizens who are in the custody of DHS and ICE; nonprofit organizations interested in civil and/or human rights; and citizens and other members of the public who are concerned with immigration agency proceedings and policies.

The Requestors Have No Commercial Interest in the Information.

DHS considers two factors set forth in 6 C.F.R. § 5.11(k)(3) when determining whether disclosure of the information is primarily in the commercial interest of the requestor:

- (1) "Whether the requester has a commercial interest that would be furthered by the requested disclosure," and
- (2) "Whether any identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure," thereby rendering the disclosure "primarily in the commercial interest of the requester."

Requestors are 501(c)(3), tax-exempt, not-for-profit legal services providers and advocacy organizations. Requestors seek the requested information for the purpose of disseminating it to the general public and not for the purpose of commercial gain. The information is to be used solely for policy analysis and to facilitate better pro bono advocacy for its clients. Like all other reports and information available on requestors' websites, information about DHS and ICE policies and practices received in response to this FOIA request will be available to immigration attorneys, noncitizens, and other interested members of the public free of charge.

Please inform us if the charges for this FOIA production will exceed \$25.00.

Request for Expedited Processing

We request expedited processing under 5 U.S.C. § 552(a)(6)(E) and applicable regulations. There is a compelling need for expedited processing of this request—an “urgency to inform the public concerning the actual or alleged Federal Government activity.” 5 U.S.C. § 552(a)(6)(E)(v)(II).

The subject matter of this request is of urgent public interest: Requestors are aware of numerous cases where ICE has unlawfully removed individuals with pending BIA appeals and CAT withholding or CAT deferral protections and we expect they will continue to do so. Requestors will turn ICE’s raw materials into a distinct work that includes a deeper understanding of the impact of ICE’s policies on the noncitizen and citizen communities as well as on the legal system. Requestors are nonprofit immigrant rights organizations that regularly disseminate information to the public through reports, media partnerships, and community education. The requested records concern ICE’s efforts to remove noncitizens with legal protections, a matter of urgent and widespread public concern.³ Disclosure will significantly contribute to public understanding of government operations that directly affect immigrant communities and the broader public. This scope of activities qualifies for expedited treatment. *See ACLU v. Dep’t of Justice*, 321 F. Supp. 2d 24, 29 n.5 (D.D.C. 2004) (finding nonprofit public interest group that “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience” to be “primarily engaged in disseminating information”). *See, e.g., Leadership Conference on Civil Rights v. Gonzales*, 404 F. Supp. 2d 246, 260 (D.D.C. 2005); *ACLU*, 321 F. Supp. 2d at 29 n.5; *Elec. Privacy Info. Ctr. v. DOD*, 241 F. Supp. 2d 5, 11 (D.D.C. 2003). FOIA legislation recognized “the value in hastening release of certain information.” *Edmonds v. FBI*, 417 F.3d 1319, 1324 (D.C. Cir. 2005). The public would lose the value of release in this matter if the release is not expedited. In this case, delay in complying with this expedited FOIA request is, as Congress recognized, “tantamount to denial.” H.R.Rep. No. 93–876, at 6 (1974), 1974 U.S. Code Cong. & Admin. News, pp. 6267, 6271.

We certify that the foregoing is true and correct to the best of our knowledge and belief.

Segregability and Vaughn Index

³ *See, e.g.,* Ximena Bustillo, *His mistaken deportation was thought to be unique*. But ‘the problem is getting worse,’ NPR (Feb. 3, 2026), <https://www.npr.org/2026/02/03/g-s1-108426/trump-kilmar-abrego-garcia-immigration-mistaken-deportations>; Brittany Gibson & Mark Caputo, *5 of the most-botched deportations of Trump 2.0*, Axios (Feb. 16, 2026), <https://www.axios.com/2026/02/14/ice-trump-dhs-immigration-deportations>; Kyle Cheney, *‘Blatant lawlessness: Judge decries another ‘unlawful’ deportation*, Politico (Dec. 5, 2025), <https://www.politico.com/news/2025/12/05/blatant-lawlessness-judge-decries-another-unlawful-deportation-00679725>.

If you determine that portions of any record are exempt, please release all reasonably segregable non-exempt material. For any withholdings, please provide a description sufficient to allow assessment of the claimed exemptions and a Vaughn index.

Rolling Production and Format

If responsive records will not be produced within the statutory time frame, we request that the agency provide records on a rolling basis as they become available rather than waiting until all records are processed.

Contact Information and Response

Thank you for your attention to this request. Please direct all correspondence to us at the contact information below.

Sincerely,

Adina Appelbaum
Amica Center for Immigrant Rights
1025 Connecticut Ave NW Ste. 701
Washington, DC 20036
Phone: (202) 899-1412
Adina@Amicacenter.org

Kevin Siegel
National Immigration Law Center
P.O. Box 34573
Washington, DC 20043
Phone: (202) 216-0261
siegel@nilc.org

Khaled Alrabe
National Immigration Project
1763 Columbia Road NW
Suite 175 #896645
Washington, DC 20009.
Phone: (617) 227-9727 x3
khaled@nipnlg

Exhibit B



Homeland
Security

May 14, 2026

Adina Appelbaum
Amica Center for Immigrant Rights
1025 Connecticut Avenue NW, Suite 701
Washington, District of Columbia 20036

Re: **2026-HQFO-02282**

Dear Requester:

This letter acknowledges receipt of your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), Privacy Office, dated 4/7/2026, and received in this office on 4/13/2026. You requested the following:

1. Any memoranda, guidance, directives, or communications issued on or after January 20, 2025, authored, sent, or received by the U.S. Immigration and Customs Enforcement (“ICE”) Office of the Principal Legal Advisor (“OPLA”), Enforcement and Removal Operations (“ERO”), Homeland Security Investigations (“HSI”), or ICE headquarters, regarding removals of individuals with pending appeals before the Board of Immigration Appeals (BIA).
2. Any memoranda, guidance, directives, or communications authored, sent, or received by OPLA or ICE headquarters in Washington, D.C. regarding removals of individuals with protections granted under the United Nations Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (“CAT”), including CAT withholding or CAT deferral, or Immigration and Nationality Act (“INA”) withholding of removal under 8 U.S.C. § 1231(b)(3) to the specific country or countries to which removal has been withheld or deferred.
3. Any accompanying implementation instructions, appendices, standard operating procedures, or field guidance transmitted with the above memoranda or guidance, as well as any later memoranda, directives, or emails that modify, supersede, or rescind them.

4. Any data, produced in an electronic spreadsheet format, regarding removal of individuals with pending BIA appeals or with a valid grant of withholding of removal or CAT withholding or CAT deferral protection, including, for each individual, (a) the last three digits of their A-Number or an anonymized unique identifier, (b) country of birth, (c) country of nationality, (d) country of last residence, (e) date of last order from an Immigration Judge or BIA, (f) date of removal from the United States, and (g) last location before removal.
5. All relevant records from the ICE ERO Contact Form regarding Facilitation of Return available at <https://www.ice.gov/webform/ero-contact-form> regarding return requests for individuals with pending BIA appeals or with a valid grant of withholding of removal or CAT withholding or CAT deferral protection removed to the country in which they have withholding of removal or CAT withholding or CAT deferral protection.
6. Any forms that ICE headquarters in Washington, D.C., OPLA, ERO field offices (including Custody Management, Field Operations, and Removal), HSI and/or U.S. government officials in countries of removal use as part of the process of bringing back to the United States an individual who has been removed to their home country while their BIA appeal was still pending or while they were protected from removal by an Immigration Judge's grant of withholding of removal or CAT withholding or CAT deferral protection. This includes, but is not limited to, any form ICE uses to process someone for Significant Public Benefit Parole in such a scenario.
7. Any communications, including emails, memoranda, or meeting notes, between ICE OPLA, ERO, or ICE headquarters and the Executive Office for Immigration Review ("EOIR"), Department of Justice (DOJ), or the Board of Immigration Appeals regarding the removal of individuals with pending appeals or withholding/CAT protections.
8. Final legal advice or analyses (including memoranda and any informal electronic communications) relating to removals of individuals with pending BIA appeals/granted withholding

Due to the subject matter of your request, I am transferring this request to the FOIA Officer for Immigration & Customs Enforcement (ICE) for processing under the FOIA and direct response to you. See contact information below:

Immigration & Customs Enforcement, FOIA Office
500 12th Street, SW, Stop 5009
Washington, DC 20536-5009

Email: ice-foia@ice.dhs.gov

Phone: 866-633-1182

[ICE Website](#)

You have a right to appeal the above determination. Should you wish to do so, you must send your appeal and a copy of this letter, within 90 days of the date of this letter, to:

Privacy Office
Attn: FOIA Appeals
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Avenue, SE,
Mail Stop 0655
Washington, D.C. 20528-0655
E-mail: foia@hq.dhs.gov

Please complete your appeal following the procedures outlined in the DHS FOIA regulations at 6 C.F.R. Part 5 § 5.8. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS FOIA regulations are available at www.dhs.gov/foia.

You may contact the DHS FOIA Public Liaison at 202-343-1743 for any further assistance and to discuss any aspect of your request. You may also contact OGIS at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, Maryland 20740-6001
E-mail: ogis@nara.gov
Telephone: 202-741-5770; Toll Free at 1-877-684-6448

If you need to contact our office again about this matter, please refer to **2026-HQFO-02282**. You may contact this office at 1-866-431-0486 or 202-343-1743.

Regards,

DHS FOIA, Privacy Office
Department of Homeland Security
2707 Martin Luther King Jr. AVE SE
Mail Stop 0655

Washington, DC 20528-0655

E-mail: foia@hq.dhs.gov

Visit our FOIA website <https://www.dhs.gov/foia>