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10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

12 CENTER FOR IMMIGRATION
13 LAW & POLICY,

14 Plaintiff,

15 v.

16 UNITED STATES IMMIGRATION
AND CUSTOMS
17 ENFORCEMENT,

18 Defendant.
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Case No. _____

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

1 **I. INTRODUCTION**

2 1. Plaintiff Center for Immigration Law & Policy brings this action
3 pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and seeks
4 disclosure of records held by the United States Immigration and Customs
5 Enforcement agency (“ICE”), a branch of the Department of Homeland Security
6 (“DHS”). Plaintiff seeks to enforce the public’s right to information regarding
7 Defendant’s immigration actions, including removals, detentions, and
8 apprehensions. *See* Request Under Freedom of Information Act (Expedited
9 Processing & Fee Waiver/Limitation Requested) (the “FOIA Request”), a true and
10 correct copy of the FOIA Request is annexed hereto as **Exhibit A**.

11 2. Nearly every category of information that Plaintiff seeks has been
12 released by ICE in the past. Indeed, the Second Circuit Court of Appeals recently
13 required ICE to release several categories of the requested data and to link those
14 categories by producing anonymized unique identifiers that correspond to an
15 individual’s Alien File Number. *See ACLU v. ICE*, 58 F.4th 643 (2d Cir. 2023).

16 3. This lawsuit is necessary not because Plaintiff seeks novel
17 information, but because ICE has not responded to Plaintiff’s request, filed nearly
18 six months ago.

19 4. The information sought is of significant value to the public. Plaintiff
20 seeks information about ICE encounters, arrests, detainers, detentions (and
21 alternatives to detention), and removals. *Id.* This data is essential for Plaintiff and
22 the public to understand and track rapidly changing immigration enforcement
23 policy.

24 5. ICE’s failure to respond to Plaintiff’s FOIA Request and release the
25 requested records violates the FOIA and impedes Plaintiff’s efforts to educate the
26 public regarding how ICE enforces federal immigration laws and to determine
27 whether ICE’s current practices comply with applicable laws, regulations, and
28 constitutional requirements. Although ICE has released almost all of these

1 categories of information in the past, it does not do so regularly, and there is
2 therefore no comparable up-to-date source of information or analysis of
3 enforcement and immigration detainee data available to the public. Instead, ICE
4 publicly releases only extremely limited aggregate statistics, meaning that the
5 public lacks the most basic information about ICE's enforcement, including—to list
6 only three examples—any information about transfers between detention centers,
7 about the likelihood that an arrest will result in continued detention, and about the
8 likelihood that detention will result in deportation.

9 6. The requested information—anonymized data at the individual level—
10 would allow researchers, journalists, and advocates to track the enforcement steps
11 that ICE takes in each case. This information would increase the public's
12 understanding about how ICE is identifying immigrants for detention and removal;
13 how it is treating immigration detainees; and how the public's tax dollars are being
14 spent with respect to such immigration matters. Thus, the requested information
15 will significantly contribute to the public's understanding of government operations
16 and activities.

17 **II. JURISDICTION AND VENUE**

18 7. This Court has subject matter jurisdiction over this action pursuant to 5
19 U.S.C. § 552(a)(4)(B), 28 U.S.C. § 1331, and 28 U.S.C. § 1346.

20 8. Venue in this district is proper under 5 U.S.C. § 552(a)(4)(B) and 28
21 U.S.C. § 1391 because Plaintiff has its principal place of business in this District in
22 Los Angeles, California.

23 **III. THE PARTIES**

24 9. Plaintiff Center for Immigration Law & Policy (“CILP”) is at the
25 University of California, Los Angeles School of Law. It is an immigration law and
26 policy research center that serves as a hub for immigration scholarship and
27 advocacy, engaging students and faculty, community organizations, practitioners,
28 lawmakers, and experts in the field.

1 10. Defendant United States Immigration and Customs Enforcement
2 agency (“ICE”) is a branch of the Department of Homeland Security (“DHS”), a
3 federal executive department.

4 **IV. THE FOIA REQUEST**

5 11. On May 31, 2024, Plaintiff submitted the FOIA Request at issue,
6 seeking eight categories of data ICE is known to maintain, from Fiscal Year 2012
7 to the date that ICE produces the data, concerning: (1) removals; (2) “Secure
8 Communities” removals (which are removals following a biometrics match); (3)
9 detentions; (4) arrests and apprehensions; (5) encounters; (6) alternatives to
10 detention; (7) detainers; and (8) orders of supervision.

11 12. The Request noted that ICE is required to link each of these categories
12 of data with the others by producing an anonymized unique identifier that
13 corresponds to each individual’s Alien File Number. *See ACLU v. ICE*, 58 F.4th
14 643 (2d Cir. 2023).

15 13. Nearly all of these categories of data have been released in the past. In
16 particular, the Request noted that several of these categories of data were recently
17 released in response to request 2023-ICFO-42034.

18 14. However, the request also noted an important category that ICE has
19 not released in the past: the “idncase” number that allows ICE data to be matched
20 anonymously with data that the Executive Office for Immigration Review
21 (“EOIR”), which houses the immigration courts, releases monthly. *See* EOIR
22 CASE Data, available at justice.gov/eoir/foia-library-0. This anonymous identifier
23 will allow journalists, advocates, and researchers to track the immigration court
24 outcomes associated with each ICE enforcement action.

25 15. The FOIA Request included a request for expedited processing
26 pursuant to 5 U.S.C. § 552(a)(6)(E). See also 6 C.F.R. § 5.5(e)(1). The request
27 explained that there is a “compelling need” for these records because the
28 information requested is “urgen[tly]” needed by an organization primarily engaged

1 in disseminating information “to inform the public concerning actual or alleged
2 Federal Government activity.” 5 U.S.C. § 552(a)(6)(E)(v)(II).

3 16. With respect to the first part of the expedited processing standard, the
4 request explained that these records are urgently needed to inform the public about
5 actual or alleged government activity. *See* 5 U.S.C. § 552(a)(6)(E)(v)(II); 6 C.F.R. §
6 5.5(e)(1)(ii). The requested records seek to inform the public about the
7 government’s current enforcement policies and practices, which change frequently.
8 In just one example, the government recently expanded use of alternatives to
9 detention, and little is known about their impact on removals and immigration court
10 proceedings. *See, e.g.*, TRAC, “ICE Increases Use of GPS Monitoring for
11 Immigrants in Alternatives to Detention (ATD),” Mar. 14, 2024, *available at*
12 <https://trac.syr.edu/whatsnew/email.240315.html>; Gaby Del Valle, “ICE is
13 Subjecting a Record Number of Asylum Seekers to Electronic Monitoring,” THE
14 NATION, Oct. 18, 2022, *available at*
15 <https://www.thenation.com/article/society/migrants-ice-alternatives-detention/>.

16 17. With respect to the second requirement for expedited processing, the
17 request explained that the Plaintiff is “primarily engaged in disseminating
18 information” within the meaning of the FOIA. 5 U.S.C. § 552(a)(6)(E)(v)(II). *See*
19 *also* 6 C.F.R. § 5.5(e)(1)(ii). CILP is a hub for immigration scholarship and
20 advocacy, engaging students and faculty, community organizations, practitioners,
21 lawmakers, and experts in the field. CILP regularly publishes reports that collect,
22 analyze and disseminate information about government activity, including drawing
23 on information released by the government through FOIA requests. *See, e.g.*, The
24 Biden Administration’s Dedicated Docket: Inside Los Angeles’ Accelerated Court
25 Hearings for Families Seeking Asylum (May 2022), *available at*
26 [https://law.ucla.edu/sites/default/files/PDFs/Center_for_Immigration_Law_and_Pol](https://law.ucla.edu/sites/default/files/PDFs/Center_for_Immigration_Law_and_Policy/Dedicated_Docket_in_LA_Report_FINAL_05.22.pdf)
27 [icy/Dedicated_Docket_in_LA_Report_FINAL_05.22.pdf](https://law.ucla.edu/sites/default/files/PDFs/Center_for_Immigration_Law_and_Policy/Dedicated_Docket_in_LA_Report_FINAL_05.22.pdf); No Fair Day: The Biden
28 Administration’s Treatment of Children in Immigration Court (December 2023),

1 *available at*

2 [https://law.ucla.edu/sites/default/files/PDFs/Center_for_Immigration_Law_and_Pol](https://law.ucla.edu/sites/default/files/PDFs/Center_for_Immigration_Law_and_Policy/No_Fair_Day_Children_in_Immigration_Court_White_Paper.pdf)
3 [icy/No_Fair_Day_Children_in_Immigration_Court_White_Paper.pdf](https://law.ucla.edu/sites/default/files/PDFs/Center_for_Immigration_Law_and_Policy/No_Fair_Day_Children_in_Immigration_Court_White_Paper.pdf).

4 18. CILP educates the public through these reports, including by issuing
5 press releases, and its attorneys are frequently interviewed for news stories that
6 draw on this information. *See, e.g.*, CILP Press Release, “No Fair Day: Damning
7 New Report Reveals the Biden Administration’s Unlawful Treatment of Children in
8 Immigration Courts,” Dec. 13, 2023, available at [https://law.ucla.edu/news/no-fair-](https://law.ucla.edu/news/no-fair-day-damning-new-report-reveals-biden-administrations-unlawful-treatment-children-immigration-courts)
9 [day-damning-new-report-reveals-biden-](https://law.ucla.edu/news/no-fair-day-damning-new-report-reveals-biden-administrations-unlawful-treatment-children-immigration-courts) [administrations-unlawful-treatment-](https://law.ucla.edu/news/no-fair-day-damning-new-report-reveals-biden-administrations-unlawful-treatment-children-immigration-courts)
10 [children-immigration-courts](https://law.ucla.edu/news/no-fair-day-damning-new-report-reveals-biden-administrations-unlawful-treatment-children-immigration-courts); CILP Press Release, “Gross Miscarriages of Justice
11 Continue Two Years into Biden Administration’s Fast-Track Court Program for
12 Families Seeking Asylum,” June 22, 2023, *available at*
13 [https://law.ucla.edu/news/gross-miscarriages-justice-continue-two-years-biden-](https://law.ucla.edu/news/gross-miscarriages-justice-continue-two-years-biden-administrations-fast-track-court-program-families-seeking-asylum)
14 [administrations-fast-track-court-program-families-seeking-asylum](https://law.ucla.edu/news/gross-miscarriages-justice-continue-two-years-biden-administrations-fast-track-court-program-families-seeking-asylum); CILP Press
15 Release, “New Evidence of Horrific Treatment of Pregnant People in CBP Custody
16 Reignites Demand for Change,” Apr. 25, 2023, *available at*
17 [https://law.ucla.edu/news/new-evidence- horrific-treatment-pregnant-people-cbp-](https://law.ucla.edu/news/new-evidence-horrific-treatment-pregnant-people-cbp-custody-reignites-demands-change)
18 [custody-reignites-demands-change](https://law.ucla.edu/news/new-evidence-horrific-treatment-pregnant-people-cbp-custody-reignites-demands-change). CILP’s publications are broadly circulated to
19 the public and widely available to the public at no cost.

20 19. CILP also regularly hosts public events intended to educate the public
21 and foster discussion about U.S. immigration law and policy. *See*
22 [https://law.ucla.edu/academics/centers/center-immigration-law-and-policy/cilp-](https://law.ucla.edu/academics/centers/center-immigration-law-and-policy/cilp-events)
23 [events](https://law.ucla.edu/academics/centers/center-immigration-law-and-policy/cilp-events) (listing public events held in 2021, 2022, 2023, and 2024). Those public
24 events include conversations with high-level government officials, which draw on
25 information released by the government through FOIA requests.

26 20. CILP further explained that it intends to analyze, publish, and
27 disseminate to the public information gathered through this Request.

28 21. Given the foregoing, CILP satisfied the requirements for expedited

1 processing of this request.

2 22. In addition, CILP sought a full fee waiver because disclosure of the
3 requested records is in the public interest and is “likely to contribute significantly to
4 public understanding of operations or activities of the government and is not
5 primarily in the commercial interest of the requestor.” 5 U.S.C. § 522(a)(4)(A)(iii).

6 23. The Request explained that a fee waiver is required because disclosure
7 of the documents sought is in the public interest and will contribute significantly to
8 the public’s understanding of ICE’s enforcement practices. The Request explained
9 that the records are not sought for commercial use, and CILP plans to disseminate
10 the information to the public at no cost. CILP is therefore entitled to a full fee
11 waiver under 5 U.S.C. § 522(a)(4)(A)(iii).

12 **V. ICE’S LACK OF RESPONSE**

13 24. ICE acknowledged the Request on June 10, 2024 and assigned it
14 reference number 2024-ICFO-39357. The acknowledgment is attached as Exhibit
15 B. The acknowledgment invoked the ten-day extension provision of 5 U.S.C.
16 § 552(a)(6)(B).

17 25. The acknowledgment did not mention or respond to CILP’s requests
18 for expedited processing and a fee waiver. *See* Ex. B.

19 26. CILP has received no further response or communication from ICE.

20 **VI. CLAIMS FOR RELIEF**

21 **FIRST CLAIM FOR RELIEF**

22 **Violation of Freedom of Information Act, 5 U.S.C. § 552, and 6** 23 **C.F.R. § 5.6(c) Promulgated Thereunder, for Failure to Timely** 24 **Disclose Responsive Agency Records**

25 27. Defendant’s unlawful withholding of documents responsive to
26 Plaintiff’s FOIA Request violates 5 U.S.C. § 552(a)(3)(A) and 5 U.S.C.
27 § 552(a)(6)(A), as well as 6 C.F.R. § 5.6(c), promulgated thereunder.

28 28. Defendant is obligated under 5 U.S.C. § 552(a)(3) to produce records

1 responsive to Plaintiff's FOIA Request.

2 29. Defendant was required to respond to Plaintiff's FOIA Request within
3 20 business days under 5 U.S.C. § 552(a)(6)(A) and 6 C.F.R. § 5.6(c), promulgated
4 thereunder. Even assuming that Defendant correctly invoked the ten-day extension
5 provision of 5 U.S.C. § 552(a)(6)(B), Defendant was required to respond within 30
6 business days, which expired on July 16, 2024.

7 30. No basis exists for Defendant's failure to provide a response to
8 Plaintiff's request. Plaintiff has exhausted its administrative remedies by virtue of
9 Defendant's failure to respond to the FOIA Request.

10 **SECOND CLAIM FOR RELIEF**

11 **Violation of Freedom of Information Act, 5 U.S.C. § 552, for** 12 **Failure to Timely Conduct an Adequate Search of Agency** 13 **Records**

14 31. Defendant has failed to produce or reproduce any responsive records.

15 32. ICE is obligated under 5 U.S.C. § 552(a)(3)(C) to conduct a reasonable
16 search for and to produce records responsive to Plaintiff's FOIA Request. Plaintiff
17 has a legal right to obtain such records, and no legal basis exists for ICE's failure to
18 conduct a reasonable search for records through the present date.

19 33. Defendant's failure to conduct a reasonable search for records
20 responsive to Plaintiff's FOIA Request violates 5 U.S.C. §§ 552(a)(3)(C) and
21 (a)(6)(A), as well as 6 C.F.R. § 5.6(c), promulgated thereunder.

22 **THIRD CLAIM FOR RELIEF**

23 **Violation of the Administrative Procedure Act, 5 U.S.C. §§ 706(1) & (2), for** 24 **Failure to Timely Respond to the Request for Agency Records**

25 34. Defendant's failure to timely respond to Plaintiff's FOIA Request for
26 agency records constitutes agency action unlawfully withheld and unreasonably
27 delayed in violation of the Administrative Procedure Act, 5 U.S.C. § 706(1).

28 35. Additionally, Defendant's failure to timely respond is arbitrary,

1 capricious, an abuse of discretion, and not in accordance with law in violation of
2 the Administrative Procedure Act, 5 U.S.C. § 706(2).

3 **VII. PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff requests that judgment be entered in its favor and
5 against Defendant and that the Court:

6 (a) Declare unlawful Defendant's refusal to disclose the records
7 requested;

8 (b) Declare that Defendant's failure to make a determination with respect
9 to Plaintiff's FOIA Request (including its expedited processing and fee waiver
10 requests) within the statutory time limit and Defendant's failure to disclose
11 responsive records violates the FOIA;

12 (c) Declare that Defendant's failure to timely respond to Plaintiff's request
13 for agency records violates the Administrative Procedure Act;

14 (d) Compel Defendant and any of Defendant's departments, components,
15 other organizational structures, agents, or other persons acting by, through, for, or
16 on behalf of Defendant to conduct a full, adequate, and expeditious search for
17 records responsive to Plaintiff's FOIA Request and to produce any and all such
18 records to Plaintiff;

19 (d) Enjoin Defendant, and any of its departments, components, other
20 organizational structures, agents, or other persons acting by, through, for or on
21 behalf of Defendant from withholding non-exempt records responsive to Plaintiff's
22 FOIA Request and order them to promptly produce the same without redaction;

23 (e) Award Plaintiff its reasonable attorney fees and costs pursuant to
24 5 U.S.C. § 552(a)(4)(E)(i); and

25 (f) Grant any such other or further relief as the Court deems just and
26 equitable.

1 Dated: December 4, 2024

Respectfully submitted,

2 By: /s/ Kelly M. Dermody

3 /s/ Michael Levin-Gesundheit

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