



BRIEFING GUIDE: FOIA DOCUMENTS REVEAL ICE'S USE OF CIVIL FINES TO TARGET IMMIGRANT LEADERS IN SANCTUARY

October 22, 2020

These documents via the Freedom of Information Act were released to Austin Sanctuary Network, Free Migration Project, and Grassroots Leadership as part of [ongoing litigation against ICE](#). The organizations are seeking information regarding ICE's use of enormous and punitive civil fines. These fines work to intimidate immigrants in sanctuary across the country and the places of worship offering them sanctuary. The fines have targeted sanctuary leaders who have spoken out about their cases, raising serious free speech concerns. The organizations are being represented in this FOIA litigation by the NYU Immigrant Rights Clinic and the Center for Constitutional Rights. ICE redacted each of the following documents before releasing them, with some missing key portions. The vast majority of the released documents are so heavily redacted that they are unreadable.

1. Homan Delegation Order: ICE Civil Fines

6/19/18

This document is a delegation order from former Acting ICE Thomas Homan, setting the stage for the implementation of ICE's retaliatory sanctuary fines policy. The order delegates authority to "administer and enforce provisions relating to civil penalties for failure to depart" to a number of lower-level actors within ICE: the Executive Associate Director (EAD); the Deputy EAD; Field Office Directors; and Enforcement and Removal Operations.¹ The order cites the following sources of authority being delegated: a 2004 DHS Delegation Order and statutory provisions from the Immigration and Nationality Act, the U.S. Code, and the Code of Federal Regulations. This order and the Homan Directive (see below), both issued on the same day, together lay the groundwork for weaponizing an obscure, never-before-used immigration statute to levy civil fines against immigrants.

2. Homan Directive: ICE Procedures for Implementing Civil Fines

6/19/18

This is an ICE directive from Acting Director Thomas Homan setting forth the agency's policy regarding the assessment and collection of civil fines. It explains that ICE will exercise discretion in issuing fines and will notify recipients of its intention to impose the fine and their right to request administrative review of the fines in advance. The directive defines key terms, including Notices of Intent to Fine (NIFs), and lists the responsibilities of each ICE subdivision in the fining process. For example, the Office of the Chief Financial Officer is responsible for issuing invoices, tracking fines, and

¹ ERO is the ICE arm that arrests, detains, and deports immigrants alleged to have violated U.S. immigration laws.

referring delinquent debts to the Department of the Treasury. The directive lists procedures and requirements for the fine issuance process (e.g. administrative review if the fine is contested) as well as the authorities and references that underlie its policies (Immigration and Nationality Act and Code of Federal Regulations sections as well as ICE delegations of authority). The directive grants field offices and local-level ICE officers complete discretion in deciding whom to fine, part of a widespread pattern of ICE [impunity](#) and [lack of oversight](#).

3. [Email: ICE Tells Field Offices to Target Local Sanctuary Cases](#)

4/18/19

This is an email thread about the 2018 ICE sanctuary fines directive. It contains an email sent to a number of unknown recipients notifying recipient ICE field offices that they have at least one sanctuary case within their area of responsibility. The email includes a redacted spreadsheet of sanctuary cases and instructs the field offices, for cases in their area, to (1) “Conduct a review of the individual’s A-file and complete the attached questionnaire relating to either a §240B [voluntary departure] or §274D [civil fines for failure to depart] violation” and (2) “Provide information similar to that which you would provide in an executive summary...” Finally, the email contains a redacted list of “details” to be included about the individuals in sanctuary.

The email to field offices has been forwarded to several other recipients with an additional directive that, “Per the Civil Fines working group,” 25 cases from “each office are due May 1st” from the Detroit and Phoenix offices. The reference to “cases” being “due” may describe either field offices being required to provide the relevant information by a certain date, or individuals with civil fines due for collection. The documents released by ICE are replete with references to the “Civil Fines working group,” indicating that ICE, and perhaps other government actors, undertook a concerted, long-term effort to craft and rationalize the civil fines policy starting as early as 2017. These efforts are part and parcel of a broader effort by ICE to retaliate against [individuals](#), [organizations](#), [faith communities](#), and [localities](#) affiliated with sanctuary. This includes individuals in sanctuary and their loved ones, organizations and organizational leaders that advocate for sanctuary policies, and “sanctuary cities” themselves.

4. [Email: ICE Issues Fines to People in Sanctuary, with Table Tracking Sanctuary Cases](#)

6/27/19

This is an email chain announcing ICE's [issuance of fines](#) to people in sanctuary on June 26, 2019. The email demonstrates a retaliatory motive for the issuance of these fines, based on the individuals’ prior advocacy and media attention surrounding their immigration cases. The email instructs recipients (all redacted) to expect media interest “because each of these cases has **already had high media interest** and because 8 of the 9 appear to have [lawyers](#).” The email states that “since this process is being conducted essentially in a vacuum, I wanted to provide some background in the event they [field offices] need it in the field.” The email contains a table tracking nine people in sanctuary.² This table speaks to the vast and invasive surveillance to which ICE subjects immigrants in sanctuary.

² We have redacted the information of individuals whom we have not been in contact with, in order to protect their privacy.

5. [Feere Email: “Fast Tracking” ICE’s Civil Fines Directive](#)

12/17/17

This is a partially-redacted email thread containing an email from Jon Feere to Mike Davidson. Feere is an immigration hardliner who [rose to power](#) under the Trump Administration. He is currently ICE Senior Advisor as well as a [close ally](#) of Stephen Miller (Senior Advisor to President Trump). Feere formerly worked at an organization [categorized as a hate group](#) by the Southern Poverty Law Center and has openly suggested xenophobic and racist policies, such as ways the Trump Administration [could end birthright citizenship](#). In his email to Davidson, Feere states that he is “hoping you can help me **fast track the directive**...to collect all fines and penalties from illegal aliens and those who facilitate their unlawful presence.” Feere continues, “HSI³ is doing a fine job in the worksite context, but it needs to happen in the removal context as well.” Between redactions, the email states, “It’s a bit of a lift, and it is complicated, but it’s also a very focused ask...[p]lease let me know what I can do to make this happen.” This email may be evidence that Miller or someone in his circle played a role in developing the sanctuary fines policy.

³ Homeland Security Investigations is the ICE arm tasked with investigating cross-border criminal activity; in practice, HSI investigates violations involving a range of activity, everything from counter-terrorism to human trafficking to benefits fraud.