

# California Legislature

February 27, 2017

Freedom of Information Act Office  
500 12th Street, SW, Stop 5009  
Washington, D.C. 20536-5009  
FOIA Officer: Catrina Pavlik-Keenan  
FOIA Requester Service Center Contact: Fernando Pineiro  
E-mail: ice-foia@dhs.gov

**RE: Freedom of Information Act Request**

Dear Freedom of Information Officer:

In our capacities as President Pro Tem of the California Senate and Speaker of the California Assembly, we hereby submit this request for information about recent Department of Homeland Security (DHS) policies and Immigration and Customs Enforcement (ICE) activity under the Freedom of Information Act, 5 U.S.C. § 552 and the corresponding regulations.

In recent weeks there was an apparent surge in ICE enforcement activity in California. Despite attempts to gather information regarding the people impacted by these activities, we received little information from ICE. In fact, while ICE provided limited and delayed information to the press, our constituents were still left with many unanswered questions. The result has led to increased confusion and fear in many communities.

With the memorandum issued by Secretary Kelly on February 20, 2017, "Enforcement of the Immigration Laws to Serve the National Interest," we anticipate the need for greater transparency and responsiveness to questions regarding ICE policies and procedures. For example, the memo states that "all existing conflicting directives, memoranda, or field guidance regarding the enforcement of our immigration laws and priorities for removal are hereby rescinded." The memorandum excludes the Deferred Action for Childhood Arrivals (DACA) program. However, it is not clear if the rescindment applies to the ICE directive entitled "Enforcement Actions at or Focused on Sensitive Locations," which limits immigration enforcement actions on certain locations. The apparent surge in ICE enforcement activity, predating the new memorandums, raises questions as to whether ICE is respecting sensitive locations during its operations or instead engaging in indiscriminate mass deportation efforts. ICE enforcement activity, includes, among other things:

- an incident in which ICE agents entered a courthouse where a victim of domestic violence was seeking a restraining order against her abuser, and proceeded to escort her outside in order to arrest her;<sup>1</sup>
- the arrest and detention of an individual lawfully registered under the Deferred Action for Childhood Arrivals (DACA) program after ICE agents allegedly told him DACA status would not help him because he was “not born in this country;”<sup>2</sup>
- reports from witnesses who say that ICE agents waited outside a church shelter in order to ambush, arrest and detain homeless individuals seeking warmth there;<sup>3</sup>
- an instance in which ICE agents deported a woman -- thus separating her from her two U.S. citizen children -- for the crime of using a fake Social Security number to find work, after eight consecutive years in which she checked in with ICE annually per their orders.<sup>4</sup>

While we would hope that ICE would provide more clarity in the future, it is our responsibility as representatives of the people of California to ensure that we have full information regarding the activities that are happening in our state.

California is home to 5.4 million non-citizen residents. Almost half of all California children have at least one immigrant parent. And families with mixed immigration status are extremely common: 74 percent of all noncitizens live in a household that also includes citizens. All of these parents and children are potentially at risk of separation at the hands of ICE. To set the community’s fear to rest, much greater clarity is needed about what ICE’s enforcement policies, procedures and priorities will be going forward.

Under these circumstances, and when the safety and welfare of Californians is at stake, we must demand greater transparency, with the backing of the federal courts if necessary.

### **Requested Records**

We therefore request that, in accordance with your legal obligations hereby triggered under the Freedom of Information Act, 5 U.S.C. § 552 and the corresponding regulations, you release to us all ICE records created or transmitted on or between January 20, 2017, and February 20, 2017, that relate to:

- national or California ICE field office policies regarding ICE enforcement activity at or around churches, schools, hospitals, medical clinics, community centers, courts, and government offices;

---

<sup>1</sup> See <[https://www.washingtonpost.com/news/morning-mix/wp/2017/02/16/this-is-really-unprecedented-ice-detains-woman-seeking-domestic-abuse-protection-at-texas-courthouse/?postshare=2491487270182455&tid=ss\\_mail&utm\\_term=.cb941b05836b](https://www.washingtonpost.com/news/morning-mix/wp/2017/02/16/this-is-really-unprecedented-ice-detains-woman-seeking-domestic-abuse-protection-at-texas-courthouse/?postshare=2491487270182455&tid=ss_mail&utm_term=.cb941b05836b)> (as of Feb. 16, 2017).

<sup>2</sup> See <<http://www.foxnews.com/us/2017/02/14/dreamer-arrested-in-seattle-immigration-sweep-lawyer-says.html>> (as of Feb. 16, 2017).

<sup>3</sup> See <<http://www.nbcwashington.com/news/local/ICE-Agents-Arrest-Men-Leaving-Alexandria-Church-Shelter-413889013.html>> (as of Feb. 16, 2017).

<sup>4</sup> See <<http://www.cnn.com/2017/02/09/us/arizona-guadalupe-garcia-de-rayos-protests/>> (as of Feb. 16, 2017).

- national or California ICE field office policies regarding the access people who have been detained may have with lawyers, community organizations, elected officials or members of the public;
- national or California ICE field office policies regarding ICE treatment of individuals registered under the Deferred Action for Childhood Arrivals (DACA) program if they are present during an ICE operation targeting non-DACA immigrants;
- Implementation, including sanctuary jurisdictions, as described in the Executive Order signed January 25, 2017, and entitled “ENHANCING PUBLIC SAFETY IN THE INTERIOR OF THE UNITED STATES;” and
- ICE enforcement activities undertaken by ICE field offices in California on or between February 1, 2017, and February 20, 2017, including, but not limited to:
  - Records reflecting whether any ICE enforcement activities undertaken by the California-located field offices on or between February 1, 2017, and February 20, 2017, were planned before January 20, 2017;
  - Records supporting the figures publicly announced by ICE relating to ICE enforcement activities undertaken by the California-located field offices on or between February 1, 2017, and February 20, 2017, including those reflecting the number and types of violent crimes claimed by ICE to have been committed by the people detained pursuant to those activities;
  - Records reflecting the locations of ICE enforcement activities undertaken by California-located field offices on or between February 1, 2017, and February 20, 2017;
  - Records reflecting how many of the people detained pursuant to ICE enforcement activities undertaken by the California-located field offices on or between February 1, 2017, and February 20, 2017, have been deported to their home country and the timing of their deportations; and
  - Records reflecting how many of the people detained pursuant to ICE enforcement activities undertaken by the California-located field offices on or between February 1, 2017, and February 20, 2017, have claimed protection under the DACA program.

By “records,” we mean:

- a. any written, typed or printed material including but not limited to legal opinions, memoranda, advisories, guidelines, directives, correspondence, emails, notes, messages, letters, diaries, schedules, reports, charts, lists, spreadsheets, cards, faxes, papers, forms, and telephone messages;
- b. any audio, aural, visual or video records, recordings or presentations;
- c. any graphic materials and data compilations; or

d. any materials using other means of preserving thought or expression.

Please produce any responsive electronic records electronically, in their native file format. If that is not possible, we request that you provide the records in a text-searchable, static-image format (PDF), in the best image quality in the agency's possession.

### **Expedited Processing Request**

We urgently need this information in order to inform our colleagues in the California Legislature and the public at large about the activities of ICE, a federal agency, whether any ICE procedures, policies or priorities have changed, and if so, how. Our constituents have been contacting our offices regularly seeking more information and expressing fear and confusion about what ICE is doing. A critical part of our function as legislators is to gather and disseminate information in response to our constituents' questions regarding government operations. In this sense, our request meets the standard for expedited processing set forth by 5 U.S.C. § 552(a)(6)(E)(v) (II).

The lives and physical safety of many thousands of Californians – citizens and immigrants, documented and undocumented – depend upon knowing this information. ICE enforcement activity separates children from parents and removes primary bread-winners from their households. It uproots people from their communities, sometimes depositing them in foreign countries where they may not have been in decades, may not speak the language and may not have any significant connections. Moreover, the fear of possible ICE enforcement activity in sensitive spaces prevents Californians from accessing services, including education, medical and law enforcement assistance – that may be critical to their well-being or the well-being of their children. Based on our knowledge and belief, we certify all of this to be true and correct. In this way, our request also meets the standard for expedited processing set forth by 5 U.S.C. § 552 (a)(6)(E)(v)(I).

In accordance with 5 U.S.C. § 552 (a)(6)(E)(ii), we expect a determination from you regarding expedited processing within 10 days.

If our request is denied in whole or in part, we respectfully request that you justify all such denials by reference to the specific exemptions to the Freedom of Information Act on which you are relying. We also ask that, in accordance the law, you release to us all segregable portions of otherwise exempt materials.

### **Fee Waiver Request**

We respectfully request the waiver of any fees that may be charged in providing the requested records. We are requesting these records in the public interest and not for a commercial use. It is likely that the disclosure of the requested records will contribute significantly to the public's understanding of the operations and activities of the federal government. These records are requested in our capacities as President Pro Tem of the California Senate and Speaker of the California Assembly and we intend to use them to inform the public and our fellow Members of the Legislature, and to assist us in making public policy decisions in California.

However, if our fee waiver request is denied, we firmly agree to pay any applicable fees up to \$25.00, and we are willing to pay a greater amount if we are provided an estimate of the anticipated fees.

Please produce the responsive records to:

President Pro Tem Kevin de León and Speaker of the Assembly Anthony Rendon  
C/O Diane Boyer-Vine, Legislative Counsel of California  
State Capitol, Room 3021  
Sacramento, CA 95814

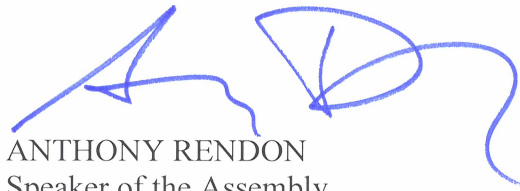
Or by electronic mail to [Diane.Boyer@legislativecounsel.ca.gov](mailto:Diane.Boyer@legislativecounsel.ca.gov).

Thank you for your time and attention to this important request.

Sincerely,



KEVIN DE LEÓN  
Senate President Pro Tem



ANTHONY RENDON  
Speaker of the Assembly