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October 18, 2016

VIA ELECTRONIC MAIL

U.S. Immigration and Customs Enforcement
Catrina Pavlick-Keenan
FOIA Officer
Mail Stop 5009
500 12th Street, SW
Washington, DC 20536-5009
ICE-FOIA@dhs.gov

Re: Freedom of Information Act Request

Dear FOIA Officer:

The National Immigration Project of the National Lawyers Guild (NIPNLG) submits this request for information under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, *et seq.* This request concerns information regarding administrative orders of removal under § 238(b) of the Immigration and Nationality Act (INA), 8 U.S.C. § 1228(b).

NIPNLG (the Requestor) seeks a fee waiver, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii).

Records Requested

Requestor seeks release of the following records by U.S. Immigration and Customs Enforcement (ICE):

1. Records documenting:
 - a. Orders issued pursuant to INA § 238(b) for each calendar year between 2010 and 2015;
 - b. The issuing ICE Field Office for each order; and
 - c. An indication of whether the order was:
 - i. cancelled (e.g., ICE cancelled and later issued a Notice to Appear)
 - ii. executed (e.g., the person was physically removed based on the order)
 - iii. not-executed (e.g., the person was granted either withholding of removal or protection against the Convention Against Torture)

2. The latest version of “Administrative Removal Proceedings Manual (M-430)” (or any successor manual) currently relied upon by ICE.

If under applicable law any of the information requested is considered exempt, please describe in detail the nature of the information withheld, the specific exemption or privilege upon which the information is withheld, and whether the portions of withheld documents containing non-exempt or non-privileged information have been provided. Thank you in advance for your response to this request within twenty business days, as FOIA requires. *See* 5 U.S.C. § 552(a)(6)(A)(i).

NIPNLG asks that ICE produce the requested records in an electronic format or on a compact disc. If any of the requested records or information is not kept in a succinct format, we request the opportunity to view the documents in your offices.

Request for Waiver of Fees

Requestor is a national non-profit that provides technical and litigation support to immigrant communities, legal practitioners, and all advocates seeking to advance the rights of noncitizens. The NIPNLG provides training to the bar and the bench on immigration consequences of criminal conduct, and is the author of four treatises on immigration law published by Thomson Reuters. In addition, NIPNLG staff present and regularly publish written materials, including practice advisories and reports, on immigration law topics, which are disseminated to its members and a large public audience through its website, www.nationalimmigrationproject.org.

Requestor asks that the agency waive all fees associated with this FOIA request. Such a waiver is warranted because disclosure of the information is “likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii); *see also* 6 C.F.R. § 5.11(k) (records furnished without charge or at a reduced rate if the information is in the public interest, and disclosure is not in commercial interest of institution). In addition, Requester has the ability to widely disseminate the requested information. *See Judicial Watch v. Rossotti*, 326 F.3d 1309, 1315 (D.C. Cir. 2003) (finding a fee waiver appropriate when the requester explained, in detailed and non-conclusory terms, how and to whom it would disseminate the information it received).

A. Disclosure of the Information Is in the Public Interest

Disclosure of the requested information will contribute significantly to the public understanding of government operations and activities, related to use of “Administrative Removal” of alleged noncitizens with aggravated felony convictions. 6 C.F.R. § 5.11(k)(2). The requested records concern the operations or activities of the government in that they relate to ICE’s application and implementation of a statute that authorizes removal without a hearing before an immigration judge—specifically the number and location of individuals who are subject to this summary process and a manual governing the use of the process. Release of the requested records is likely to significantly contribute to the understanding of the administrative removal process because the agency has released little, if any, public information about the numbers of orders issued, locations where orders are issued, the number of individuals actually removed, and the procedures used by the agency to issue administrative removal orders.

Disclosure of the requested records will increase public understanding because NIPNLG has the capacity and intent to disseminate widely the information to a broad audience. NIPNLG will review and analyze the information obtained through this FOIA. In addition, NIPNLG staff will speak publicly and publish written materials to be shared with the public and organizational members. NIPNLG will make the information available through its website, which is accessible by any member of the public. Finally, NIPNLG has frequent contact with national print and news media and plans to share information gleaned from FOIA disclosures with interested media.

B. Disclosure of the Information Is Not Primarily in the Commercial Interest of the Requester

NIPNLG is a 501(c)(3) tax-exempt, not-for-profit organization. Attorneys, noncitizens, and any other interested members of the public may obtain information about immigration-related issues through NIPNLG's distribution of written materials, including its website, and through public and educational appearances. NIPNLG seeks the requested information for the purpose of disseminating it to members of the public who have access to our public website and other free publications, and not for the purpose of commercial gain.

Address for Productions

Please email responsive documents to Sejal Zota at sejal@nipnlg.org or via U.S. mail at the following address:

Sejal Zota
National Immigration Project of the National Lawyers Guild
14 Beacon Street, Suite 602
Boston, MA 02108

Thank you for your time and attention to this matter. Should you have any questions regarding this request, please contact Sejal Zota at 919-767-4981.

Sincerely,

Sejal Zota
Trina Realmuto
Kristin Macleod-Ball
National Immigration Project
of the National Lawyers Guild
14 Beacon Street, Suite 602
Boston, MA 02108