

June 4, 2020

**BY EMAIL: ICE-FOIA@ice.dhs.gov**

U.S. Immigration and Customs Enforcement  
Freedom of Information Act Office  
500 12th Street, S.W., Stop 5009  
Washington, D.C. 20536-5009

Re: Expedited Freedom of Information Act Request

Dear FOIA Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) makes this request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and U.S. Department of Homeland Security (“DHS”) regulations.

Specifically, CREW requests all records from May 25, 2020 to the time this request is processed concerning:

1. Any internal memos or guidance detailing plans, processes, and protocols concerning the suspension or limitation of the immigration enforcement functions of U.S. Immigration and Customs Enforcement (ICE) employees providing support to law enforcement officials responding to ongoing protest activity.
2. Any internal memos or guidance outlining consequences of ICE officials not adhering to the aforementioned plans, processes, and protocols.
3. All records regarding the utilization of ICE employees or assets to provide support to law enforcement responding to ongoing protest activity.

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records. If it is your position any portion of the requested records is exempt from disclosure, CREW requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). If some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. *See* 5 U.S.C. § 552(b). If it is your position that a document contains nonexempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. *See Mead Data Central v. U.S. Dep’t of the*

*Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977). Please be advised that CREW intends to pursue all legal remedies to enforce its right under the FOIA to access the requested documents. Accordingly, because litigation reasonably is foreseeable, DHS should institute an agency-wide preservation hold on documents potentially responsive to this request.

### **Fee Waiver Request**

In accordance with 5 U.S.C. § 552(a)(4)(A) and DHS regulations, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures likely will contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. *See* 5 U.S.C. § 552(a)(4)(A)(iii). Moreover, the request primarily and fundamentally is for non-commercial purposes. *See, e.g., McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

George Floyd died in Minneapolis, Minnesota on May 25, 2020 after Derek Chauvin, an officer with the Minneapolis Police Department, knelt on Floyd's neck.<sup>1</sup> Floyd's death sparked nationwide protests.<sup>2</sup> As violence emerged alongside peaceful demonstrations, reports surfaced that outside agitators, including extremist groups, incited much of that violence.<sup>3</sup> On June 1, 2020, Immigration and Customs Enforcement spokesperson Danielle Bennett told CQ Roll Call "In light of civil unrest taking place across the country, ICE personnel and Special Response Teams have been deployed to protect agency facilities and assets in support of the Federal Protective Service and assist local, state and federal law enforcement partners, as needed."<sup>4</sup> She also stated that ICE policy would be "limiting immigration enforcement at 'sensitive locations' such as protests, hospitals and schools, 'except when there is an imminent public safety or national security threat,'" which appears to reference language from a 2011 ICE memorandum on "Enforcement Action at or Focused on Sensitive Locations."<sup>5</sup>

The requested records will shed light on the process ICE intends to use to intervene in the ongoing demonstrations, and whether there are mandated consequences to violating any directives indicating officers to suspend or limit enforcement of ICE's immigration function. At a time of historic turmoil, the public deserves to know exactly how ICE plans to intervene and if there is a standardized process to ensure accountability. In absence of any official statement from

---

<sup>1</sup> Jany, Libor, [Minneapolis police, protesters clash almost 24 hours after George Floyd's death in custody](https://www.startribune.com/minneapolis-police-protesters-clash-almost-24-hours-after-george-floyd-death-in-custody/), *The Star Tribune*, May 27, 2020, available at

<https://www.startribune.com/minneapolis-police-marchers-clash-over-death-of-george-floyd-in-custody/570763352/>

<sup>2</sup> Thanawala, Sudhin, [Protests, some violent, spread in wake of George Floyd death](https://apnews.com/baf3b29612527b8e9a841cb34f6f5789), *The Associated Press*, May 30, 2020, available at: <https://apnews.com/baf3b29612527b8e9a841cb34f6f5789>

<sup>3</sup> *See, e.g.,* Hughes, Trevor, [There are anarchists': Minnesota officials say 'outside agitators' are hijacking peaceful protests](https://www.usatoday.com/story/news/nation/2020/05/30/george-floyd-protests-riots-violent-outside-agitators-minnesota/5291658002/), *USA Today*, May 30, 2020, available at <https://www.usatoday.com/story/news/nation/2020/05/30/george-floyd-protests-riots-violent-outside-agitators-minnesota/5291658002/>.

<sup>4</sup> Misra, Tanvi, [Immigration agencies to assist law enforcement amid unrest](https://www.rollcall.com/2020/06/01/immigration-agencies-to-assist-law-enforcement-amid-unrest/), *Roll Call*, June 1, 2020, available at <https://www.rollcall.com/2020/06/01/immigration-agencies-to-assist-law-enforcement-amid-unrest/>.

<sup>5</sup> Morton, John, [Enforcement Actions at or Focused on Sensitive Locations](https://www.ice.gov/doclib/ero-outreach/pdf/10029.2-policy.pdf), *Department of Homeland Security*, October 24, 2011, available at <https://www.ice.gov/doclib/ero-outreach/pdf/10029.2-policy.pdf>.

any division of ICE, the public deserves to know about any guidance ICE is adhering to in limiting immigration enforcement and if there are any procedural consequences for officers failing to comply.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public's right to be aware of the activities of government officials, to ensuring the integrity of those officials, and to highlighting and working to reduce the influence of money on politics. CREW uses a combination of research, litigation, and advocacy to advance its mission. CREW intends to analyze the information responsive to this request and to share its analysis with the public through reports, press releases, or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website, [www.citizensforethics.org](http://www.citizensforethics.org). The release of information obtained through this request is not in CREW's financial interest.

CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. *See Nat'l Sec. Archive v. U.S. Dep't of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989) (holding nonprofit a "representative of the news media" and broadly interpreting the term to include "any person or organization which regularly publishes or disseminates information to the public").

CREW routinely and systematically disseminates information to the public in several ways. CREW's website receives tens of thousands of page views every month. The website includes blog posts that report on and analyze newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. In addition, CREW posts the documents it receives under the FOIA on its website.

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

### **Request for Expedition**

CREW also requests expedition of this request pursuant 6 C.F.R. § § 5.5(e)(ii) and (iv). Pursuant to DHS regulations, CREW has submitted its request for expedition to the DHS Senior Director of FOIA Operations because the subject matter is of widespread and exceptional media interest and the requested information involves possible questions about the government's integrity which affect public confidence. A copy of the request is enclosed.

CREW also is entitled to expedition because of the urgency to inform the public about actual or alleged federal government activity. As demonstrated above, CREW is engaged primarily in disseminating information. As also discussed above, the requested records seek to inform the public about the extent to which ICE has in place formal guidance on limitations to immigration enforcement and if there are consequences for noncompliance to existing guidances.

### **Conclusion**

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at [mosuga@citizensforethic.org](mailto:mosuga@citizensforethic.org). Also, if CREW's request for a fee waiver is not granted in full, please contact our office immediately upon making such a determination.

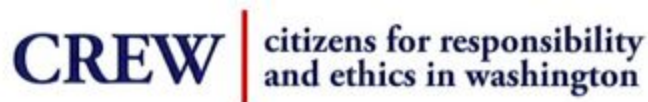
Where possible, please produce records in electronic format. Please send the requested records to [mosuga@citizensforethics.org](mailto:mosuga@citizensforethics.org). If the records cannot be produced electronically, please contact me and I will provide a mailing address. Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Miru Osuga', with a small flourish at the end.

Miru Osuga  
Communications Associate

Encl.



June 4, 2020

**BY EMAIL: [foia.hq@dhs.gov](mailto:foia.hq@dhs.gov)**

Jimmy Wolfrey  
Senior Director, FOIA Operations  
U.S. Department of Homeland Security  
245 Murray Lane SW  
STOP-0655  
Washington, D.C. 20528-0655

Re: Request for Expedition of FOIA Request

Dear Mr. Wolfrey:

Pursuant to Department of Homeland Security (“DHS”) regulations, 6 C.F.R. § 5.5(e)(iii)(2), Citizens for Responsibility and Ethics in Washington (“CREW”) requests that you authorize the expedition of a Freedom of Information Act (“FOIA”) request CREW made today of DHS. I have enclosed a copy of this request

The request seeks copies of all records from May 25, 2020 to the time this request is processed concerning: (1) Any internal memos or guidance detailing plans, processes, and protocols concerning the suspension or limitation of the immigration enforcement functions of U.S. Immigration and Customs Enforcement (ICE) employees providing support to law enforcement officials responding to ongoing protest activity; (2) any internal memos or guidance outlining consequences of ICE officials not adhering to the aforementioned plans, processes, and protocols; (3) all records regarding the utilization of ICE employees or assets to provide support to law enforcement responding to ongoing protest activity.

As CREW’s request explains, following nationwide protests calling for justice over George Floyd’s death in Minneapolis, Minnesota on May 25, 2020 by the hands of Derek Chauvin, ICE officials were reportedly “deployed to protect agency facilities and assets in support of the Federal Protective Service and assist local, state and federal law enforcement partners, as needed.”<sup>6</sup> ICE spokesperson Danielle Bennett told CQ Roll Call that ICE policy would be “limiting immigration enforcement at ‘sensitive locations’ such as protests, hospitals and schools, “except when there is an imminent public safety or national security threat,”” which appears to reference language from a 2011 ICE memorandum on “Enforcement Action at or

---

<sup>6</sup> Misra, Tanvi, [Immigration agencies to assist law enforcement amid unrest](https://www.rollcall.com/2020/06/01/immigration-agencies-to-assist-law-enforcement-amid-unrest/), *Roll Call*, June 1, 2020, available at <https://www.rollcall.com/2020/06/01/immigration-agencies-to-assist-law-enforcement-amid-unrest/>.

Focused on Sensitive Locations.”<sup>7</sup> In the absence of any official statement from any division of ICE, the public deserves to know about any guidance ICE is adhering to in limiting immigration enforcement and if there are any procedural consequences for officers failing to comply.

CREW is entitled to expedition because of the urgency to inform the public about an actual or alleged federal government activity and because the subject matter is of widespread and exceptional media interest and the requested information involves possible questions about the government’s integrity which affect public confidence. At a time of historic turmoil, it is of serious importance that the public knows the process ICE intends to use to intervene in the ongoing demonstrations and if there is a standardized process to ensure safety and accountability. The public deserves to know the extent to which ICE has in place formal guidance on limitations to immigration enforcement and if there are mandated consequences for noncompliance on or violation of existing guidances.

The urgency of obtaining the requested records is particularly acute because both the demonstrations and ICE’s response are ongoing and evolving daily. ICE’s actions will undoubtedly affect the safety of demonstrators, even as the public is in the dark regarding the specifics of the agency’s response. The public needs a full understanding of ICE’s decision-making process for intervening in the protests and if it has established standardized processes to ensure impartiality, transparency and accountability.

CREW’s primary purpose is to inform the public about the activities of government officials and those who influence public officials. Toward that end, CREW uses statutes like the FOIA to gather information about the public needs to hold officials and agencies accountable. The request for which CREW seeks expedition will further those goals.

I certify the following is true and correct.

Sincerely,



Miru Osuga  
Communications Associate

Encl.

---

<sup>7</sup> Morton, John, Enforcement Actions at or Focused on Sensitive Locations, *Department of Homeland Security*, October 24, 2011, available at <https://www.ice.gov/doclib/ero-outreach/pdf/10029.2-policy.pdf>.