



March 6, 2007

VIA FEDERAL EXPRESS

FOIA Office
U.S. Immigration and Customs Enforcement
800 North Capitol St., NW
5th Floor, Suite 585
Washington, DC 20536

Re: Freedom of Information Act Request
Expedited Processing Requested

Attention:

This is a request for records, made pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 522, implementing regulations 8 C.F.R. § 103.10 and 6 C.F.R. § 5, and any other applicable regulations.

I. REQUEST FOR INFORMATION

The American Civil Liberties Union of Northern California, the San Francisco Bay Guardian, and the Lawyers' Committee for Civil Rights of the San Francisco Bay Area hereby request disclosure of all records in your possession relating to civil immigration enforcement actions conducted by U.S. Immigration Customs and Enforcement ("ICE") since May 2006 (the "designated time period") in Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Cruz, San Benito, San Francisco, Santa Clara, Solano, Sonoma, Fresno, and Tulare Counties (the "designated locations"), including any actions undertaken as part of "Operation Return to Sender."¹

¹ The term "records" as used herein includes all records or communications preserved in written or electronic form, including but not limited to: correspondence, documents, data, videotapes, audio tapes, emails, faxes, files, guidance, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, training manuals, other manuals, or studies. With respect to privacy concerns for members of the public, we will accept copies that are redacted to protect identifying information such as names, social security numbers, and alien numbers, but we would object to the redaction of birthdates and birthplaces that would interfere with our ability to determine the ages and countries of origin for members of the public. In addition, we request that members of the public whose identifying information is redacted be identified with an alphanumeric code so that

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In particular, we request disclosure of records containing the following information:

- 1) Policies and Procedures for Civil Immigration Enforcement: Any and all policies, procedures, guidelines, memoranda, instructions, protocols, training materials or other documents setting forth policies and procedures related to the planning and/or implementation of Operation Return to Sender, and any other civil immigration enforcement actions, including raids, patrols, sweeps, and other contact with the members of the public for the purpose of enforcing civil immigration law in the designated locations and time period.
- 2) Factual Bases for Enforcement: Any and all records referring or relating to information about the factual bases for enforcement activity, including bases for determining who would be sought for questioning and where, and including the dates, sources, and substance of any tips, intelligence, investigations, surveillance, or other factual or demographic analyses made or used in preparation for the civil immigration enforcement actions that are the subject of this FOIA request.
- 3) Targets of Enforcement Effort: Any and all records referring or relating to categories, descriptions, or classifications of aliens targeted by "Operation Return to Sender" and/or the civil immigration enforcement actions which took place in the designated locations and time period, including but not limited to any lists of "fugitives" sought, information regarding their whereabouts that was or was not used to direct the enforcement action, and the success of the enforcement actions with respect to the targeted aliens in each designated category.
- 4) Methods: Any and all records indicating what methods of law enforcement were used by ICE during the operations, including but not limited to pedestrian stops, vehicle stops, stops based on reasonable suspicion, stops based on consent, searches authorized by court warrants, searches based on consent, actions in conjunction or cooperation with other law enforcement agencies; the locations, times and dates on which such methods were used; and the names of other law enforcement agencies involved.
- 5) Local Law Enforcement Coordination: Any and all communications, including but not limited to correspondence, memoranda, email messages, memos, telephone messages, logs, and written notes of phone conversations, between any representative of ICE and any representative of any local government agency, including but not limited to any local law enforcement agency, in whose jurisdiction

multiple records related to the same individual will be recognized as such. This redaction agreement does not apply to identifying information such as names and badge numbers for federal agents.

ICE conducted civil immigration enforcement actions within the designated locations and time period.

- 6) Costs of Operation: Any and all budgets and financial records referring or relating to the projected and actual cost of "Operation Return to Sender" and/or particular civil immigration enforcement actions in the designated locations and time period, disaggregated by county.
- 7) Aggregate Data: We seek the following aggregate data, disaggregated by date and location:
 - a) The number of persons contacted;²
 - b) The number of persons arrested;
 - c) The number of arrested persons subsequently released;
 - d) The number of arrested persons subsequently placed in removal proceedings;
 - e) The number of arrested persons for whom there were outstanding orders of removal at the time of their arrest;
 - f) The number of arrested persons for whom there were arrest warrants at the time of their arrest.
 - g) The number of persons contacted in private residences;
 - h) The number of persons contacted on public streets;
 - i) The number of persons contacted in vehicles;
 - j) The number of persons contacted in schools;
 - k) The number of persons contacted at places of business;
 - l) The number of persons contacted within two blocks of a school, and the times at which contact occurred;
 - m) The number of residences entered; and
 - n) The number of residences entered pursuant to a search warrant.
- 8) Records Related to Certain Practices: Any and all documents related or referring to the policies, official practices, or actual conduct of ICE agents in the designated locations and time period with respect to:
 - a) Seeking and obtaining arrest and search warrants;
 - b) Presenting or not presenting a warrant upon request and/or upon seeking entry to a residence pursuant to a warrant;
 - c) Obtaining consent to enter residences or workplaces;
 - d) Entering residences or workplaces without a warrant or consent;
 - e) Contacting residents in or seeking to enter into residences based on warrants issued for adjacent or nearby residences;
 - f) Identifying or misidentifying themselves as "police," as officers of a local police agency, as ICE agents, or in any other manner;

² "Contact," as used herein, encompasses consensual encounters, questioning of persons stopped by officers, and questioning of persons in custody.

- g) Contacting members of the public based on their presence in an area where persons with outstanding deportation orders are suspected to reside or work;
 - h) Contacting members of the public based on their apparent national origin;
 - i) The use of ethnic, racial, or language characteristics, or other factors relating to perceived national origin to select members of the public for contact;
 - j) Any other criteria or factors used to select members of the public for contact;
 - k) Making contact with persons on public streets or in or around bus stops, BART stations, shopping areas, health clinics, community services offices, government offices, or public schools;
 - l) Questioning minors about the immigration status of their parents;
 - m) Any action or inaction with respect to children whose parents are being arrested;
 - n) Responding to statements by members of the public that they do not wish to answer questions or consent to an interrogation or entry into their home;
 - o) Contacting local law enforcement agencies prior to conducting civil immigration enforcement actions in their jurisdictions; and
 - p) Seeking assistance from local law enforcement agencies in conjunction with civil immigration enforcement actions.
- 9) Training Materials and Information: Any and all records referring or relating to training for ICE agents regarding policies, procedures, law enforcement methods, and other restrictions on the conduct of ICE agents in the course of civil immigration enforcement actions including but not limited to any training materials, outlines, instructions or other documents used or provided to agents; and records showing the names and titles of participants and trainers, dates, hours, and locations of trainings; and any evaluations or related material. For purposes of this paragraph, we request responsive documents created or maintained from May 2001 to the present.
- 10) Records of Particular Enforcement Actions: Any and all records of civil immigration enforcement operations in the designated locations and time period including but not limited to records referring or relating to:
- a) Information about the basis for choosing the locations of enforcement;
 - b) Contacts with members of the public or persons in their homes;
 - c) Dates, times, and locations of enforcement efforts;
 - d) Whether such operations are still ongoing;
 - e) Numbers of immigration enforcement officials involved in each operation or effort;
 - f) Name, title, rank and assignment of immigration enforcement officers involved;
 - g) Daily unit assignment logs (Forms G-481) for each involved unit;
 - h) Daily logs for each involved officer for each day on which enforcement actions were conducted in the designated locations and time period; and

- i) Other records created or maintained by involved officers about the enforcement actions and associated investigations, including incident reports, arrest reports, memoranda, notes and logs.
- 11) Number of Persons Contacted or Arrested: With respect to persons with whom ICE agents had contact in furtherance of civil immigration enforcement in the designated locations and time period, any and all records referring or relating to:
- a) The number of persons contacted;
 - b) The number of persons traveling on foot who were contacted;
 - c) The number of persons traveling by vehicle who were contacted;
 - d) The number of persons arrested; and
 - e) The number of persons against whom removal proceedings were initiated, and copies of their Notices to Appear.
- 12) Records of Individual Contacts and Arrests: For each of the persons referenced in your response to paragraph (6) above, any and all records (broken down by subcategories of paragraph (6)) referring or relating to:
- a) His or her race and/or ethnicity;
 - b) Location, date, time, and duration of questioning;
 - c) Names, titles, and ranks of all law enforcement officers who had or witnessed ICE contact with the person;
 - d) Basis for questioning the person;
 - e) His or her country of citizenship and/or birth.
 - f) His or her visa status under U.S. immigration law.
 - g) Information received from the person;
 - h) Any papers requested from and/or shown by the person contacted;
 - i) Whether, when, and how officers identified themselves and what they gave as their justification for questioning or arrest;
 - j) The criminal or immigration charges filed against him or her, if applicable;
 - k) The location, dates, and duration of his or her detention and release, if applicable;
 - l) The date of his or her removal from the U.S., if applicable;
 - m) Any accompanying family members, and any action or inaction taken by ICE agents toward them;
 - n) Any action or inaction taken with respect to children of persons arrested;
 - o) Whether the arrest was pursuant to a warrant, and if so, the basis for the warrant;
 - p) Whether the person arrested was subject to an outstanding removal order;
 - q) Whether, how, and when, the person contacted or arrested was informed of his or her rights, including the right not to answer questions, allow officers to enter a residence without a warrant, or submit to a search; and
 - r) Any forms concerning the person or given to the person, including Form 213 (Record of Deportable/Inadmissible Alien) and Form 862 (Notice to Appear).

- 13) Records of Residential Entry: For every residence entered, any and all records referring or relating to:
- a) The time, date, and location of the residence, and all people present;
 - b) The legal basis for entering the residence (i.e. a copy of the warrant, any and all records referring or relating to consent or other basis);
 - c) The reasons for entering the residence;
 - d) Procedures and results of any searches and questioning conducted;
 - e) Any persons contacted or arrested in that residence, including but not limited to records referring or relating to outstanding warrants or removal orders, and whether were they identified as targets prior to entering the residence;
 - f) Names, titles, and ranks of all law enforcement officers who witnessed or participated in the entry; and
 - g) Whether, when, and how officers identified themselves and their justification for entering.

II. REQUEST FOR EXPEDITED PROCESSING

Title 5 U.S.C. § 552(a)(6)(E) provides for expedited processing of requests for information in cases in which the person requesting the records demonstrates a compelling need. By statute, for requests made by persons primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity constitutes a “compelling need.” § 552(a)(6)(E)(v)(II). The requesters of this information are primarily engaged in disseminating information. For reasons made clear below, there is urgency to inform the public concerning federal government activity in connection with ICE’s enforcement action, which have been widely reported, have caused widespread anxiety, and have raised widespread concerns about federal government misconduct, including violations of the constitutional rights of local residents, both aliens and citizens.

Department of Homeland Security regulations require that requests be given expedited treatment whenever they involve an “urgency to inform the public about an actual or alleged federal government activity,” if made by a person primarily engaged in disseminating information, or under circumstances which could reasonably be expected to pose an imminent threat to life or physical safety. 6 C.F.R. § 5.5(d). Department of Justice regulations further state that FOIA requests are entitled to expedited processing when the information requested involve “[t]he loss of substantial due process rights,” 28 C.F.R. § 16.5(d)(1)(iii), or “[a] matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity which affect public confidence.” 28 C.F.R. § 16.5(d)(1)(iv).

1. *Requesters*

The American Civil Liberties Union of Northern California (“ACLU-NC”) is an affiliate of the ACLU, a national organization that works to protect civil liberties of all

people, including the safeguarding of the basic constitutional rights to privacy, free expression, and due process of law. The ACLU-NC is responsible for serving the population of northern California. The communications department of the ACLU-NC is the division of the ACLU-NC that is responsible for disseminating information to the public about issues of concern to the ACLU-NC and to the general public.

The San Francisco Bay Guardian ("Guardian") is the largest circulation newsweekly in northern California, with an audited weekly distribution of 150,000. The paper is locally owned, independent, and has been published continuously since 1966.

The Lawyers' Committee for Civil Rights of the San Francisco Bay Area is a civil rights and legal services organization devoted to advancing the rights of people of color, low-income individuals, immigrants and refugees, women, children and other underrepresented persons. The Lawyers' Committee has a profound interest in protecting the constitutional rights of noncitizens in this country and in educating noncitizens about their rights.

2. *Background*

According to news reports and ICE press releases, in May 2006, ICE initiated a massive nationwide enforcement action against illegal immigrants, referred to as "Operation Return to Sender." "ICE Apprehends More Than 2,100 Criminal Aliens, Gang Members, Fugitives And Other Immigration Violators In Nationwide Interior Enforcement Operation," *ICE News Release*, June 14, 2006; Kelly Pakula, "Eshoo Responds to Immigrants' Arrests," *San Mateo County Times*, Feb. 15, 2007; Sara Carter, "Marchers Will Protest Sweeps of Immigrants," *San Bernadino County Sun*, Jan. 25, 2007.³ At least 13,000 people have been arrested nationwide. *Ibid.*

ICE raids and round-ups have been reported throughout northern California, including in Santa Cruz, San Benito, Contra Costa, Fresno, San Mateo, and San Francisco Counties. Jondi Gumz, "Immigration Raids Stun Community," *Santa Cruz Sentinel*, Sept. 9, 2006; Vanessa Hua, "Santa Cruz, San Benito Counties: 107 Arrested in Immigration Sweep," *San Francisco Chronicle*, Sept. 9, 2006; Roger Sideman, "Immigration Sweep Nets 107," *Santa Cruz Sentinel*, Sept. 10, 2006; Tyche Hendricks, "Feds Arrest 119 Illegal Immigrants in Contra Costa," *San Francisco Chronicle*, Jan. 23, 2007; Vanessa Colon, "Roundup of Illegals Shakes Up Mendota," *Fresno Bee*, Feb. 27, 2007; Michel Manekin & Kelly Pakula, "U.S. Immigration Sweeps Hitting Peninsula Area: Seven San Mateo County Residents Taken Into Federal Custody" *Daily Review*, Feb. 7, 2007; Tyche Hendricks, "Immigrant advocates blast raids, crackdown," *San Francisco Chronicle*, Feb. 22, 2007; Anna Werner, "Immigration Agents Conducting Raids in S.F.," *CBS 5 (KPIX-TV, San Francisco)*, Feb. 14, 2007. Similar actions have

³ All of the news articles referenced in this request are attached as Appendix B with an index, in chronological order, for ease of reference.

been reported in southern California, Texas, Colorado, Minnesota, Iowa, Nebraska, Utah, North Carolina, New York and Connecticut. "Southern California Immigration Raid Nets 761 Arrests," *Associated Press*, Jan. 23, 2007; Julia Preston, "Immigrants' Families figuring Out What to Do After Federal Raids," *New York Times*, Dec. 16, 2006; Jennifer Talhelm, "Senators Meet on Recent Immigration Raid," *Associated Press*, Jan. 22, 2007; Nina Bernstein, "Immigrants Go From Farms to Jails, And a Climate of Fear Settles In," *New York Times*, Dec. 24, 2006; Julia Preston, "Immigration Raid Draws Protest From Labor Officials," *New York Times*, Jan. 26, 2007; Sylvia Moreno, "Immigration Raid Leaves Texas Town a Skeleton," *Washington Post*, Feb. 9, 2007; Judy Keen, "Effects of Raid Still Felt in Iowa Town," *USA Today*, Feb. 12, 2007; CT Blogger, "U.S. Immigration and Customs Enforcement 'Operation Return to Sender' Program Hits Danbury," *HatCity Blog*, Sept. 19, 2006; Anna Gorman, "Immigrants Advised About Their Rights," *Los Angeles Times*, March 4, 2007; Melissa McRobbie, "Emotions Still Run High Weeks After Immigration Raids," *Palo Alto Daily News*, March 2, 2007.

ICE itself has issued numerous press releases about implementation of Operation Return to Sender. "163 Criminal Aliens, Fugitives and Other Immigration Violators Arrested by ICE, Collier County Sheriff's Office and Lee County Sheriff's Office, Feds Team Up With Locals to Make Record-Breaking Number of Arrests in Florida," *ICE News Release*, September 25, 2006; "New Jersey Operation Nets 111 Fugitive Alien and Other Immigration Status Violators, Arrests are Result of Operation Return to Sender," *ICE News Release*, October 19, 2006; "ICE Officers Arrest 16 Immigration Fugitives in Chicago Area During 4-Day 'Operation Return to Sender'," *ICE News Release*, October 20, 2006; "ICE Apprehends 21 Criminal Aliens, Fugitives and Other Immigration Violators, Arrests Result From 2-Day Initiative Called 'Operation Return to Sender'," *ICE News Release*, November 3, 2006; "New Jersey Operation Nets 137 Fugitive Aliens and Other Immigration Status Violators, Arrests are Result of Operation Return to Sender," *ICE News Release*, November 20, 2006; "ICE Officers Arrest 25 Fugitives and Immigration Violators in Sioux City and Omaha Areas During Weeklong 'Operation Return to Sender'," *ICE News Release*, November 22, 2006; "ICE Arrests 45 Fugitives and Immigration Violators in Albert Lea and Austin," *ICE News Release*, December 12, 2006; "Week-Long ICE Operation Targeting Criminal Aliens and Illegal Alien Fugitives in the Southland Nets Record Arrests, Subjects Include 2 Foreign Murder Suspects and More Than 150 Immigration Fugitives," *ICE News Release*, January 23, 2007; "ICE 'Operation Return to Sender' Yields 178 Arrests in South Florida, Arrests Part of the Department of Homeland Security's SBI Initiative," *ICE News Release*, February 7, 2007; "New Jersey Fugitive Teams Arrest 363 in Two-Month Operation, Return to Sender Enforces Order Issued by Immigration Judges," *ICE News Release*, March 1, 2007.

Numerous community groups, police representatives, and government officials have complained about illegal, intimidating, and disruptive tactics employed in the raids. The mayor of Richmond described the ICE raids as imposing a "state of terror" on her

community, and stated her support for affected families. Delfin Vigil, "Officials Meet with Public Over Immigration Raids," *San Francisco Chronicle*, Jan. 29, 2007; Tom Lochner, "Fight Over Rights," *Contra Costa Times*, Jan. 29, 2007. Redwood City's Chief of Police and a City Council member also expressed support and concern. Michael Manekin, "Redwood City Holds Meeting to Ease Immigrants' Fears," *Inside Bay Area*, Feb. 9, 2007; Michael Manekin, "Officials Balk at Criticizing Sweeps," *Inside Bay Area*, Feb. 16, 2007. City Council Members in San Pablo and Richmond have complained that identification of ICE agents as police is undermining relations between immigrants and city police, making crime prevention and law enforcement more difficult. Tom Lochner, "Federal Agents Pose as Police to Make Busts: Immigration Authorities Misidentify Themselves to Gain Entry for Arrests," *Alameda Times Star*, Jan. 26, 2007; Vigil, *supra*, Jan. 29, 2007. The Mayor of San Francisco also expressed concern about the raid, saying, "These raids jeopardize the public health and safety of the city by instilling fear in those who may come forward to report information about a crime or those who are in need of medical treatment." Tyche Hendricks, "Immigrant Advocates Blast Raids, Crackdown," *San Francisco Chronicle*, Feb. 22, 2007. Community advocacy groups cited similar concerns, including the worry that the sweeps keep battered women from seeking police assistance. Michelle Durand, "ICE Raids Dubbed Harmful," *San Mateo Daily Journal*, Feb. 14, 2007.

On February 6, 2007, the Richmond City Council unanimously passed a resolution calling for a moratorium on ICE raids until Congress considers comprehensive immigration reform. City of Richmond Resolution No. 11-07; Anna Werner, "Richmond Calls For End to Feds' Immigration Raids," *CBS 5 (KPIX-TV, San Francisco)*, Feb. 7, 2006; John Geluardi, "Officials Try to Ease Residents' Concerns," *West County Times*, Feb. 8, 2007; John Geluardi, "Richmond Pledges to Keep Immigrants Feeling Safe," *Tri-Valley Herald*, Feb. 9, 2007. On February 27, 2006, the San Francisco Board of Supervisors passed a resolution condemning the raids.⁴ Public officials in Mendota have been considering adopting a similar resolution opposing the raids. Colon, *supra*, Feb. 27, 2007. A coalition of advocacy groups also presented a resolution to the Redwood City Council and the San Mateo County Board of Supervisors declaring a safe haven for immigrants. Michael Manekin, "Coalition Wants County Declared Sanctuary for Illegal Immigrants," *Inside Bay Area*, Feb. 23, 2007.

United States Representative Anna Eshoo of Atherton sent a letter to ICE, questioning its practices. Pakula, *supra*, Feb. 15, 2007; Shaun Bishop, "Eshoo Mulls Raids," *Palo Alto Daily News*, Feb. 15, 2007. On March 1, 2007, Zoe Lofgren, United States Representative of the 16th District of California, wrote to Assistant Secretary Julie Myers, seeking information regarding ICE's implementation of Operation Return to Sender, including information about the execution of warrants and any provisions made for minor children of persons who are arrested.

⁴ Where available, documents generated or produced by local, state or federal government entities or officials and cited herein have been attached, with an index, under Appendix A.

The League of United Latin American Citizens filed a complaint with the Department of Homeland Security alleging illegal and inappropriate practices. Shirley Dang, "Latino Group Upset By Raids," *Contra Costa Times*, Jan. 22, 2007. In February, 2007, a group of Northern California legal and community service providers and law associations highlighted reports of abusive tactics in a letter to local lawmakers seeking their attention and intervention with ICE. Religious leaders have also spoken out against the sweeps. Tyche Hendricks, "Church Leaders Speak Out Against Immigration Sweeps," *San Francisco Chronicle*, Sept. 14, 2006; "Raids Shake Northern California," *Immigration News Briefs, Americas.org*, Sept. 16, 2006. Wetzal, *supra*, Jan. 27, 2007. Immigrant advocacy groups have organized rallies and community forums. Lochner, *supra*, Feb. 2, 2007; Carter, *supra*, Jan. 25, 2007.

School teachers and administrators have voiced complaints about the impacts of the raids and their timing on school attendance. "Immigration Sweep Angers School Officials," *NBC11 (KNTV-TV, San Jose)*, Jan. 19, 2007. Significant drop-offs in school attendance in affected Latino communities have been attributed to parents fearing to bring their children to school in light of the raids. Lochner, *supra*, Jan. 26, 2007; Kimberly Wetzal, "Immigration Push has Latinos Wary," *Contra Costa Times*, Jan. 27, 2007; "Redwood City School Attendance Lower After Immigration Raids," *KCBS (KCBS-AM 740, San Francisco)*, Feb. 7, 2007; Dana Yates, "Immigration Raids Put City on Edge," *San Mateo Daily Journal*, Feb. 7, 2007; Manekin & Pakula, *supra*, Feb. 7, 2007; Geluardi, *supra*, Feb. 7, 2007; Tom Lochner, "Arrests Cast Pall Over Immigrants," *Contra Costa Times*, Feb. 2, 2007.

These enforcement activities and their impact on communities have commanded and continue to command much media attention. Some of the abusive practices and other concerns that have been alleged, and reported upon in the media include:

Misuse of Warrants: It has been reported that ICE agents have used the pretext of a search or arrest warrant in order to enter a home that is not associated with the person or address on the warrant, other than being in the same neighborhood or apartment building. Dang, *supra*, Jan. 22, 2007; *Associated Press, supra*, Jan. 23, 2007; Eric Ruder, "Feds' Raids Spread Fear Among Immigrants," *Socialist Worker Online*, Sept. 22, 2006 Vigil, *supra*, Jan. 29, 2007; Colon, *supra*, Feb. 27, 2007 Lochner, *supra*, Jan. 26, 2007; Wetzal, *supra*, Jan. 27, 2007. In one case, a 17-year-old legal resident high school student was arrested and held by agents looking for someone else; she was subsequently released. Lochner, *supra*, Jan. 26, 2007.

Illegal Entries and Searches: ICE agents are alleged to have threatened residents, forced their way into homes, and misused warrants, in order to gain entry to residences without valid warrants or consent, leading to interrogations, searches and arrests which violate the 4th Amendment rights of residents. Agents are alleged to have opened doors and entered without knocking or seeking permission to enter, and in some cases, to have broken doors or windows. David DeBolt, "Immigrants in Richmond

Live in Fear of Deportation: Residents Complaining of Rights Violations Gain Local Officials' Support," *Oakland Tribune*, Feb. 3, 2007; Vigil, *supra*, Jan. 29, 2007.

Misidentification as Members of Local Police Forces: ICE agents are alleged to have identified themselves as members of the Concord or San Pablo police departments, or simply as "police." Local law enforcement agencies have voiced concerns that these practices have led to a breakdown of trust between local police agencies and immigrant communities. Karl Fischer, "City Addresses ICE Raids," *Contra Costa Times*, Feb. 22, 2007; Hendricks, *supra*, Jan. 23, 2007; Lochner, *supra*, Jan. 26, 2007; Vigil, *supra*, Jan. 29, 2007; Pakula, *supra*, Feb. 15, 1007.

Inappropriate Methods Related to Children: ICE agents are alleged to have conducted round-ups near schools, as parents dropped off their children. There have been numerous reports of significant declines in school attendance in affected areas, apparently due to fear instilled in parents. Children were reported to be traumatized, and worried that their parents would be taken away and not return to pick them up. Yates, *supra*, Feb. 7, 2007; "Immigration Sweeps," *supra* Jan. 19, 2007; Melissa McRobbie, "City Seeks Calm After Raids on Immigrants," *San Mateo Daily News*, Feb. 27, 2007; "Redwood City School Attendance Lower," *supra*, Feb. 7, 2007. Children were reported to be afraid to go to school, and afraid that their parents would not come home. Geluardi, *supra*, Feb. 7, 2007. School-children have reportedly come home at the end of the day, to find that their family had been deported. In Santa Cruz, a 13-year-old girl was reportedly left with her 19-year-old sister, when ICE agents arrested their parents at 5:00 a.m. "Students Face Tough Choices After Immigration Raids," Anna Werner, *CBS 5 (KCBS-AM, San Francisco)*, Feb. 10, 2007; Yates, *supra*, Feb. 7, 2007; *Hat City Blog*, Sept. 19, 2006. In one case a mother was reported seized and deported while her 18-month-old daughter went into convulsions, requiring hospitalization; the child and six siblings were left in the care of their father, who works two jobs. "Raids Shake Northern California," *supra*, Sept. 16, 2006.

Ethnic Profiling: ICE agents are alleged to have targeted people without any basis for suspicion, based solely on their ethnic appearance. Kimberly Wetzel, "Immigration Sweeps a Reign of Terror': Latinos Unfairly Targeted for Deportation by Federal Efforts, Advocate Groups Say," *Oakland Tribune*, Jan. 29, 2007; Wetzel, *supra*, Jan. 27, 2007.

Violations of Due Process: Many arrestees have been rapidly deported, often within 24 hours, without a chance to appear before a judge. In some cases it is likely that special circumstances, including a sick infant left behind, would have led a judge to grant a stay of deportation, if the arrestee had been given a chance to appear in court. Ruder, *supra*, Sept. 22, 2006; "Raids Shake Northern California," *supra*, Sept. 16, 2006. Hendricks, *supra*, Sept. 14, 2006; Hua, *supra*, Sept. 9, 2006; Gumz, Sept. 9, 2006. Arrestees and other people questioned have been pressured into signing forms that

they did not understand, including forms with pre-checked boxes indicating that they did not want an attorney. *Lochner, supra*, Jan. 26, 2007.

Abusive Treatment: ICE agents allegedly threw a decorated U.S. Marine to the ground, injuring him, when he could not produce a green card. *Geluardi, supra*, Feb. 7, 2007. In a residence that agents entered without permission or warrant, an entire family, including children, and a visiting friend, were made to lie down on the floor without reason during a search of the premises. This included a grandfather, who was wearing only his underwear. *DeBolt, supra*, Feb. 3, 2007.

Extensive news coverage of the foregoing events, the widespread concern expressed by many citizens and elected officials, and the seriousness of the allegations made against federal government actors, make clear that there is an urgent need to inform the public of the truth surrounding these allegations. 6 C.F.R. § 5.5(d)(i). Reports of abusive tactics, or the tactics themselves, have had a serious impact on pupil attendance in public schools in the affected areas and have undermined public safety by driving a wedge between local law enforcement agencies and immigrant communities. The public has an urgent need to know if the alleged abuses are in fact taking place. If the reports are true, that disclosure will likely lead to a reform of ICE's practices. If untrue, community members may feel safer to participate in society—by sending their children to school and making use of essential health and public safety services. In order for the public, including elected officials, civil rights organizations, and members of impacted communities, to chart a course for a positive and reasonable response, they must have the facts.

Information concerning the characteristics of persons targeted by recent enforcement actions is of urgent concern to the public because of the current public debate about comprehensive immigration reform. On February 27, 2007, the U.S. Congress began its first hearings of the year on the topic of immigration reform, a topic that led to historic immigrant marches in 2005. Jerry Kammer, "Congress Marks Opening Day on Immigration Policy," *San Diego Union-Tribune*, Feb. 27, 2007; Nicole Gaouette, "White House Pushes Immigration Overhaul," *Los Angeles Times*, Feb. 28, 2007; Rick Klein, "Kennedy, McCain Try Again on Immigration, Bill Would Keep Fence, But Ease Way to Citizenship," *The Boston Globe*, Feb. 28, 2007; Ryan Brinks, "The Problems of Immigration Policy – and a Call For a Fix," *Times-Republican*, Mar. 5, 2007; Mike Madden, "Congress to Restart Debate on Migrant Reform, Lawmakers Working Out Details on Measures," *azcentral.com*, March 1, 2007. Recent opinion pieces and news articles have linked civil immigration enforcement and calls for immigration reform. "U.S. Needs Humane Immigration Policy Now," *Contra Costa Times*, Mar. 4, 2007; Sue Ontiveros, "Immigration Reform Fight Not Going Away," *Chicago Sun-Times*, March 3, 2007.

In his State of the Union address, President Bush included finding a rational solution for the approximately 12 million undocumented immigrants present in the

United States as one of his primary issues for immigration reform. According to the White House website, the President believes, "It is neither wise nor realistic to round up and deport millions of illegal immigrants in the United States."

<http://www.whitehouse.gov/infocus/immigration/> (last visited March 4, 2007). In this context, expedited processing is necessary to allow the public to evaluate the extent to which current enforcement efforts are sweeping in otherwise lawful residents, with technical immigration violations, as opposed to "fugitive" foreign nationals with criminal records. Given the immediacy of the policy debate taking place, expedited processing is necessary for the public to be in a position to contact lawmakers before comprehensive immigration reform comes to a vote.

Other aspects of the policy debate that lend urgency to the public's need for the requested information are 1) the very real chilling effect ICE raids have on the political participation of immigrant community members, and 2) the political speculation that the current enforcement effort may be politically motivated to move anti-immigrant lawmakers and groups in preparation for debate around comprehensive immigration reform. "ICE Raids a Bit To Chill Immigrant Organizing," *Freedom Socialist*, Vol. 28, No. 1, Feb-March 2007; Chuck Plunkett and Ann C. Mulkern, "Raids Point to Call for Reform," *Denver Post*, Jan. 3, 2007. In 2005, immigrants marched in record numbers in response to legislative proposals that would have required strict enforcement against all undocumented residents. Immigrants have First Amendment rights to engage in political discourse in the United States and the public as a whole benefits from the stories and perspectives shared by people whose futures are at stake in a legislative debate. Without expedited processing, and either the change in practices or illumination that the alleged abuses are not in fact taking place, immigrants of all varieties of legal status will be less comfortable coming forward and participating in the discussion. In addition, uncovering the truth about the tactics being employed and immigrants being targeted for enforcement action may undermine or confirm that the enforcement effort has some other political object.

Finally, and most importantly, many of the reports cited above indicate that if the raids continue as they have been, without the benefit of public disclosure of abusive policies and practices, they may result in the summary deportation of persons who might have compelling reasons to seek stays of deportation or seek asylum and injuries to victims of the abusive practices, including children whose parents are arrested. For these reasons, expedited processing is proper under 6 C.F.R. § 5.5(d).

III. REQUEST FOR WAIVER OF PROCESSING FEES UNDER FREEDOM OF INFORMATION ACT BY REPRESENTATIVES OF THE NEWS MEDIA.

The ACLU-NC's communications department and the Guardian are "representatives[s] of the news media." Fees associated with the processing of this request should therefore be "limited to reasonable standard charges for document duplication." 5 U.S.C. § 552(a)(4)(A)(ii)(II).

The ACLU-NC's communications department publishes newsletters, news briefings, right-to-know documents, and other materials that are disseminated to the public. Its material is widely available to everyone, including tax-exempt organizations, not-for-profit groups, law students and faculty, for no cost or for a nominal fee. The ACLU-NC's communications department also disseminates information through a website, <<http://www.aclunc.org>>. The website addresses civil liberties issues in depth, provides features on civil liberties issues in the news, and contains numerous documents that relate to the issues on which the ACLU-NC is focused. Finally, the ACLU-NC's communications department disseminates information through a newsletter, which is distributed to subscribers by mail.

As noted above, the Guardian is the largest circulation newsweekly in northern California, with audited weekly distribution of 150,000 copies. The paper is locally owned, independent, and has been continuously published since 1966. The paper covers breaking news, does detailed investigative reporting, publishes editorials and covers arts, entertainment, and lifestyle issues. The Guardian has received more than 100 state, local and national awards for journalistic excellence. The Guardian is a member of the California Newspaper Publishers Association and the Association of Alternative Newsweeklies.

The records requested are not sought for commercial use. The ACLU-NC and the Guardian plan to use the channels described above to disseminate the information disclosed as a result of this FOIA request.

IV. REQUEST FOR WAIVER OF PROCESSING FEES UNDER FREEDOM OF INFORMATION ACT BECAUSE DISCLOSURE OF THE REQUESTED INFORMATION IS IN THE PUBLIC INTEREST.

The ACLU-NC's communications department, the Guardian, and the Lawyers' Committee for Civil Rights of the San Francisco Bay Area request a fee waiver for duplication costs pursuant to 5 U.S.C. § 552(a)(4)(ii)(II)-(iii). Disclosure of the requested information is in the public interest. It will further public understanding of government conduct, in particular possible instances of racial profiling, violations of persons' rights to be free of unreasonable searches and seizures, misrepresentations and abuses of authority by law enforcement officers, and violations of due process.

The ACLU-NC's communications department is a division of a nonprofit 501(c)(3) organization, and both the ACLU-NC's communications department and the Guardian are "representative[s] of the news media." The Lawyers' Committee for Civil Rights of the San Francisco Bay Area is also a nonprofit 501(c)(3) organization. They are well situated to disseminate information gained through this request to the public, to affected communities, to organizations that protect immigrants' rights, and to political and religious organizations.

If the fee waivers are denied, the requesters are prepared to pay fees up to \$25, and request to be informed of further fees that may be charged, but reserve the right to appeal a denial of fee waivers.

If this request for information is denied in whole or in part, we ask that you justify all deletions by reference to specific provisions of the Freedom of Information Act. We expect you to release all segregable portions of otherwise exempt material. We reserve the right to appeal a decision to withhold any information.

Thank you for your prompt attention to this matter. Please furnish all applicable records to Julia Harumi Mass, American Civil Liberties Union of Northern California, 39 Drumm Street, San Francisco, California 94111, telephone (415) 621-2493.

I affirm that the information provided supporting the request for expedited processing is true and correct to the best of my knowledge and belief.

Sincerely,



Julia Harumi Mass
Staff Attorney
American Civil Liberties Union of Northern California

Tim Redmond
Executive Editor
San Francisco Bay Guardian

Philip Hwang
Staff Attorney
Lawyers' Committee for Civil Rights of the San Francisco Bay Area