

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

ORGANIZED COMMUNITIES AGAINST
DEPORTATIONS, IMMIGRANT
DEFENSE PROJECT, and CENTER FOR
CONSTITUTIONAL RIGHTS,

Plaintiffs,

v.

UNITED STATES IMMIGRATION AND
CUSTOMS ENFORCEMENT,

Defendant.

CASE NO. 1:21-cv-02519

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

1. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. §§ 552 *et seq.*, seeking declaratory, injunctive, and other appropriate relief to compel the Defendant, the United States Immigration and Customs Enforcement (“ICE”), to produce agency records that have been improperly withheld from Plaintiffs, Organized Communities Against Deportations (“OCAD”), Immigrant Defense Project (“IDP”), and the Center for Constitutional Rights (“CCR”) (collectively “Plaintiffs”).

2. Plaintiffs bring this action to seek documents sought in a July 16, 2020, FOIA request (“Request”) related to a time-sensitive and urgent public policy matter: how and why Defendant ICE has decided to expend resources to establish so-called “Citizens Academies.” Despite its name, this program, initiated by ICE’s Office of Public Affairs, is not a school and provides no certification or degree. Rather, ICE describes it as a “community outreach forum” in

which civilians interact with ICE officials “through hands-on activities” over several weeks.¹ Such activities take place in an “interactive environment” and included “simulated human trafficking investigations” and “simulated narcotics enforcement investigation[s].”²

3. The Citizens Academy program is designed to make high-conflict and violent ICE activities accessible and even entertaining to the civilians ICE selects for its program. This public relations project encourages civilians to view other community members as “targets” and has the potential to initiate additional violence against immigrant communities. The Trump Administration dramatically expanded the reach of the Citizens Academy program, announcing a “national roll-out” of “courses” with ICE’s Homeland Security Investigations (“HSI”) unit in April 2019.³

4. In July 2020, ICE announced that it would be expanding the Citizens Academy program from its HSI unit, which focuses on special investigations, to ICE’s Enforcement and Removal Office (“ERO”) unit. ERO is responsible for the arrest, detention and removal of immigrants across the United States. The ERO Citizens Academy program would be inaugurated in Chicago, and would invite representatives from “community groups, state and local elected leaders, Congressional staff, consular officials, and business and religious leaders.”⁴ An ICE

¹ U.S. IMMIGR, AND CUSTOMS ENFORCEMENT, *Citizens Academy: Inviting Participants from Local Communities to Learn More About HSI*, (updated January 8, 2021), available at <https://www.ice.gov/outreach-programs/citizens-academy>.

² U.S. IMMIGR, AND CUSTOMS ENFORCEMENT, *ICE HSI St. Paul Graduated its inaugural class of Citizens Academy students*, (December 15, 2019), available at <https://www.ice.gov/news/releases/ice-hsi-st-paul-graduated-its-inaugural-class-citizens-academy-students>

³ *See*, n.1 *supra*.

⁴ U.S. IMMIGR, AND CUSTOMS ENFORCEMENT, *ICE Offers first Citizens Academy for public to learn more about agency’s mission in Chicago*, (July 13, 2020), available at <https://www.ice.gov/news/releases/ice-offers-first-citizens-academy-public-learn-more-about-agencys-mission-chicago>.

official stated that the course would be “scenario-based” and would include training in “defensive tactics, firearms familiarization and targeted arrests.”⁵

5. Coming as the coronavirus pandemic was sweeping across the country, including inside ICE detention centers, and after a year in which ICE had sought budget increases from Congress, the announcement of a public relations initiative to drum up support for ICE’s detention and removal operations was greeted with alarm by community groups and local and national politicians. Community leaders vowed to boycott the program, stating “[they] are very aware of the danger that this poses to our communities, and [are] not going to allow that to happen.”⁶ As U.S. Senator from Illinois Tammy Duckworth put it, “This PR move by ICE is remarkably misguided, will do nothing to make communities any safer and should never have been proposed in the first place, much less while ICE is claiming they do not have sufficient funding for essential functions.”⁷

6. The outcry resulted in the postponement of the Citizens Academy program in Chicago.⁸ But the program has not been disavowed and presumably continues to operate. With debate on the budget for the Department of Homeland Security imminent, the public has the right to understand where taxpayer resources are going in an agency that seeks ever-increasing resources to arrest and detain immigrants.⁹

⁵ Chantal da Silva, *ICE Offering ‘Citizens Academy Program with Training on Arresting Immigrants*, Newsweek (July 9, 2020), available at <https://www.newsweek.com/ice-launching-citizens-academy-course-how-agency-arrests-immigrants-1516656>.

⁶ Grace Hauck, *ICE is holding a citizens academy in Chicago. Mayor, lawmakers say ‘vigilantes’ aren’t welcome*, USA TODAY (Jul. 16, 2020), <https://www.usatoday.com/story/news/nation/2020/07/16/chicago-ice-citizen-academy-mayor-says-vigilantes-not-welcome/5453758002/>

⁷ See Duckworth Responds to ICE’s Citizens Academy Pilot Program in Chicago (July 17, 2020), available at <https://www.duckworth.senate.gov/news/press-releases/duckworth-responds-to-ices-citizens-academy-pilot-program-in-chicago>

⁸ Elvia Malagon, *ICE postpones controversial ‘Citizens Academy’ in Chicago*, CHICAGO SUN TIMES (Sep. 3, 2020), <https://chicago.suntimes.com/2020/9/3/21421321/chicago-immigration-ice-citizens-academy-postponed>.

⁹ The Cost of Understanding Immigration Enforcement and Border Security, <https://www.americanimmigrationcouncil.org/research/the-cost-of-immigration-enforcement-and-border-security>, (last April 22, 2021).

7. The information is particularly crucial to communities in “sanctuary cities,” a phrase that describes localities that have laws, policies, or regulations that make it harder for Defendant ICE to track down and arrest immigrants they believe are deportable.¹⁰

8. The Trump Administration repeatedly made sanctuary cities a particular target of immigration enforcement, repeatedly withholding federal funding to these cities, including during the COVID-19 pandemic.¹¹ The expansion of the Citizens Academy program into cities like Chicago, New York, St. Paul, and Seattle, which all have adopted policies limiting information-sharing with ICE in certain circumstances, does not appear coincidental. Intense interest in the Citizens Academy program demonstrates an urgent and compelling need for information on its practices and budget.¹²

9. Because the government introduced the Citizens Academy program into these cities as part of its broader strategy of targeting sanctuary cities and immigrant communities for deportation, the program implicates important liberty interests of immigrants and their families.¹³ Information surrounding how and why these programs operate will allow the public to engage

¹⁰ Kristina Cooke & Ted Hesson, *What are 'sanctuary' cities and why is Trump targeting them*, REUTERS (Feb. 25, 2020), <https://www.reuters.com/article/us-usa-immigration-crime/what-are-sanctuary-cities-and-why-is-trump-targeting-them-idUSKBN20J25R>.

¹¹ Priscilla Alvarez, *Trump renews threats to withhold federal funds from sanctuary cities amid pandemic* (April 20, 2020), available at <https://www.cnn.com/2020/04/30/politics/trump-sanctuary-city-coronavirus/index.html>; Felipe De La Hoz, *How Trump's War on Sanctuary Cities Affected Immigrants*, (Oct. 1, 2020), available at <https://documentedny.com/2020/10/21/how-trumps-war-on-sanctuary-cities-affected-immigrants/>

¹² Chantal DaSilva, *ICE Offering 'Citizens Academy' Course with Training on Arresting Immigrants*, NEWSWEEK, (July 9, 2020), <https://www.newsweek.com/ice-launching-citizens-academy-course-how-agency-arrests-immigrants-1516656>; Grace Hauck, *ICE is holding a citizens academy in Chicago. Mayor, lawmakers say 'vigilantes' aren't welcome*, USA TODAY (Jul. 16, 2020), <https://www.usatoday.com/story/news/nation/2020/07/16/chicago-ice-citizen-academy-mayor-says-vigilantes-not-welcome/5453758002/>; Maria Ines Zamudio, *ICE Citizens Trainings May Be A 'Vigilante Academy,' Chicago Alderman Warns*, NPR (Jul. 10, 2020), <https://www.npr.org/local/309/2020/07/10/889726473/i-c-e-citizens-trainings-may-be-a-vigilante-academy-chicago-alderman-warns>.

¹³ See *Bridges v. Wixon*, 326 U.S. 135, 147 (1945) (“[D]eportation may result in the loss of all that makes life worth living” (internal quotation marks omitted)); *Ng Fung Ho v. White*, 259 U.S. 276, 284 (1922) (“[Deportation] may result also in loss of both property and life; or of all that makes life worth living.”); see also *Zadvydas v. Davis*, 533 U.S. 678, 693-694, 721 (2001); *St. John v. McElroy*, 917 F. Supp. 243, 250 (S.D.N.Y. 1996) (noting that in deportation proceedings an important liberty interest is at stake).

productively in an ongoing, critical, and pressing public dialogue about immigration in the U.S. and ICE's use of taxpayer resources.

10. Under the FOIA, the public has a statutory right to records relating to the Citizens Academy program. Over six months ago, Plaintiffs submitted their Request to Defendant seeking records related to why Defendant has decided to offer these programs, how they will be operated, and various other relevant documents, including budget information, training materials, and protocols as to who is invited to participate.

11. Plaintiffs' Request sought expedited processing, outlining the compelling need for the requested records given remarkable public and Congressional interest in the program as well as the threat that a program to encourage civilians to engage in simulated actions against immigrants poses to the safety and well-being of the individuals in immigrant communities. Yet to date, Defendant has failed to produce any records sought in Plaintiffs' Request.

12. To vindicate the public's right to information about the Citizens Academy program, Plaintiffs bring this action to compel Defendant to immediately process Plaintiffs' Request and release records that have been unlawfully withheld.

PARTIES

13. **Plaintiff Organized Communities Against Deportations ("OCAD")** is an undocumented-led non-profit organization that organizes against deportations, detention, criminalization, and incarceration of Black, brown, and immigrant communities in Chicago, Illinois and surrounding areas since 2013. OCAD regularly disseminates information vital to its members and the general public via a large social media following and the issuing of press releases and other materials. OCAD works to educate and inform the public about the widespread benefits of open migration policies. OCAD organizes public forums, workshops, and panel

events to provide a platform for advocates and activists to challenge status quo ideas about migration. OCAD's office and principal place of business is in Chicago, Illinois.

14. **Plaintiff Immigrant Defense Project (“IDP”)** is a non-profit organization whose mission is to promote fundamental fairness for immigrants accused or convicted of crimes. IDP works to protect and expand the rights of immigrants who have contact with the criminal legal system, including: 1) working to transform unjust deportation laws and policies; 2) minimizing the harsh and disproportionate immigration consequences of contact with the criminal legal system; and 3) educating and advising immigrants, their criminal defenders, and other advocates. IDP disseminates information about the immigration system to the public in accessible ways and is a leader in providing training and support for legal practitioners, community-based organizations, and community members. IDP provides expert information and community-based education on ICE tactics, including surveillance practices, and possible legal and policy remedies. IDP's office and principal place of business is in New York, New York.

15. **Plaintiff Center for Constitutional Rights (“CCR”)** is a non-profit, public interest legal and advocacy organization that engages in the fields of civil and international human rights. CCR's diverse issue areas include litigation and advocacy around immigration, as well as racial and ethnic profiling. CCR is a member of several networks nationally and provides legal support to civil rights movements. One of CCR's primary activities is the publication of newsletters, know-your-rights handbooks, legal analysis of current immigration law issues, and other similar materials for public dissemination. These and other materials are available through CCR's Development, Communications, and Advocacy Departments. CCR operates a website, <http://ccrjustice.org>, which addresses the issues on which the Center works. CCR staff members often serve as sources for journalist and media outlets, including on issues related to racial justice

and immigrant rights, government misconduct, police brutality, racial discrimination, and the right to dissent. In addition, CCR regularly issues press releases, has an active social media presence with thousands of followers, and issues regular email updates sent to over 50,000 supporters about developments and news pertaining to CCR's work. CCR's office and principal place of business is in New York, New York.

16. **Defendant U.S. Immigration Customs and Enforcement ("ICE")** is a federal law enforcement agency within the meaning of 5 U.S.C. § 552(f)(1). ICE enforces immigration and customs law and is responsible for the detention and removal of immigrants. It has offices in all fifty states. Upon information and belief, both ICE headquarters and the Chicago's ICE Field Office have the authority and responsibility to set policies and oversee detainer and removal issuance.

JURISDICTION AND VENUE

17. This Court has subject matter jurisdiction over this action and personal jurisdiction over the parties under 5 U.S.C. § 552(a)(4)(B). This Court also has jurisdiction under 28 U.S.C. §§ 1331 and 1346(a)(2).

18. Venue is proper under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. §§1391(e) and 1402(a) because Plaintiff OCAD resides in this district.

19. Because the Defendant has failed to comply with the time limits imposed by FOIA, including administrative appeals, Plaintiffs have exhausted their administrative remedies. 5 U.S.C. § 552(a)(6)(C)(i). Plaintiffs are therefore entitled to appeal directly to this Court for relief. 5 U.S.C. § 552(a)(4)(B).

STATEMENT OF FACTS

20. All statements herein are made upon information and belief except where the basis of knowledge is specified.

The Increase in Interior Immigration Enforcement and Targeting of the Sanctuary Movement as Part of a War on Immigrants

21. The sanctuary movement dates back to the 1980s, when U.S. churches sheltered Central American migrants who had fled civil strife in the region and feared deportation.¹⁴ The label “sanctuary cities” or “sanctuary jurisdictions” is now generally applied to states and localities that have laws, policies or regulations that make it harder for ICE to track down and arrest immigrants they believe are deportable.¹⁵ For decades, sanctuary cities have been under attack.¹⁶

22. As part of its broader campaign against immigrants, the Trump Administration explicitly targeted sanctuary efforts. As one of his first official actions as President, Mr. Donald J. Trump (“Mr. Trump”) signed Executive Order No. 13768 in 2017 specifically targeting sanctuary cities and spaces, claiming that “sanctuary jurisdictions across the United States...in an attempt to shield aliens from removal from the United States...have caused immeasurable harm to the American people and to the very fabric of our Republic.”¹⁷

23. Throughout his presidency, Mr. Trump spoke disparagingly of today’s sanctuary movement and portrayed advocates, particularly noncitizens, who called for sanctuary as his administration’s “political enemies.” He repeatedly verbally attacked localities that limit local involvement with federal immigration enforcement on numerous occasions, including during the

¹⁴ See, n.10 *supra*.

¹⁵ *Id.*

¹⁶ Alex Koppelman, *Congress to New York (and Chicago and L.A.): Drop dead*, (October 4, 2007), available at <https://www.salon.com/2007/10/04/sanctuary/>

¹⁷ Exec. Order No. 13768, 82 FR 8799, (2017).

2020 State of Union Address, calling them “outrageous,” “terrible,” “catastrophic,” and “dangerous.”¹⁸

24. In fact, the Trump administration went so far as to deploy law enforcement tactical units from the southern border, as part of a supercharged arrest operation, “Operation Palladium”, in sanctuary cities across the country, including Chicago, in an escalation of its battle against localities that refused to participate in immigration enforcement.¹⁹

The Government Aims to Recruit Citizens to Further its War on Immigrants through the ICE Citizens Academy Program

25. It is entirely unsurprising, then, that when Defendant decided to expand its Citizens Academy program to its Enforcement and Removal Office (ERO) unit, it chose to offer its inaugural ERO “Citizens Academy” in Chicago, one of the most immigrant-friendly cities in the country.²⁰

26. The Citizens Academy program began in 2013, when ICE’s HSI “sponsored” the first “class” in San Juan, Puerto Rico. The program, a project of ICE’s Office of Public Affairs, was described by ICE as “a unique opportunity to receive an inside look at HSI’s organizational and operational structure” for “selected community leaders” chosen by ICE agents to participate.²¹ Although it was not a school or academic program affiliated with any educational or accredited institution, ICE’s website called those who attended ten weeks of two-hour weekly

¹⁸ Amber Phillips and Kristina Orego, *President Trump’s 2020 State of the Union Address*, WASHINGTON POST (February 4, 2020), <https://www.washingtonpost.com/politics/2020/02/04/transcript-president-trumps-2020-state-union-address/>

¹⁹ Kori Rumore, *Chicago’s history as a sanctuary city*, CHICAGO TRIBUNE (April 30, 2020), <https://www.chicagotribune.com/news/ct-chicago-sanctuary-history-htmlstory.html>.

²⁰ New American Economy: Chicago, IL, (last visited April 28, 2021) <https://www.newamericaneconomy.org/cities-index/profile/chicago>.

²¹ U.S. IMMIGR. AND CUSTOMS ENFORCEMENT, *Puerto Rico community leaders graduate from third nationwide HSI-sponsored citizens academy*, (April 13, 2016), <https://www.ice.gov/news/releases/puerto-rico-community-leaders-graduate-third-nationwide-hsi-sponsored-citizens>

sessions “graduates” and presented them with “certificates of completion” at a “special ceremony.”²²

27. The HSI San Juan Citizens Academy produced a graduating “class” of 10 in 2014, 13 in March 2015, and 14 in April 2016.²³ Programs in New York, Tampa, and Los Angeles followed, and in April 2019, the Trump Administration announced a “national roll-out” of the HSI Citizens Academy program.²⁴

28. In July 2020, Defendant announced that it was expanding its Citizens Academy program from HSI to a new, six-week course in Chicago focused on the work done by the ERO.²⁵ According to Defendant’s website, ERO’s mission is the “arrest and removal of aliens” and “manages all aspects of the immigration enforcement process, including identification and arrest, domestic transportation, detention, bond management, and supervised release, including alternatives to detention.”²⁶

29. In a letter from Chicago’s Field Office Director, Robert Guadian, to “valued member[s] of the community,” the latest Citizens Academy program was described as “an interactive six-week program” in which “key stakeholders” can “gain insight into the many facets and responsibilities of ICE/ERO operations” and help to “build a strong foundation of knowledge for those intrigued by the ERO mission.”²⁷

²³ *Id.*

²⁴ See n. 1, *supra*.

²⁵ U.S. IMMIGR, AND CUSTOMS ENFORCEMENT, *ICE offers first Citizens Academy for public to learn more about agency’s mission in Chicago*, (July 13, 2020), <https://www.ice.gov/news/releases/ice-offers-first-citizens-academy-public-learn-more-about-agencys-mission-chicago>

²⁶ U.S. IMMIGR, AND CUSTOMS ENFORCEMENT, *Enforcement and Removal Operations*, <https://www.ice.gov/about-ice/ero> (last visited Mar. 16, 2021).

²⁷ U.S. IMMIGR, AND CUSTOMS ENFORCEMENT, *Letter from Field Office Director Robert Guadian*, <https://static1.squarespace.com/static/5a2d8f4b6f4ca325a622037f/t/5f03a905bbac0c209a02c2d4/1594075398053/ERO+Chicago+Citizens+Academy+Memo+2020-07-01.pdf> (last visited Mar. 16, 2021).

30. The letter described the Chicago Citizens Academy program as “the first of its kind,” and stated that it will “serve as a pilot for nationwide implementation.”²⁸

31. The six-week course, modeled after other law enforcement “academies”, will include classroom instruction, learning about the agency’s handling of health care for people in custody and examining the agency’s role in an immigration case.²⁹ Notably, these programs will also include training citizens in **“defensive tactics, firearms familiarization and targeted arrests.”**³⁰

32. In fact, as part of Defendant’s previous HSI citizens academies, civilian participants even took part in simulated confrontations with other civilians which involved active shooting scenarios.³¹

33. Defendant’s description of the curriculum for the ERO Citizens Academy indicates that it includes a visit to an immigration detention center, raising questions as to the privacy rights of those in detention.

34. The active scenario-based nature of the pilot program creates the possibility that the Citizens Academy program will encourage powerful individuals who participate to help carry out the ERO’s mission of “arrest[ing] and removing of aliens.”³²

35. For example, Defendant described the “graduating” members of the St. Paul HSI

²⁸ *Id.*

²⁹ Mauricio Pena, *After ICE Postpones Chicago Citizens Academy, Local Immigrant Groups Breathe A ‘Sigh Of Relief’ — For Now*, BLOCK CLUB CHICAGO (Sept. 3, 2020), <https://blockclubchicago.org/2020/09/03/after-ice-postpones-chicago-citizens-academy-local-immigrant-groups-breathe-a-sigh-of-relief-for-now/>.

³⁰ DASILVA, *supra* note 12, (*emphasis added*).

³¹ Christina Gonzalez, *ICE Citizen Academy Causes Uproar in Chicago, Has Been Going on in Los Angeles—For Years*, FOX 11 LOS ANGELES (July 10, 2020) (*emphasis added*), <https://www.foxla.com/news/ice-citizen-academy-causing-uproar-in-chicago-has-been-going-on-in-los-angeles-for-years>; Brittany Mejia, *At Citizens Academies, Devoted Participants Get Their Law Enforcement Fix*, LOS ANGELES TIMES (Dec. 3, 2018), www.latimes.com/local/lanow/la-me-ln-ice-citizens-academy-20181205-story.html.

³² United States, Congress, House, House Committee on Oversight and Reform, Subcommittee on Civil Rights and Civil Liberties, *Letter to Acting Director Immigration Customs and Enforcement*, August 14, 2020.

Citizens Academy program as including “10 metro-area community leaders from various backgrounds.”³³

36. The “graduating” members of an HSI Tampa Citizens Academy likewise included powerful members of the community. Some of those participants were individuals associated with U.S. Representative Charlie Crist’s office; Hillsborough County Public Schools; U.S. Citizenship and Immigration Services; and the U.S. Institute Against Human Trafficking.³⁴

37. Some of the “graduating” members of the HSI Citizens Academy in Seattle consisted of professionals from Fortune 500 companies, the banking industry, non-governmental organizations, and a variety of small businesses.³⁵

38. Participants of a graduating class of a Los Angeles HSI Citizens Academy included a screenwriter, a Congressional policy assistant, an Archdiocese of L.A. representative, and employees of U.S. Citizenship and Immigration Services.³⁶

39. This program encourages people in positions of power to view community members as targets and propagates misleading ideas of how ICE’s programs of arrest, detention, and deportation affect immigrant communities.

40. Two weeks before Defendant was expected to start Chicago’s fall Citizens Academy, it announced the program would be postponed because of the coronavirus pandemic and has been rescheduled for the spring of 2021.³⁷

41. FOIA requires that Defendant be fully transparent about the content, scope, and

³³ See, n.2 supra.

³⁴ • U.S. IMMIGR, AND CUSTOMS ENFORCEMENT, *ICE HSI Tampa graduates latest Citizens’ Academy*, (March 6, 2020), available at <https://www.ice.gov/news/releases/ice-hsi-tampa-graduates-latest-citizens-academy> -

³⁵ U.S. IMMIGR, AND CUSTOMS ENFORCEMENT, *ICE HSI Seattle partners with community leaders, graduates inaugural Citizens Academy* (Nov. 1, 2019), available at <https://www.ice.gov/news/releases/ice-hsi-seattle-partners-community-leaders-graduates-inaugural-citizens-academy>

³⁶ MEJIA, *supra* note 29.

³⁷ MALAGON, *supra* note 8.

purpose of its Citizens Academy programs.

The Necessity of Information Sought Pursuant to the Freedom of Information Act

42. The announcement of the expansion of Defendant's Citizens Academy program occurred at a time when ICE had demanded increased funding from Congress amid the Trump Administration's sweeping changes to U.S. immigration enforcement and policies, many of which are still in effect. The expansion of the Citizens Academy program has garnered widespread local and national media attention.³⁸

43. The information sought here is necessary to educate and inform the public of the government's policies regarding the Citizens Academy program and to inform debate on upcoming budget negotiations for ICE.

44. In fact, the United States House of Representatives' Appropriations Committee added an amendment to its 2021 Homeland Security spending bill, barring DHS agencies from using government funds to run "citizens academy" courses.³⁹ Representatives from three states, including Massachusetts, Illinois and New York, co-sponsored the amendment, which ultimately passed.⁴⁰

45. Several members of the U.S. Congress, alarmed by the potential impact the Citizens Academy program would have on immigrant communities in targeted cities, reached

³⁸ See Chantal DaSilva, *Sen. Merkley Calls for ICE 'Citizens Academy' to Be Defunded*, NEWSWEEK, (July 14, 2020), <https://www.newsweek.com/sen-merkley-calls-ice-citizens-academy-defunded-1517594>; Chantal DaSilva, *ICE Flooded With Thousands of Fake Applications for 'Citizens Academy'*, NEWSWEEK, (July 30, 2020) <https://www.newsweek.com/ice-flooded-thousands-fake-applications-citizens-academy-1521597>; Press Release, Detention Watch Network, *ICE is Recruiting a 'Citizen' Army to Fuel Its Propaganda Machine*, (July 9, 2020) <https://www.detentionwatchnetwork.org/pressroom/releases/2020/ice-recruiting-citizen-army-fuel-its-propaganda-machine>.

³⁹ See Press Release, U.S. Representative Jan Schakowsky, *Schakowsky, García, and Quigley Take Steps to Prevent ICE from Launching Citizen Academy Program* (July 15, 2020), <https://schakowsky.house.gov/media/press-releases/schakowsky-garc-and-quigley-take-steps-prevent-ice-launching-citizen-academy>; Ted Cox, *Quigley cuts funds for ICE 'Citizens Academy'*, (July 16, 2020) <https://www.oneillinois.com/stories/2020/7/16/quigley-bill-cuts-funds-for-ice-citizens-academy>.

⁴⁰ *Id.*

out to Defendant directly regarding their concern. Congressman Jamie Raskin and Congresswoman Robin Kelly, in their respective capacities as chairman and member of the House Oversight Subcommittee on Civil Rights and Civil Liberties, submitted Questions for the Record to Defendant's Acting Director, Matthew Albence, on August 14, 2020. Specifically, Congressman Raskin and Congresswoman Kelly inquired about Defendant's criteria for determining who is invited to the program and how many programs were planned, among other inquiries.⁴¹ In addition, they also requested certain documents related to trainings, privacy concerns, and video footage of graduation ceremonies. As of March 9, 2021, ICE had not responded to their questions or their request for documentation.

46. U.S. Senate Democratic Whip Dick Durbin, a Ranking Member of the Senate Judiciary Immigration Subcommittee, issued a scathing statement in opposition to the Citizens Academy program, stating: "The Trump Administration's mass deportation agenda has created widespread fear in our immigrant communities. This problem cannot be fixed by a tone-deaf public-relations effort."⁴² Senator Tammy Duckworth went so far as referring to Defendant's "citizens academies" as a "PR move," that is "remarkably misguided," and stating that "it should have never been proposed in the first place."⁴³

47. The information sought is of critical importance in Chicago. OCAD is based in Chicago, Illinois, where Defendant is planning to launch a new program this spring. In addition to the nationwide outrage that was sparked, local leaders and activists in Chicago were similarly

⁴¹ See n.31, *supra*.

⁴² Press Release, U.S. Senator Dick Durbin, Durbin Statement On Creation Of ICE "Citizens Academy" Pilot Program In Chicago (July 17, 2020), <https://www.durbin.senate.gov/newsroom/press-releases/durbin-statement-on-creation-of-ice-citizens-academy-pilot-program-in-chicago>.

⁴³ Press Release, U.S. Senator Tammy Duckworth, Duckworth Responds to ICE's "Citizens Academy" Pilot Program in Chicago (July 17, 2020), <https://www.duckworth.senate.gov/news/press-releases/duckworth-responds-to-ices-citizens-academy-pilot-program-in-chicago>.

outraged. Mayor Lori Lightfoot was a vocal advocate in opposition to Defendant’s “citizen academies,” stating that “vigilantes are not welcome” in Chicago.⁴⁴ member of the Chicago City Council Latino Caucus, Alderman Rossana Rodriguez, also sent a letter to ICE Field Office Director Robert Guadian, signed by 14 city council members, urging him to cancel the planned “citizens academy,” expressing outrage at the prospect and promising to boycott the program.⁴⁵

48. FOIA requires the federal government to disclose records in its possession unless they fall into one of a limited number of exemptions in the statute. Its “central purpose is to ensure that the Government’s activities be opened to the sharp eye of public scrutiny.”⁴⁶ Access to this information is necessary so that the general public can meaningfully engage in timely and important conversations about immigration enforcement, budgetary allocations to ICE, and immigrant rights.⁴⁷

Plaintiffs’ FOIA Request and Defendant’s Response

49. On July 16, 2020, Plaintiffs sent a Request pursuant to 5 U.S.C. §§ 552 *et seq.* to Defendant. A true and accurate copy of Plaintiffs’ July 16, 2020, Request is attached hereto as Exhibit A and incorporated herewith.

50. Among other documents, Plaintiffs’ Request specifically sought records related to or containing training materials, staffing records, guidelines, and instructions regarding Defendant’s “citizens academies.” *See* Ex. A.

⁴⁴ HAUCK, *supra* note 6.

⁴⁵ Ald. Carlos Ramirez-Rosa (@CDRosa), TWITTER (July 16, 2020, 2:57 PM), <https://twitter.com/cdrosa/status/1283853287054336000>.

⁴⁶ U.S. Dep’t of Justice v. Reporters Comm. For Freedom of the Press, 489 U.S. 749, 774 (1989) (*emphasis omitted*).

⁴⁷ *Bd. of Educ., Island Trees Union Free Sch. Dist. v. Pico*, 457 U.S. 853, 868 (1982) (plurality opinion) (“[A]ccess to ideas makes it possible for citizens generally to exercise their rights of free speech and press in a meaningful manner[.]”); *Saxbe v. Wash. Post Co.*, 417 U.S. 843, 862–63 (1974) (Powell, J., dissenting) (“[P]ublic debate must not only be unfettered; it must also be informed.”).

51. Considering the devastating impact of new immigration enforcement practices on noncitizens and the importance of safeguarding the public interest, Plaintiffs' Request sought expedited processing under 5 U.S.C. § 552(a)(6)(E)(i)(I), citing a compelling need to inform the public of how and why these citizen academies are being operated. *Id.*

52. Plaintiffs sought a fee waiver on the basis that "disclosure of the requested materials is in the public interest because it is likely to contribute significantly to the public understanding of the activities or operations of the government and is not primarily in the commercial interest" of the Plaintiffs. 5 U.S.C. § 552(a)(4)(A)(iii). *Id.* Plaintiffs are non-profit organizations with no private commercial interest in the records requested and will make all non-confidential information available to the public, including the media, at no charge.

53. On July 20, 2020, Defendant acknowledged Plaintiffs' request and stated, in part, that it would be invoking a ten (10) day extension for Plaintiffs' request. A true and accurate copy of Defendant's July 20, 2020, Acknowledgment Letter is attached hereto as Exhibit B and incorporated herewith.

54. Defendant's Acknowledgment Letter provided boilerplate language regarding processing times, and misconstrued Plaintiffs as "commercial requesters" regarding fees. Defendant failed to respond to Plaintiffs' request for both a fee waiver and expedited processing. *See Ex. B.*

55. Plaintiffs' request for a fee waiver and expedited processing were constructively denied, and on August 25, 2020, Plaintiffs appealed Defendant's decision. A true and accurate copy of Plaintiffs' August 25, 2020, Appeal is attached hereto as Exhibit C and incorporated herewith.

56. In their appeal, Plaintiffs explained the uproar and confusion caused by the Citizens Academy program. Plaintiffs further explained the ongoing public interest in the records sought, as evidenced by the multiple U.S. Congressional representatives who spoke out against the program, and the substantial media attention that the Citizens Academy program had garnered nationwide. *See Ex C.*

57. In a letter dated September 17, 2020, responding to Plaintiffs' appeal, Defendant affirmed its decision denying Plaintiffs' Request for expedited processing and reversed its decision denying Plaintiffs' Request for a fee waiver. A true and accurate copy of Defendant's September 17, 2020 correspondence is attached hereto as Exhibit D and incorporated herewith.

58. To date, Plaintiffs have received no further response from Defendant regarding their Request, and no responsive records from ICE.

59. Plaintiffs have exhausted all administrative remedies to the extent required by law, and ICE has failed to comply with the time limit for responding to FOIA requests.

CLAIMS FOR RELIEF

COUNT I

Defendant Violated the Freedom of Information Act, 5 U.S.C. § 552 by Failing to Conduct an Adequate Search for Responsive Records

60. Plaintiffs repeat and re-allege each and every allegation contained in the foregoing paragraphs as if repeated and incorporated herein.

61. The Defendant is obligated under 5 U.S.C. § 552(a)(3)(C) to conduct a reasonable search for records responsive to the Plaintiffs' FOIA Request.

62. The Plaintiffs have a legal right to obtain such records, and no legal basis exists for the Defendant's failure to search for them.

63. The Defendant's failure to conduct a reasonable search for records responsive to the Plaintiffs' Requests violates, at a minimum, 5 U.S.C. § 552(a)(3)(C) and the regulations promulgated thereunder.

COUNT II

Defendant Violated of the Freedom of Information Act, 5 U.S.C. § 552 by Failing to Disclose Responsive Records

64. Plaintiffs repeat and re-allege each and every allegation contained in the foregoing paragraphs as if repeated and incorporated herein.

65. The Defendant is obligated under 5 U.S.C. § 552(a)(3) to promptly produce records responsive to the Plaintiffs' FOIA requests and supplement thereto.

66. The Plaintiffs have a legal right to obtain such records, and no legal basis exists for the Defendant's failure to disclose them.

COUNT III

Defendant Violated the Freedom of Information Act, 5 U.S.C. § 552 by Failing to Respond within the Time Required by Statute

67. Plaintiffs repeat and re-allege each and every allegation contained in the foregoing paragraphs as if repeated and incorporated herein.

68. Defendant is obligated under 5 U.S.C. § 552(a)(6)(A)(i) to respond to the Request within 20 days from the receipt.

69. 5 U.S.C. 5 U.S.C. § 552(a)(3)(A) requires Defendant to make the records "promptly available," to Plaintiffs.

70. Plaintiffs have a legal right to obtain such records, and no legal basis exists for the Defendant's failure to disclose them.

71. Defendant's failure to disclose all responsive records violates, at a minimum, 5 U.S.C. § 552(a)(3)(A), as well as the regulations promulgated thereunder.

COUNT IV

Defendant Improperly Denied Plaintiffs' Request for Expedited Processing

72. Plaintiffs repeat and re-allege each and every allegation contained in the foregoing paragraphs as if repeated and incorporated herein.

73. 5 U.S.C. 552(a)(6)(E) requires the Defendant to make rules and regulations providing for expedited processing of records when there is a compelling need.

74. Defendant's regulation, 6 C.F.R. § 5.5(e), requires expedited processing of a request in several circumstances, including "where there is urgency to inform the public about an actual or alleged federal government activity, if made by a person who is primarily engaged in disseminating information" or where the request concerns "a matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence."

75. Plaintiffs have displayed a compelling need for the information requested, because as immigration reform and budget proposals for DHS are introduced and debated, there is urgency to inform the public about the Citizens Academy program, and Plaintiff OCAD is primarily engaged in disseminating information, as discussed in further detail *supra* and as evidenced in Exhibits A and C attached hereto and incorporated herewith.

76. Defendant has violated Plaintiffs' right to expedited processing under 5 U.S.C. § 552(a)(6)(E) and Defendant's own regulations, 6 C.F.R. § 5.5(e).

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

1. Order Defendant to immediately make a full, adequate, and expedited search for the requested records;
2. Order Defendant to engage in expedited processing in this action;
3. Enjoin Defendant from assessing fees or costs for the processing of the Request;
4. Order Defendant, upon completion of expedited processing, to disclose the requested records in their entirety and make copies available to Plaintiffs no later than ten days after the Court's order;
5. Award Plaintiffs their costs and reasonable attorney's fees incurred in this action as provided by 5 USC § 552(a)(4)(E); and
6. Grant any other and further relief as this Court may deem just and proper.

Respectfully submitted,

/s/ Emily L. Mallor

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forthcoming

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