

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IMMIGRANT DEFENSE PROJECT; and CENTER FOR
CONSTITUTIONAL RIGHTS,

Plaintiffs,

v.

UNITED STATES IMMIGRATION AND CUSTOMS
ENFORCEMENT; UNITED STATES DEPARTMENT OF
HOMELAND SECURITY,

Defendants.

Case No. 20-cv-10625 (RA)

**DECLARATION OF MIZUE AIZEKI IN SUPPORT OF
PLAINTIFFS' CROSS-MOTION FOR SUMMARY JUDGMENT**

I, Mizue Aizeki, declare, pursuant to 28 U.S.C. § 1746 and subject to the penalties of perjury, that the following is true and correct:

1. I am the Senior Advisor of Immigrant Defense Project (“IDP”) and the Director of IDP’s Surveillance, Tech and Immigration Policing Project. I previously served as Deputy Director from September 2015 through March 2022. IDP is a Plaintiff along with the Center for Constitutional Rights (“CCR”) in the above-captioned matter.

2. IDP filed this Freedom of Information Act (“FOIA”) request and litigation, along with CCR, in order to obtain records concerning Operation Palladium, a surge force initiative of the U.S. Department of Homeland Security (“DHS”) and U.S. Immigration and Customs Enforcement (“ICE”) that directly impacts the communities and individuals

which IDP and myself work with. New York City was one of the key targets for the Operation Palladium “surge” force initiative—one in which ICE draws on DHS personnel and/or local law enforcement agencies to increase arrest capabilities in a given location. I make this declaration to provide factual context for Plaintiffs’ argument that Defendants ICE and DHS are in possession of yet-unreleased information responsive to our FOIA request.

3. I have worked on immigration policing, including the entanglement of local law enforcement and DHS and ICE, for the past 15 years, and have worked at IDP for close to 11 years. At IDP, I have led multiple campaigns to end the entanglement of local law enforcement and DHS and ICE policing. IDP began to track DHS and ICE policing in the New York area in 2013 in order to monitor and analyze trends of DHS and ICE arrests and detention, as well as to share that information with community members, advocates, and elected officials. Since 2003, the immigration policing arm of DHS has grown tremendously, and ICE raids have become much more frequent and visible in cities and communities across the country. IDP has seen DHS and ICE justify these surge force operations by naming different groups of people as a potential threat given the political imperatives of a given moment. Given the possibility of a surge force operation similar to Palladium in the future, it is critical that communities have as much information available to prepare and defend their rights.

4. I began my work on DHS and ICE policing while serving as IDP’s Policy and Community Outreach Coordinator. I moved into the Deputy Director role several years

later, from September 2015 through March 2022, and continued to build IDP's work on DHS and ICE raids as well as our state and local advocacy work. In April 2022, my role advanced to serving as IDP's Senior Advisor and Director of the Surveillance, Tech and Immigration Policing Project, where I continue to focus on ICE policing, including the use of surveillance technologies by ICE and DHS more broadly. Because of my expertise, I am often asked by advocates, news outlets, elected officials, academic institutions, and others to provide information and speak on ICE policing practices and immigration policies.

5. Publications on the topic of ICE policing that I have co-authored include *Who's Behind ICE: The Tech and Data Companies Fueling Deportation*, (Immigrant Defense Project et al., 2019), available at <https://www.immigrantdefenseproject.org/whos-behind-ice-the-tech-companies-fueling-deportation/>, and *Defend Against ICE Raids and Community Arrests: A Toolkit to Prepare and Protect Our Communities*, (Immigrant Defense Project and Center for Constitutional Rights, 2019), available at <https://www.immigrantdefenseproject.org/raids-toolkit/>.
6. In my capacity at IDP, I have researched, often using FOIA and other investigative procedures, the various means in which ICE, DHS, and CBP target, surveil, arrest, detain and deport immigrants in the United States. Such initiatives include Secure

Communities¹, ICE raids surge force initiatives such as Operation Cross Check², and ICE Courthouse arrests.³

Immigrant Defense Project

7. IDP is based in New York, NY, and was founded in 1997. Since its founding, IDP has focused on protecting the rights of immigrants at the intersection of the criminal legal and immigration systems. Over the past ten years, IDP has monitored DHS and ICE policing tactics and serves as a resource to community members, direct service practitioners, advocates, journalists, elected officials, and city administrators.

¹ Secure Communities is a federal information sharing program in which fingerprints collected by police at booking are shared automatically with the FBI are shared with DHS, enabling ICE to take enforcement action. Further information and details about Secure Communities has been obtained by FOIA and is available on Plaintiffs' website at:

<https://www.immigrantdefenseproject.org/ending-ice-police-entanglement/>,
<https://www.immigrantdefenseproject.org/campaign-to-end-secure-communities/>,
<https://ccrjustice.org/home/what-we-do/our-cases/national-day-laborer-organizing-network-ndlon-v-us-immigration-and-customs>.

² Operation Cross-Check is ICE's National Fugitive Operations Program's "flagship enforcement initiative," which primarily targets categories of noncitizens with criminal contact. *See* U.S. Immigration and Customs Enforcement, Budget Overview Fiscal Year 2023 at 157, *available at* www.dhs.gov/sites/default/files/2022-03/U.S. Immigration and Customs Enforcement Remediated.pdf. The first Cross Check operation, in May 2011, was highly publicized, and ICE has since regularly issued press releases when conducting Operation Cross Check. *See, e.g.*, U.S. Immigration and Customs Enforcement, ICE arrests 118 during Operation Cross Check in New York (Jan. 29, 2019), *available at* www.ice.gov/news/releases/ice-arrests-118-during-operation-cross-check-new-york.

³ Under the Trump Administration, ICE adopted a policy and practice of surveilling and arresting noncitizens attending state court proceedings. *See* U.S. Immigration and Customs Enforcement, Directive No. 11072.1 *Civil Immigration Enforcement Actions Inside Courthouses* (Jan. 10, 2018), *available at* www.ice.gov/sites/default/files/documents/Document/2018/ciEnforcementActionsCourthouses.pdf. The practice was especially common in New York City and across New York State. *See* IDP, ICE Out of Courts New York State Campaign, *available at* www.immigrantdefenseproject.org/ice-courts-nys/.

8. Drawing from our monitoring of DHS and ICE tactics, IDP provides free Know Your Rights resources about federal immigration enforcement activities in public and private spaces. This includes posters, booklets, and community resource tools regarding interactions with federal immigration agents in homes, workplaces, cars, and on the street. *See* IDP, Know Your Rights with ICE, *available at* www.immigrantdefenseproject.org/know-your-rights-with-ice/. IDP also shares this information through multiple channels, including through community-based materials, trainings, legal practitioner roundtables, IDP’s daily helpline for directly impacted individuals and their lawyers, and an interactive map of ICE raids available through IDP’s website at raidsmap.immdefense.org. Our helpline reaches close to two thousand individuals annually, and in 2020, our community defense team conducted trainings attended by over 5,000 people.

9. Journalists, New York City Councilmembers and administrators, and both New York State and federal elected officials regularly consult IDP about DHS and ICE activities in New York and nationally. For example, in the first eleven weeks of 2020—the leadup to Operation Palladium—IDP tracked a 400% increase in ICE raids compared to the preceding eleven weeks. IDP shared updates on these raids with NYC council members through letters (1/24/2020, 2/14/2020, 3/17/2020) and testimony (2/28/2020), as well as with advocates and journalists.

10. IDP has engaged in multiple FOIA requests and in litigation to learn about DHS and ICE raids practices and policies. These FOIA requests have been critical to our community

education and advocacy work. For example, our 2013 FOIA on ICE raids has provided valuable information on ICE tactics, trainings, and policies. *See* IDP, ICE Raids FOIA, available at <https://www.immigrantdefenseproject.org/raids-foia/>. Because ICE operates with little transparency and accountability, FOIAs have become a critical means to shed light on agency practices. IDP is regarded as a leader both within New York State, as well as nationally, for its work monitoring the practices of ICE, DHS and other law enforcement agencies, and for advocating on behalf of and working alongside immigrants to protect rights against the harms of DHS and ICE policing. The immediate release of the requested information is central to these efforts.

Operation Palladium and ICE Enforcement and Surveillance Programs

11. In February 2020, I was contacted by a reporter from *The New York Times* regarding the presence of CBP and Border Patrol agents, specifically BORTAC (Border Patrol Tactical Unit), and their participation in ICE raids in New York City. According to the article, “The goal of the new joint operation, one of the officials said, was to increase arrests in the sanctuary jurisdictions by at least 35 percent.” Caitlin Dickerson and Zolan Kanno-Youngs, *Border Patrol Will Deploy Elite Tactical Agents to Sanctuary Cities*, N.Y. Times (Feb. 14, 2020), available at <https://tinyurl.com/4tma6v35>.

12. In March 2020, I was again contacted by *The Times* and asked about an incident where ICE agents were conducting an arrest operation in Bronx, New York, brandishing assault rifles on the street and inside an apartment building. The journalist was inquiring if we had received similar reports of ICE with assault rifles for the story they were writing on a

new government ICE raids program titled “Operation Palladium.” That same month, IDP staff had received reports that CBP agents were participating in ICE raids with officers from ICE Enforcement and Removal Operations (“ERO”). See IDP and CCR, ICEwatch, available at <https://raidsmap.immdefense.org/> (last visited Apr. 29, 2022). *The Times* published “‘Flood the Streets’: ICE Targets Sanctuary Cities with Increased Surveillance,” on March 5, 2020. The article provided details on the ICE request for at least 500 special agents as well as continued role of “elite tactical BORTAC agents—immigration SWAT teams that are normally assigned to risky border smuggling, rescue and intelligence operations—to help arrest and deport immigrants in sanctuary cities,” such as New York City until at least May of 2022. The article included a photograph of an agent holding an assault rifle while attempting to gain entry to an apartment in the Bronx. See Caitlin Dickerson, Zolan Kanno-Youngs and Annie Correal, ‘Flood the Streets’: ICE Targets Sanctuary Cities With Increased Surveillance, N.Y. Times (March 5, 2020), Available at <https://www.nytimes.com/2020/03/05/us/ICE-BORTAC-sanctuary-cities.html?searchResultPosition=1>.

13. My knowledge of Operation Palladium is based on the articles from *The Times*, the documents we have received to date in the production, and the connections I see from prior research regarding DHS and U.S. immigrant enforcement operations generally.

14. IDP had learned from news reports in 2017 of a similarly large-scale DHS surge initiative, Operation Mega, which DHS intended to be the largest such operation in the history of ICE, in which the agency would attempt to arrest up to 10,000 immigrants with

the help of all 24 field offices over a five-day period. IDP, community-based organizations, and the public at large were able to learn more details on this operation due to FOIA. See Mijente, *Blueprint for Terror: How ICE Planned Its Largest Immigration Raid in History*, available at <https://mijente.net/icepapers/>. News media reported that DHS postponed implementation of Operation Mega because of Hurricane Irma.

15. Information revealed and questions raised in *The Times* articles were an important reason in IDP's decision to file a FOIA request regarding Operation Palladium. Further, it is clear from this reporting that CBP agents played an important role in this interior enforcement program, and that communications from DHS headquarters were essential to requests for and deployment of more than 500 special agents to these operations.

Because of both the danger posed by these surge operations programs and the lack of information about Operation Palladium, IDP decided to file its FOIA in order to gain much needed transparency for the communities we serve.

16. Release of the records Plaintiffs requested is a matter of importance and urgency. Despite the change in the presidential administration, the potential for large scale surge operations persists. The proposed budget for 2023 does not indicate any apparent reduction in DHS, ICE, and CBP policing power—indeed the current presidential budget proposal calls for an increase in Border Patrol and other CBP agents. In other words, DHS continues to have similar staffing capacity to conduct similar surge forces in the near future.

17. The records we have requested are crucial for our ongoing work advising and supporting communities and individuals impacted by DHS and ICE tactics and policies—in

particular those that target the New York metropolitan area. In addition, IDP is regularly contacted by elected officials, journalists, and community leaders asking for information and analysis on the nature of federal immigration surveillance and policing nationally and specifically within New York City and New York State.

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

Dated: May 2, 2022

A handwritten signature in black ink, appearing to read 'Mizue Aizeki', written in a cursive style.

Mizue Aizeki