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Freedom of Information Act Office
U.S. Immigration & Customs Enforcement
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Washington, DC 20536-5009
ice-foia@ice.dhs.gov

Freedom of Information Act Office
U.S. Customs and Border Protection
1300 Pennsylvania Avenue NW
Washington, D.C 20229-1181
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Office of the General Counsel
Attn: FOIA Service Center
Executive Office for Immigration Review
5107 Leesburg Pike, Suite 2150
Falls Church, VA 22041

Privacy Office, Mail Stop 0655
Department of Homeland Security
Office for Civil Rights and Civil Liberties
2707 Martin Luther King Jr. Ave SE
Washington, DC 20528-065
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Re: Freedom of Information Act Request
Expedited Processing Requested

To whom it may concern,

The Knight First Amendment Institute at Columbia University ("Knight Institute" or "Institute")[1] submits this request under the

[1] The Knight First Amendment Institute is a New York not-for-profit corporation based at Columbia University that works to preserve and expand the

Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, for records related to the practice of U.S. Immigration and Customs Enforcement ("ICE") of engaging in civil immigration enforcement actions[2] in and around state and federal courthouses.

I. Background

Just after his second election, President Donald Trump pledged to launch the "largest deportation" in American history.[3] In line with those goals and within days of President Trump's inauguration, the Department of Homeland Security ("DHS") and ICE rescinded guidance limiting arrests of noncitizens in "protected areas" and courthouses.[4] And in recent weeks, as the White House pressures ICE to dramatically increase immigration detentions to 3,000 people a day,[5] the agency has conducted widespread raids at courthouses across the country, arresting noncitizens attempting to appear for immigration proceedings as well as in totally unrelated cases.[6]

In federal immigration court, dozens of noncitizens have been detained in courthouse hallways and sidewalks.[7] In some cases, noncitizens have been relieved to see DHS prosecutors move to dismiss their pending immigration cases, only to find ICE agents waiting to arrest them outside the courtroom.[8] Some longtime immigration attorneys

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freedoms of speech and the press through strategic litigation, research, and public education.

[2] As used in this Request, "civil immigration enforcement action" means any action taken by an ICE officer or agent to apprehend, arrest, detain, interview, or search a noncitizen in connection with investigations into civil immigration laws.

[3] *See* Brian Bennett, *A Massive Immigration Courts Backlog Could Slow Trump's Deportation Plans*, Time (Dec. 30, 2024), https://perma.cc/P6ME-4ZB7.

[4] *See* DHS Directive, *Enforcement Actions in or Near Protected Areas* (Jan. 20, 2025), https://perma.cc/2X8F-HDWU.

[5] Julia Ainsley, Ryan J. Reilly, Allan Smith, Ken Dilanian, & Sarah Fitzpatrick, *A Sweeping New ICE Operation Shows How Trump's Focus on Immigration is Reshaping Federal Law Enforcement*, NBC News (Jun. 4, 2025), https://perma.cc/D8TX-FNGD.

[6] Arelis R. Hernández & Maria Sacchetti, *Immigrant Arrests at Courthouses Signal New Tactic in Trump's Deportation Push*, The Washington Post (May 23, 2025), https://perma.cc/U7CX-QZYA.

[7] *Id.*

[8] *Id.*

have described these new tactics as "deeply disturbing," arguing that they "create a climate of fear and intimidation."[9]

Courthouse arrests have not been limited to immigration courts. Throughout the country, noncitizens have been detained at state courthouses when appearing for criminal matters unrelated to their immigration cases. For example, in Wisconsin, ICE agents arrested a noncitizen who was appearing in state court for an unrelated assault case.[10] Judge Hannah Dugan, who allegedly escorted the noncitizen to a nonpublic hallway of the courthouse before he was detained, was subsequently arrested herself. In New Hampshire, a noncitizen was tackled and detained by ICE agents when he arrived at a state courthouse for an arraignment on misdemeanor charges.[11] And in Massachusetts, a criminal defendant was detained by an ICE agent and state police outside the courthouse in the middle of his trial.[12] In response to this arrest, the presiding judge held the ICE agent in contempt and charged the state police troopers with obstruction of justice.[13]

Colorado and New York have laws prohibiting civil arrests in and around courthouses in the state[14]—but local officials and advocates have warned that ICE may be disregarding state laws.[15] In Colorado, one judge ordered ICE to stop detaining noncitizens around courthouses in three counties after concerns about ICE's compliance with state laws.[16] And in New York, a state senator has also claimed that ICE violated the state's law by arresting a noncitizen at a courthouse without an appropriate warrant.[17] ICE has even rescinded guidance it issued in

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[9] Akela Lacy, Jose Olivares, & Noah Hurowitz, *ICE Agents are Camped Outside Immigration Courts to Make Arrests*, The Intercept (May 21, 2025), https://perma.cc/42D9-996V.

[10] Andrew Goudsward, *Trump Administration's Arrest of Judge Stirs Debate Over Immigration Courthouse Arrests*, Reuters (May 13, 2025), https://perma.cc/X944-4ZEX.

[11] Holly Ramer, *A Venezuelan Man Was Tackled in a New Hampshire Courthouse and Sent by ICE to Texas*, AP (Apr. 14, 2025), https://perma.cc/LQ4C-XUHA.

[12] Veronica Haynes & Sera Congi, *Suffolk County District Attorney Kevin Hayden Blasts ICE Arrest Outside Boston Courthouse*, WCVB (Apr. 2, 2025), https://perma.cc/K2P3-3TET.

[13] *Id.*

[14] *See* N.Y. Civ. Rights Law § 28; C.R.S. §§ 13-1-401, *et seq.*

[15] Allison Sherry & Ben Markus, *Western Slope Judge Warns ICE to Stop Civil Immigration Actions in Courthouses*, CPR News (Apr. 16, 2025), https://perma.cc/2TT7-DSNG.

[16] *Id.*

[17] Letter from Brad Hoylman-Sigal, New York State Senator, and Michaelle C. Solages, New York State Assembly Member, to Letitia James, New York

January advising agents to avoid violating state and local laws when making civil arrests at courthouses.[18]

Courthouse raids like these raise significant First Amendment concerns. Arresting noncitizens at courthouses interferes with their right to petition the government for redress. As a result of these practices, noncitizens must choose between risking arrest or abandoning their right to be heard in court. Professor Sarah Rogerson has noted that mass arrests at courthouses impose a chilling effect, explaining that "when immigrants fear arrest by ICE, they may avoid court altogether—even when seeking protection."[19] A district attorney shared similar concerns, explaining that justice cannot be served "without the participation of victims and witnesses of crimes," including noncitizens.[20] Deterring noncitizens from participating in court not only undermines their First Amendment rights; it also undermines the foundation of the judicial system.

As ICE escalates deportations by raiding courthouses looking to arrest noncitizens, questions over the authority and legality of such arrests remain. And reports indicating that ICE agents are seeking to close public immigration hearings related to the recent arrests only further underscores the importance of informing the public of ICE's actions.[21] The Knight Institute seeks to inform the public about ICE's courthouse arrest policy and practice.

II. Records requested

The Knight Institute requests the following records:

1. All policies, procedures, directives, or guidelines regarding the authority of DHS or its subagencies to engage in civil immigration enforcement actions in or around courthouses[22] or the

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State Attorney General, and Hon. Joseph A. Zayas, Chief Administrative Judge New York State Unified Court System (Mar. 10, 2025) https://perma.cc/A2YN-6W5A.

[18] *See* Dhruv Mehrotra & Dell Cameron, *ICE Quietly Scales Back Rules for Courthouse Raids*, Wired (Jun. 4, 2025), https://perma.cc/83MX-8YP8.

[19] Angélica Franganillo Díaz & Priscilla Alvarez *ICE Targets Migrants for Arrest at Courthouses as Trump Administration Intensifies Deportation Push*, CNN (Jun. 2, 2025), https://perma.cc/B3PY-PA73.

[20] Sherry & Markus, *supra* note 15.

[21] *See* Suzanne Gamboa, *Immigration Arrests in Courthouses Have Become the New Deportation Tool, Stripping Migrants of a Legal Process*, NBC News (May 30, 2025), https://perma.cc/N9DB-UVQV.

[22] As used in this Request, "courthouses" includes all buildings in which federal, state, local, or immigration courts are located.

exercise of that authority from January 20, 2025 to the present, including all records amending, interpreting, or superseding:

a. DHS Directive, Enforcement Actions in or Near Protected Areas (Jan. 20, 2025);

b. ICE Memorandum, Common Sense Enforcement Actions in or Near Protected Areas (Jan. 31, 2025);

c. ICE Memorandum No. 11072.4, Civil Immigration Enforcement Actions In or Near Protected Areas (May 27, 2025);

d. ICE's May 20, 2025 memorandum concerning the termination of certain noncitizens' immigration cases.[23]

2. All communications regarding civil immigration enforcement actions in or around courthouses sent to the Executive Office for Immigration Review ("EOIR"), the Office of the Principal Legal Advisor ("OPLA"), or to staff in federal, state, or local courts from January 20, 2025 to the present.

3. All records addressing the legality of civil immigration enforcement actions in or around courthouses in general or in particular circumstances, including records addressing limits imposed by state law from January 20, 2025 to the present.

4. All records relating to ICE agents requesting or ordering the closure of courtrooms during public immigration hearings in connection with potential civil immigration enforcement actions from January 20, 2025 to the present.

We ask that you disclose all segregable portions of otherwise exempt records. *See* 5 U.S.C. § 552(b). We also ask that you provide responsive electronic records in their native file format. *See* 5 U.S.C. § 552(a)(3)(B). Alternatively, please provide the records electronically in a text-searchable, static-image format (e.g., PDF), in the best image quality in the agency's possession, and in separate, Bates-stamped files.

III. Application for expedited processing

The Knight Institute requests expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E). There is a "compelling need" for the document sought because the information it contains is "urgent[ly]" needed by an organization primarily engaged in disseminating information "to

[23] *See* Hamed Aleaziz, Luis Ferré-Sadurní, & Miriam Jordan, *How ICE is Seeking to Ramp Up Deportations Through Courthouse Arrests*, N.Y. Times (May 30, 2025), https://perma.cc/7KDX-A2M9.

inform the public about actual or alleged Federal Government activity." 5 U.S.C. § 552(a)(6)(E)(v)(II).

A. The Knight Institute is primarily engaged in disseminating information in order to inform the public about actual or alleged government activity.

The Knight Institute is "primarily engaged in disseminating information" within the meaning of FOIA. 5 U.S.C. § 552(a)(6)(E)(v)(II).

The Knight First Amendment Institute was established at Columbia University to defend and strengthen the freedoms of speech and the press in the digital age. Research and public education are essential to the Institute's mission.[24] Obtaining information about government activity, analyzing that information, and publishing and disseminating it to the press and public are among the core activities the Institute performs. *See ACLU v. DOJ*, 321 F. Supp. 2d 24, 29 n.5 (D.D.C. 2004) (finding non-profit 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").

B. The records sought are urgently needed to inform the public about actual or alleged government activity.

The documents sought in this request are urgently needed to inform the public about actual or alleged government activity. *See* 5 U.S.C. § 552(a)(6)(E)(v)(II). Specifically, the requested records seek information about ICE's policies and practices permitting civil immigration enforcement actions in and around courthouses. There is heightened public interest in these records, as these arrests threaten the constitutional rights of noncitizens.[25]

ICE's courthouse arrests have dramatically increased in the past few weeks,[26] leading to intense and widespread debate about these practices.[27] And recently, ICE issued a new memorandum that rescinded and changes its former policy on when and how agents can conduct

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[24] Mike McPhate, *Columbia University to Open a First Amendment Institute*, N.Y. Times (May 17, 2016), https://perma.cc/YC9M-LUAD; James Rosen, *New Institute Aspires to Protect First Amendment in Digital Era*, McClatchy DC (May 20, 2016), https://perma.cc/ZS2K-FPED.

[25] *See, e.g.*, Janie Har, *Immigrant Rights Advocates Rally Against ICE Courthouse Arrests in San Francisco*, ABC News (May 28, 2025), https://perma.cc/JDH8-MJ2W.

[26] Ainsley, Reilly, Smith, Dilanian, & Fitzpatrick, *supra* note 5.

[27] *See, e.g.*, Goudsward, *supra* note 10.

these arrests.[28] Immigration attorneys and advocacy groups have raised concerns that courthouse arrests chill noncitizens' willingness to appear in court, interfering with the judicial system.[29] Yet at a time when public debate is at its highest, the public still lacks clarity over the extent of ICE's policies and authority to conduct courthouse arrests.

The public has an interest in knowing the full details of ICE's policies permitting civil immigration enforcement actions in and around courthouses. Given the increase in arrests and recent policy changes, these records are urgently needed to understand the scope and lawfulness of ICE's conduct.

For these reasons, the Knight Institute is entitled to expedited processing.

IV. Application for waiver or limitation of fees

The Knight Institute requests a waiver of document search, review, and duplication fees on the grounds that disclosure of the requested record is in the public interest and that disclosure is "likely to contribute significantly to the public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii).

For the reasons explained above, disclosure of the record would be in the public interest. Moreover, disclosure would not further the Knight Institute's commercial interest. The Institute will make any information disclosed available to the public at no cost. Thus, a fee waiver would fulfill Congress's legislative intent in amending FOIA to ensure "that it be liberally construed in favor of waivers for noncommercial requesters." *See Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003).

The Knight Institute also requests a waiver of search and review fees on the grounds that it qualifies as an "educational . . . institution" whose purposes include "scholarly . . . research" and the records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii)(II). The Institute has a substantial educational mission. Situated within a prominent academic research university, the Institute performs scholarly research on the application of the First Amendment in the digital era. The Institute's research program brings together academics and practitioners of different disciplines to study contemporary First Amendment issues and offer informed, non-partisan commentary and solutions. It

[28] *See* Mehrotra & Cameron, *supra* note 18.

[29] *See* Laura Romero, Armando Garcia, & Mireya Villarreal, *In a New Tactic, ICE is Arresting Migrants at Immigration Courts, Attorneys Say*, ABC News (Jun. 4, 2025), https://perma.cc/45X3-FKLR.

publishes that commentary in many forms, including in scholarly publications and in short-form essays.

The Knight Institute also requests a waiver of search and review fees on the grounds that it is a "representative[] of the news media" within the meaning of FOIA and the records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii)(II).

The Institute meets the statutory definition of a "representative of the news media" because it is an "entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience." 5 U.S.C. § 552(a)(4)(A)(ii); *see also Nat'l Sec. Archive v. DOD*, 880 F.2d 1381, 1387 (D.C. Cir. 1989) (finding that an organization that gathers information, exercises editorial discretion in selecting and organizing documents, "devises indices and finding aids," and "distributes the resulting work to the public" is a "representative of the news media" for purposes of the FOIA); *accord Serv. Women's Action Network v. DOD*, 888 F. Supp. 2d 282 (D. Conn. 2012); *ACLU of Wash. V. DOJ*, No. C09-0642RSL, 2011 WL 887731, at *10 (W.D. Wash. Mar. 10, 2011); *ACLU*, 321 F. Supp. 2d at 30 n.5. Courts have found other non-profit organizations, whose mission of research and public education is similar to that of the Knight Institute, to be "representatives of the news media." *See, e.g., Cause of Action v. IRS*, No. 13-0920, 2015 WL 5120863 (D.C. Cir. Aug. 28, 2015); *Elec. Privacy Info. Ctr.*, 241 F. Supp. 2d at 10–15 (finding non-profit group that disseminated an electronic newsletter and published books was a "representative of the news media" for purposes of the FOIA); *Nat'l Sec. Archive*, 880 F.2d at 1387; *Judicial Watch, Inc. v. DOJ*, 133 F. Supp. 2d 52, 53–54 (D.D.C. 2000) (finding Judicial Watch, self-described as a "public interest law firm," a news media requester).

For these reasons, the Knight Institute is entitled to a fee waiver.

* * *

Thank you for your attention to our request. I would be happy to discuss its terms with you over the phone or via email to clarify any aspect of it.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

/s/ Allie Schiele

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