

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS

217-2026-CV-00650

SUPERIOR COURT

No. _____

AMERICAN CIVIL LIBERTIES UNION OF NEW HAMPSHIRE

18 Low Avenue, #12
Concord, NH 03301

v.

NEW HAMPSHIRE DEPARTMENT OF SAFETY, DIVISION OF STATE POLICE

33 Hazen Drive
Concord, NH 03305

**PETITION FOR ACCESS TO PUBLIC RECORDS
UNDER THE “RIGHT TO KNOW LAW,” RSA CH. 91-A, AND
PART I, ARTICLE 8 OF THE NEW HAMPSHIRE CONSTITUTION**

(PRIORITY HEARING REQUESTED UNDER RSA 91-A:7)

The philosophy underlying this memorandum is simple: the people of the State of New Hampshire have the right to know what their government is doing. This right is enshrined in Part I, Article 8 of the New Hampshire Constitution. As our General Court has succinctly put it: “Openness in the conduct of public business is essential to a democratic society.” RSA 91-A:1.

-- John M. Formella, New Hampshire Attorney General, March 14, 2024¹

INTRODUCTION

NOW COMES Petitioner American Civil Liberties Union of New Hampshire (“ACLU-NH”), by and through its attorneys, and submits this petition seeking relief against the New Hampshire Department of Safety’s Division of State Police (hereinafter, “Department” or “State Police”) pursuant to RSA ch. 91-A (“the Right-to-Know Law”) and Part I, Article 8 of the New Hampshire Constitution. In this case, the State Police has repeatedly failed to timely comply with four (4) requests sent by Petitioner under the Right-to-Know Law on September 12, 2025, March 16, 2026, April 6, 2026, and May 22, 2026. These four requests would help inform the public

¹ See A.G. Cover Letter to A.G. Memo. on New Hampshire’s Right-to-Know Law, RSA Chapter 91-A (Mar. 14, 2024), *available at* https://www.doj.nh.gov/sites/g/files/ehbem721/files/inline-documents/sonh/attorney-generals-memorandum-on-new-hampshires-right-to-know-law_14march2024.pdf.

about how the State Police—the largest police force in New Hampshire—is enforcing federal immigration law under a federal program in which it formally agreed to participate 18 months ago. See Exhibit 1, at EXS041-43 (September 12, 2025 Request), Exhibit 2, at EXS074, 089-90 (March 16, 2026 Request), Exhibit 3, at EXS104-05 (April 6, 2026 Request), and Exhibit 4, at EXS112-13 (May 22, 2026 Request). This action seeks declaratory relief and an order compelling the State Police to immediately produce the records in question, as the Right-to-Know Law requires. Moreover, where the delays like those experienced by Petitioner appear to be a systemic issue with the State Police and where Petitioner’s efforts to resolve these requests out of court have been unsuccessful, Petitioner seeks its fees and costs associated with the filing of this lawsuit.

Since late April 2025, the State Police has been a party to a Memorandum of Agreement (“MOA”) with Immigration and Customs Enforcement (“ICE”) under the Section 287(g) program. The State Police is one of 28 New Hampshire police agencies participating in this program. Through this program, the State Police has agreed to enforce federal immigration law when troopers trained under the program initiate motor vehicle stops. However, even while some other local New Hampshire police departments participating in this Section 287(g) program have timely produced records under the Right-to-Know Law concerning the nature of their enforcement of federal immigration law, the State Police has failed to do so. As a result, the full nature and scale of the State Police’s implementation of this program and how it enforces federal immigration law—including how many people the State Police has detained under the program and what factors a trooper may consider in assessing whether there is reasonable suspicion or probable cause to believe that there has been a violation of federal immigration laws—remains a mystery to the public. Nor does the public know whether the State Police has received any financial compensation or stipends from ICE under the Section 287(g) program.

Petitioner ACLU-NH routinely grants reasonable requests for extensions of deadlines, including in both litigation and under the Right-to-Know Law, as a professional courtesy. But Petitioner’s four requests to the State Police are now months old (and in one instance nearly one-year old). The State Police’s repeated delays in providing any substantive response—and potentially in searching for responsive records—are unreasonable. Indeed, the Right-to-Know Law is designed to ensure that the public obtains timely access to information. The Law should not be used as a tool to delay the production of information indefinitely, during which time information remains secret and, as a result, the public is unable to know what the government is up to and, if necessary, timely hold the government accountable. As one court has explained in the context of the Freedom of Information Act (“FOIA”), “[t]he fact that [a requester] eventually obtained the information it sought provides scant comfort when stale information is of little value yet more costly than fresh information ought to be.” *See Payne Enterprises, Inc. v. United States*, 837 F.2d 486, 494 (D.C. Cir. 1988); *see also Protect Democracy Project, Inc. v. United States DOJ*, 498 F. Supp. 3d 132, 140 (D.D.C. 2020) (“With less than a week before Election Day, Protect Democracy is at risk of losing its ability to timely facilitate public awareness regarding the subject matter of its request.”; further holding “that Protect Democracy has shown a likelihood of success on the merits of its request for expedited processing”). Here, the State Police’s continued, substantial delays in producing information concerning its immigration enforcement practices prevent the public ““from obtaining in a timely fashion information vital to the current and ongoing debate surrounding the legality of” a high-profile government action.” *See Citizens for Resp. & Ethics in Wash. v. U.S. DOGE Serv.*, 769 F. Supp. 3d 8, 27 (D.D.C. 2025) (quoting *Protect Democracy Project, Inc. v. U.S. Dep’t of Def.*, 263 F. Supp. 3d 293, 299 (D.D.C. 2017)). How New Hampshire’s largest police force enforces federal immigration law is a matter of immediate

concern to the New Hampshire public, especially where concerns have been raised as to how other New Hampshire police departments have wielded this authority.²

In addition, the State Police's failure to timely comply with the four public records requests in this case appears to be systemic. In one instance that is not the subject of litigation in this case, the State Police took 28 months to respond to the ACLU-NH's request for all written communications between the State Police and both Dartmouth College and the University of New Hampshire, respectively, on May 1, 2024—the date in which the State Police evicted protesters at both institutions.³ And when the State Police did respond over two years later, the State finally said that no communications with Dartmouth exist, and produced a single communication with the University of New Hampshire that withheld the communication's attachment. In other words, the State Police waited 28 months—long after the salience of the State Police's actions on May 1, 2024 had dissipated—to tell the ACLU-NH that the State Police was not going to produce what

² See Rick Green and Abigail Ham, *Troy Police Make 12 Immigration Arrests in ICE Partnership*, KEENE SENTINEL (Dec. 4, 2025, updated Jan. 11, 2026), https://www.keenesentinel.com/news/local/troy-nh-police-making-immigration-arrests-under-agreement-with-feds/article_bb458eef-2c98-4c39-a68e-f39f1da85b14.html (“Higo Davico Napoleao, 23, a construction worker from Brazil, was a passenger in a car that was being driven through Troy on Oct. 6 when police pulled it over on a speeding allegation, she said. Napoleao was on his way home to Lowell when police arrested him, Romeiro said. He then spent a month in federal custody until he was released following a bond hearing. Romeiro said Napoleao, who has a valid work authorization card, has been in a years-long process of trying to become a permanent resident. In previous proceedings, the government had dropped a removal case against him because he had been classified as a special immigrant juvenile, she said.”) (emphasis added); Rick Green, *Troy Police Tally Nearly 30 Immigration Arrests*, KEENE SENTINEL (July 24, 2026), https://www.keenesentinel.com/news/local/public_safety/ice-cooperative-agreement-continues-in-troy-nh-with-nearly-20-arrests/article_0967d3d7-5ab4-4d49-96c2-fe9cf1c5f1d3.html (“In Troy, most of the arrests were made on heavily traveled Route 12, which has a speed limit that decreases in town. Police stopped the cars for alleged traffic violations. Officers ask for identification and, if a check with ICE reveals the person is not legally in this country or is unlisted in federal databases, may arrest them and turn them over to the agency, Ellis said Two of the arrests the Troy Police Department made last year were outside of the Cheshire County Courthouse in Keene. Public concerns were raised about Troy's officers operating outside of that town. Ellis said his department has the right to do so under mutual aid agreements entered into by Cheshire County law enforcement agencies. But he added that the public concerns led him to tell ICE that his officers wouldn't be returning to the courthouse for this purpose.”).

³ See Olivia Richardson, *Police Break up Palestinian Solidarity Protests, Arrest Dozens at Dartmouth, UNH*, NHPR (May 2, 2024), <https://www.nhpr.org/2024-05-01/pro-palestinian-protests-at-dartmouth-unh-met-with-police-response> (“Officers with the New Hampshire State Police and local police departments arrested more than 100 protesters at Dartmouth College and the University of New Hampshire Wednesday night, after groups on both campuses tried to set up encampments protesting Israel's war in Gaza.”).

little communications it purportedly had in its possession. See *Exhibit 7*, at EXS146-47, 158-59 (May 10, 2024 Request and Communications re: Gaza Protests).

The *Boston Globe* has experienced similar delays from the State Police, as reflected in a July 27, 2026 lawsuit filed in this Court. There, *The Globe* made a request for immigration-related records on November 10, 2025 only for the State Police to delay its response for four (4) months until March 13, 2026, at which time the State Police only disclosed (i) the existence of one potential responsive record, and (ii) its position that it would only disclose it until after consulting with ICE. See *Exhibit 8*, at EXS165, 176-77 (*Boston Globe Media Partners, LLC v. New Hampshire State Police*, No. 217-2026-cv-00576 (Merrimack Cty., Super Ct., filed July 27, 2026), excluding exhibits). After further delays, the State Police told *The Globe* on June 2, 2026 that the State Police would need until October 8, 2026 to evaluate the responsive records and determine what is exempt from disclosure. *Id.*, at EXS165-66, 177. The State Police only produced the responsive records on July 27, 2026, immediately (about 34 minutes) after *The Globe* filed a lawsuit seeking this information. *Id.*, at EXS178. Based on additional records produced by the State Police to *The Globe* on July 30, 2026, it appears that the State Police did not correspond with ICE about *The Globe*'s November 10, 2025 request until July 13, 2026—some eight (8) months after *The Globe* submitted the request. *Id.*, at EXS178-79. And even though ICE approved the State Police's release of the records on July 16, 2026—meaning that the records were “immediately available for such release” under RSA 91-A:4, IV(a)) at least as of that date—the State Police did not produce the records until after *The Globe* filed suit on July 27, 2026. *Id.*, at EXS179. *The Globe* has sought attorneys' fees due to the State Police's conduct in that matter. *Id.*, at EXS173-183.

For all of these reasons—including the need to make clear to the State Police that a public records request should be timely complied with to ensure that the government is transparent and

accountable—this Court should (i) order immediate compliance with respect to Petitioner’s four requests at issue, and (ii) declare the State Police’s conduct in this case as violative of RSA ch. 91-A. If the State Police can devote time to enforcing federal immigration law, then it can devote time to timely informing the public about the nature of this enforcement.

THE PARTIES

1. Petitioner American Civil Liberties Union of New Hampshire (“ACLU-NH”) is a non-profit organization with an address of 18 Low Ave #12, Concord, NH 03301. The ACLU-NH is the New Hampshire affiliate of the American Civil Liberties Union—a nationwide, nonpartisan, public-interest organization with approximately 1.75 million members (including over approximately 9,000 New Hampshire members and supporters). The ACLU-NH engages in litigation, by direct representation and as *amicus curiae*, to encourage the protection of individual rights guaranteed under federal and state law, including the right to freedom of information pursuant to Part 1, Article 8 of the New Hampshire Constitution and New Hampshire’s public records law (RSA ch. 91-A). The ACLU-NH has a long track record of working on open records issues both in and out of the courts. *See, e.g., Union Leader Corp. and ACLU-NH v. Town of Salem*, 173 N.H. 345 (2020) (overruling 1993 *Fenniman* decision in holding that the public’s interest in disclosure must be balanced in determining whether the “internal personnel practices” exemption under RSA 91-A:5, IV applies to requested records); *Provenza v. Town of Canaan*, 175 N.H. 121 (2022) (holding that a report commissioned by a town as a result of a motor vehicle stop by appellant, a former police officer, was not exempt from disclosure under the Right-to-Know Law, as appellant’s privacy interest was not weighty in that the report did not reveal intimate details of his life, but only information relating to his conduct as a government employee while performing his official duties and interacting with a member of the public); *ACLU-NH v. N.H. Div.*

of State Police, 176 N.H. 302 (2023) (holding that, in response to a Right-to-Know request, police misconduct personnel files cannot be categorically withheld from the public under a different and separate criminal discovery statute—RSA 105:13-b); *Stone v. City of Claremont*, 319 A.3d 1274 (N.H. 2024) (ordering disclosure of disciplinary records concerning former Claremont police officer where the operative agreement did not prohibit disclosure of the requested records).

2. Respondent Department of Safety, and the Division of State Police within it, are public agencies of the State of New Hampshire and, as such, are subject to the Right-to-Know Law under RSA 91-A:1-a, V. The Department is located at 33 Hazen Drive, Concord, NH 03305.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this matter pursuant to RSA 91-A:7. “Any person aggrieved by a violation of [RSA ch. 91-A] may petition the superior court for injunctive relief. In order to satisfy the purposes of [RSA ch. 91-A], the courts shall give proceedings under [RSA ch. 91-A] high priority on the court calendar. The petition shall be deemed sufficient if it states facts constituting a violation of this chapter” RSA 91-A:7.

4. Venue is proper in this Court pursuant to RSA 507:9 because both Petitioner ACLU-NH and the Respondent Department are in Merrimack County.

BACKGROUND: THE STATE POLICE’S AGREEMENT WITH ICE TO ENGAGE IN ENFORCEMENT OF FEDERAL IMMIGRATION LAW

I. The Section 287(g) Program, Financial Incentives to Participate, and ICE’s Demand to Screen Responses Made Under State Public Records Laws.

5. The four Right-to-Know Requests at issue in this case concern the State Police’s agreement with ICE to engage in enforcement of federal immigration law through the Section

287(g) Task Force Model program, as well as the State Police’s actual enforcement of federal immigration laws.

6. Section 287(g) of the Immigration and Nationality Act, enacted 30 years ago in 1996, authorizes ICE to delegate to state and local law enforcement officers the authority to perform various federal immigration enforcement functions.⁴

7. The Section 287(g) program uses three models: (i) the Jail Enforcement Model; (ii) the Warrant Service Officer Program; and (iii) the Task Force Model. Whereas the first two models allow local law enforcement to perform immigration enforcement only with respect to individuals whom they have already arrested or detained, the Task Force Model affords local law enforcement more proactive immigration enforcement authority. As ICE explains on its website, the Task Force Model allows designated officers “to enforce limited immigration authority while performing routine police duties or as an active participant in an ICE-led task force.”⁵ In a fact sheet, ICE further explains that “[t]he 287(g) Task Force Model serves as a force multiplier by allowing state and local law enforcement agencies to enforce limited immigration authority during routine police enforcement duties. This model allows state and local agencies to carry out immigration enforcement activities in non-custodial settings while under ICE supervision and oversight.” See Exhibit 9, at EXS184-85 (*ERO Facts TFM: 287(g) Task Force Model*, U.S. IMMIGR. & CUSTOMS ENF’T (March 2025), <https://www.ice.gov/doclib/about/offices/ero/287g/factsheetTFM.pdf>).

⁴ See U.S. Immigr. & Customs Enf’t, *Partner with ICE Through the 287(g) Program*, <https://www.ice.gov/287g>; 8 U.S.C. § 1357(g).

⁵ See U.S. Immigr. & Customs Enf’t, *ERO Facts: 287(g)* (Aug. 1, 2026), <https://www.ice.gov/doclib/about/offices/ero/287g/factsheet287g.pdf>.

8. In 2011, a U.S. Department of Justice investigation found widespread discrimination against Latinos in an Arizona county sheriff's office.⁶ The violations led the U.S. Department of Homeland Security ("DHS") to suspend its Section 287(g) agreement with the sheriff's office and restrict that office's access to immigration databases through the Secure Communities program.⁷

9. One year later, in 2012, the Task Force Model was discontinued altogether. The Task Force Model then lay abandoned for more than a decade until January 2025.⁸

10. On January 20, 2025, President Donald J. Trump signed Executive Order No. 14159, *Protecting the American People Against Invasion*, 90 Fed. Reg. 8443. The Order resurrected the Task Force Model by requiring ICE to use 287(g) agreements "to authorize State and local law enforcement officials . . . to perform the functions of immigration officers" *Id.* at 8445.

11. To encourage local police departments to participate in the Section 287(g) program, ICE has announced significant financial incentives. For example, a fact sheet published by ICE announces that participating local agencies can receive an initial stipend of a "one-time payment

⁶ See U.S. Dep't of Just., *Department of Justice Releases Investigative Findings on the Maricopa County Sheriff's Office* (Dec. 15, 2011), <https://www.justice.gov/archives/opa/pr/departments-justice-releases-investigative-findings-maricopa-county-sheriff-s-office>.

⁷ See Dep't of Homeland Sec., *Statement by Secretary Napolitano on DOJ's Findings of Discriminatory Policing in Maricopa County* (Dec. 15, 2011), <https://www.dhs.gov/archive/news/2011/12/15/secretary-napolitano-doj-s-findings-discriminatory-policing-maricopa-county>.

⁸ See U.S. Immigr. & Customs Enf't, *FY 2012: ICE Announces Year-End Removal Numbers, Highlights Focus on Key Priorities and Issues New National Detainer Guidance to Further Focus Resources* (Dec. 20, 2012), <https://www.ice.gov/news/releases/fy-2012-ice-announces-year-end-removal-numbers-highlights-focus-key-priorities-and> ("In addition, ICE has also decided not to renew any of its agreements with state and local law enforcement agencies that operate task forces under the 287(g) program. ICE has concluded that other enforcement programs, including Secure Communities, are a more efficient use of resources for focusing on priority cases."); Ana Ceballos, *What's the 287(g) Task Force Model? Your Guide to the Immigration Enforcement Program*, MIA. HERALD (Mar. 12, 2025), <https://www.miamiherald.com/news/local/immigration/article301915479.html> ("In 2012, the model was abandoned by the Obama administration after racial profiling issues were discovered and legal challenges emerged. President Donald Trump did not revive the task force model during his first term, but his administration relaunched it last month, and the Florida Highway Patrol was the first law enforcement agency in the country to enroll.").

of \$100,000 for transportation and \$7,500 per credentialed task force officer for equipment,” as well as a quarterly stipend of “\$7,500 for equipment and \$7,500 for IT resources for a total of \$15,000 per task force officer per fiscal quarter.” *Exhibit 10*, at EXS186-87 (287(g) Program: Stipend and Reimbursement, U.S. IMMIGR. & CUSTOMS ENF’T, <https://www.ice.gov/doclib/about/offices/ero/287g/factsheet287gBenefits.pdf>).

12. As ICE’s website states, starting October 1, 2025, “participating law enforcement agencies will have these reimbursement opportunities:

- ICE will fully reimburse participating agencies for the annual salary and benefits of each eligible trained 287(g) officer, including overtime coverage up to 25% of the officer’s annual salary.
- Law enforcement agencies will be eligible for quarterly monetary performance awards based on the successful location of illegal aliens provided by ICE and overall assistance to further ICE’s mission to defend the homeland:
 - 90% - 100% - \$1,000 per eligible task force officer
 - 80% - 89% - \$750 per eligible task force officer
 - 70% - 79% - \$500 per eligible task force officer.”⁹

13. In April 2026, it also appears that ICE informed some local police departments participating in the Section 287(g) program that “information obtained or developed” through the program—including any document created by local law enforcement—is “under the control of ICE” and cannot be released without federal approval. This directive apparently explains that, if a local agency received a public records request, “you should immediately consult with the ICE FOIA office ... or your local Field Office Director Please keep it in mind particularly in situations when information sharing might otherwise take place, such as press conferences, press

⁹ See Dep’t of Homeland Sec., *DHS 287(g) Reaches More Than 1,000 Partnerships with State and Local Enforcement to Help Remove the Worst of the Worst Criminal Illegal Aliens* (Sept. 17, 2025), <https://www.dhs.gov/news/2025/09/17/dhs-287g-reaches-more-1000-partnerships-state-and-local-enforcement-help-remove>.

releases, media ride alongs, social media postings, and in response to FOIA requests.”¹⁰ It appears that at least one New Hampshire police department was given similar instructions.¹¹ This is not how RSA ch. 91-A works. As such records are in the possession of local police departments performing their duties on behalf of the New Hampshire taxpayers, these records are “governmental records” under RSA 91-A:4, I. State law applies, not unilateral directives from ICE. Indeed, RSA ch. 91-A includes specific, enumerated exemptions from the general requirement that governmental records must be produced upon request, and there is no exemption for records that ICE seeks to unilaterally withhold. Further, notwithstanding ICE’s demand for the ability to screen responses from local agencies that are governed by New Hampshire law, ICE itself has selectively published details concerning the work of local police departments enforcing immigration law.¹² And at least one local police department in New Hampshire has similarly decided to publish information about a person it detained while enforcing federal immigration law. See Exhibit 15, at EXS216 (Colebrook Materials). Of course, disclosure is designed to remedy such circumstances when an agency elects to selectively publish only that which it wants to make public.

¹⁰ See Monique O. Madan, *A Secret ICE Directive is Testing one of Florida’s Strongest Traditions: Open Government*, WLRN (May 7, 2026), <https://www.wlrn.org/light/immigration/2026-05-07/a-secret-ice-directive-is-testing-one-of-floridas-strongest-traditions-open-government>.

¹¹ See Exhibit 17, at EXS245 (Weare Materials) (on June 10, 2026, presumed ICE agent informing New Hampshire local police department the following: “For the 91As, please forward the requests in a pdf attachment to myself and [REDACTED] will assist in advising how, when, and what to respond with, recommending any redactions while adhering to your state laws. ICE doesn’t release any PII or statistical info. A requestor that is requesting any ‘property of ICE’ can be instructed to submit a FOIA.”; presumably ICE agent adding on June 23, 2026 the following: “We are seeing an increase in 91A requests so please see below reminder for guidance on response protocol and requests for assistance. Always contact ERO FOIA [REDACTED] prior to any release of info, whether or not you need guidance/assistance. You can also contact OPLA-GILD [REDACTED] for recommendations on what you may or may not provide, and/or what you can/should redact. Please always courtesy copy me in any emails to either of those mailboxes.”).

¹² See U.S. Immigr. & Customs Enf’t, 287(g) Monthly Encounter Report: FY2026: July (July 2026), https://www.ice.gov/doclib/about/offices/ero/287g/monthlyEncounter_Jul2026.pdf.

II. The State Police's Decision to Enter the Section 287(g) Program in April 2025, Though Its Activities Under this Program Have Been a Mystery for the Last 18 Months.

14. Following President Trump's January 20, 2025 Executive Order, ICE has utilized the once-abandoned Task Force Model in partnerships with over 1,640 state and local police departments in 32 states.¹³

15. Currently, 28 New Hampshire law enforcement agencies have entered into operative agreements with ICE under the Section 287(g) program employing the Task Force Model. This includes the State Police, three of New Hampshire's ten county sheriff's offices (Belknap, Hillsborough, and Rockingham), and 24 police departments (Auburn, Brentwood, Candia, Carroll, Chester, Chichester, Colebrook, Danville, Epping, Gorham, Hillsboro, Kingston, Milton, New Boston, New Durham, Newton, Ossipee, Pittsburg, Pittsfield, Rindge, South Hampton, Troy, Weare, and Whitefield). As of September 2025, at least 58 troopers with the New Hampshire State Police are participating or will participate in this program.¹⁴

16. The State Police was among the first New Hampshire law enforcement agencies to express interest in the Section 287(g) program. On February 27, 2025, the Governor made the

¹³ "As of August 21, 2026 9:23 am ICE has signed 2,365 Memorandums of Agreement for 287(g) programs covering 39 states and 2 U.S. Territories. These include JEM agreements with 181 law enforcement agencies in 30 states and 1 U.S. Territory, 287(g) WSO agreements with 544 law enforcement agencies in 34 states, and 287(g) TFM agreements with 1,640 agencies in 32 states and 2 U.S. Territories." See U.S. Immigr. & Custom's Enf't, *Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act*, <https://www.ice.gov/identify-and-arrest/287g> (last visited Aug. 24, 2026) (emphasis added); see also Gisela Salomon & Rebecca Santana, *The Revival of an Old Program Delegates Trump Immigration Enforcement to Local Police*, ASSOC. PRESS (May 20, 2025), <https://apnews.com/article/287-g-agreements-immigration-law-enforcement-trump-migration-arrests-2a5673cd6c922edd597cb31b532a6b6d>; Rafael Carranza, Arizona Luminaria & Gabriel Sandoval, *Local Police Join ICE Deportation Force in Record Numbers Despite Warnings Program Lacks Oversight*, PROPUBLICA (June 9, 2025), <https://www.propublica.org/article/ice-deportation-police-287g-program-expansion>.

¹⁴ See Steven Porter, *Which Troopers in New Hampshire Will Be ICE-Certified? That Info Is Too Sensitive to Divulge, the State Says*, BOSTON GLOBE (Sept. 12, 2025), <https://www.bostonglobe.com/2025/09/12/metro/nh-trooper-names-287g-ice/> ("Fifty-eight troopers with the New Hampshire State Police were recently nominated to participate in federal immigration enforcement efforts under a previously announced agreement with the Trump administration, according to redacted records obtained by The Boston Globe.").

following statement encouraging local police departments to participate in the Trump administration's reimplementation of the Section 287(g) program:

It is critical for state and local law enforcement to cooperate with federal authorities and protect our citizens. Criminals who are in our country illegally and pose a danger should be apprehended and removed. I support and encourage New Hampshire law enforcement agencies to cooperate with ICE to enforce our laws and keep our communities safe.

See Exhibit 11, at EXS189 (Feb. 27, 2025 Statement, <https://www.governor.nh.gov/news/governor-ayotte-statement-new-hampshire-law-enforcement-cooperating-ice>) (emphasis added). New Hampshire Department of Safety Commissioner Robert L. Quinn was quoted in this same press release as follows:

We are pleased to see that the federal government is interested in reinstating the task force model, which would grant both legal authority and protection to our State Troopers when they encounter individuals in the United States illegally. This agreement will strengthen our longstanding partnerships with federal, state, county and municipal law enforcement agencies, including efforts tied to our state-run Northern Border Alliance program. It also helps ensure New Hampshire's law enforcement officers can act swiftly to remove dangerous criminals and keep our communities the safest in the Nation.

Id. (emphasis added). As of the date of this press release on February 27, 2025, only one local police department in New Hampshire—the Gorham Police Department—had a fully-executed Memorandum of Agreement (“MOA”) with ICE.

17. The State Police ultimately signed the MOA on April 10, 2025¹⁵, and ICE signed the MOA on April 25, 2025. See Exhibit 5, at EXS121-35 (Apr. 25, 2025 State Police/ICE MOA). The State Police publicly announced this agreement on April 30, 2025, where the Governor stated the following:

New Hampshire will not go the way of Massachusetts, where sanctuary policies have enabled violent crime and a billion-dollar illegal immigrant crisis Criminals who are in our country illegally and pose a danger to our communities should be apprehended and

¹⁵ Only seven other New Hampshire law enforcement entities had entered into Section 287(g) agreements with ICE by that point. One of those seven—the Grafton County Sheriff's Office—has since left the Section 287(g) program. See Alex Ebrahimi, *Grafton County Sheriff Pulls Out of ICE Contract*, VALLEY NEWS (May 29, 2026), <https://vnews.com/2026/05/29/grafon-county-sheriff-ice-partnership/>.

removed. I'm glad to have State Police and county and local law enforcement working with our federal partners to enforce our immigration laws, and I thank them for their continued efforts to protect and serve New Hampshire.

Exhibit 12, at EXS192 (Apr. 30, 2025 Announcement, <https://www.nhsp.dos.nh.gov/news-and-media/nh-state-police-announces-memoranda-agreement-us-immigration-and-customs-enforcement>) (emphasis added). Colonel Mark B. Hall of the State Police also stated the following in this press release:

The members of the New Hampshire State Police are committed to keeping our communities among the safest in the nation Under this agreement, Troopers will be authorized and trained by ICE on how to better respond to immigration violations that they encounter. However, residents and visitors should be assured that our mission remains the same as it always has been.

Id.

18. The standard MOA, including the one signed by the State Police, states in section XIII the following:

The LEA hereby agrees to coordinate with ICE prior to releasing any information relating to, or exchanged under, this MOA. For releases of information to the media, the LEA must coordinate in advance of release with the ICE Office of Public Affairs, which will consult with ICE Privacy Office for approval prior to any release. The points of contact for ICE and the LEA for this purpose are identified in Appendix C.

* * *

Nothing herein limits LEA's compliance with state public records laws regarding those records that are solely state records and not ICE records.

See Exhibit 5, at EXS127-28 (Apr. 25, 2025 State Police/ICE MOA).

19. Further, some of these 28 New Hampshire law enforcement agencies participating in the Section 287(g) program—including the Troy Police Department, the Colebrook Police Department, the Carroll Police Department, and the Rockingham County Sheriff's Office—have engaged in immigration arrests. And some agencies also have started receiving funds from ICE. In March 2026, the Carroll Police Department deposited \$122,515 that was received from ICE as

part of the initial kick-off stipend.¹⁶ The Colebrook Police Department similarly received \$107,500 for an arrest it conducted in late November 2025. See Exhibit 15, at EXS203-17 (Colebrook Materials).

20. As the statements of the Governor and State Police make clear, the State Police *is enforcing immigration laws and is responding to alleged immigration violations* during the normal course of their duties under the Section 287(g) program when they initiate motor vehicle stops. However, to date, the full nature and scale of the State Police’s implementation of this program—including how many people the State Police has detained under the program and whether the State Police has received any financial compensation or stipends from ICE—remains a mystery despite (i) the apparent implementation of this program for well over one year, and (ii) the fact that some other participating agencies have produced records concerning their work under the Section 287(g) program. See, e.g., Exhibit 15, at EXS203-17 (Colebrook Materials).¹⁷ In other words, the State Police has been a “black box” with respect to its immigration enforcement activities under the Section 287(g) program. This secrecy is even more concerning where another New Hampshire agency—the New Hampshire Department of Corrections—has taken an expansive view of its immigration detention authority, including taking the extraordinary position that it can hold parolees for ICE indefinitely beyond the 48 hours specified under an ICE detainer. See Exhibit 14, at EXS198-202 (*Alon v. N.H. Dept. of Corr.*, No. 25-cv-505-SM-TSM (D.N.H. Aug. 19, 2026)). In short, transparency is critical here where the State seems to aggressively interpret its ability to detain individuals for ICE.

¹⁶ See Sammy Sussman, *ICE Is Paying Salaries and More for This Town’s Entire Police Force*, WIRED (Mar. 24, 2026), <https://www.wired.com/story/ice-is-paying-the-salaries-of-this-towns-entire-police-force/>.

¹⁷ On July 27, 2026, after it was sued, the State Police produced to *The Boston Globe* two records concerning an October 29, 2025 encounter where the trooper involved was certified under the Section 287(g) program. See Exhibit 8, at EXS178 (*Boston Globe Media Partners, LLC v. New Hampshire State Police*, No. 217-2026-cv-00576 (Merrimack Cty., Super Ct., filed July 27, 2026), excluding exhibits).

21. The 28 New Hampshire agencies, including the State Police, that engage in immigration enforcement through the Section 287(g) program constitute almost all the local law enforcement agencies that are formally participating in the program in New England. Connecticut, Maine¹⁸, Rhode Island, Vermont currently have no local law enforcement agencies participating in the Section 287(g) program. The only local agency in Massachusetts participating in the Section 287(g) program is the Massachusetts Department of Corrections, which employs the more limited Jail Enforcement Model.¹⁹ In other words, New Hampshire law enforcement is unique in New England in electing to engage in immigration enforcement under this program.²⁰

III. The Inadequate Training Provided Under the Section 287(g) Program.

22. Transparency also is critical here because the training that local police receive under the Section 287(g) program appears to be inadequate.

23. Deputization under the Section 287(g) program requires training and supervision by ICE agents. *See* 8 U.S.C. § 1357(g)(2) (“An agreement under this subsection shall require that an officer or employee of a State or political subdivision of a State performing a function under the agreement shall have knowledge of, and adhere to, Federal law relating to the function, and shall contain a written certification that the officers or employees performing the function under

¹⁸ The Wells Police Department in Maine entered into a Section 287(g) agreement in the Spring of 2025. *See* Emma Davis, *First Maine Police Department Joins ICE Partnership*, MAINE MORNING STAR (Apr. 4, 2025), <https://mainemorningstar.com/2025/04/04/first-maine-police-department-joins-ice-partnership/>. After local feedback, the Town of Wells terminated that agreement in October 2025. *See* Ari Snider, *Wells Police Department Terminates Agreement to Cooperate with ICE*, MAINE PUBLIC (Oct. 22, 2025), <https://www.mainepublic.org/immigration/2025-10-22/wells-police-department-terminates-agreement-to-cooperate-with-ice>.

¹⁹ *See* Danny McDonald, Matt Stout, and Laura Crimaldi, *The Department of Correction is the Only Mass. Entity to Have this Pact with ICE. Here's What it Says.*, BOSTON GLOBE (Aug. 24, 2025), <https://www.bostonglobe.com/2025/08/24/metro/ice-doc-massachusetts-agreement/>.

²⁰ The New Hampshire legislature recently enacted Senate Bill 62, which—effective July 21, 2025—seeks to prevent “any county, municipality, or other political subdivision” from “prohibit[ing] or imped[ing] any ... county, or local law enforcement agency from applying for entry or entering into an agreement with the United States Immigration and Customs Enforcement to participate in a federal 287(g) program pursuant to 8 U.S.C. section 1357(g).” *See* RSA 106-P:1.

the agreement have received adequate training regarding the enforcement of relevant Federal immigration laws.)” (emphasis added); *see also* 8 U.S.C. 1357(g)(3), (5); *Arizona v. United States*, 567 U.S. 387, 408-09 (2012) (“In both instances [regarding the issuance of a warrant for a noncitizen’s detention], the warrants are executed by federal officers who have received training in the enforcement of immigration law.”; further noting that “the agreements reached with the Attorney General must contain written certification that officers have received adequate training to carry out the duties of an immigration officer”).

24. To become authorized by ICE to participate in the Task Force Model, ICE states that local police officers must “complete a 40 hour on-line course covering, among other things, scope of authority, immigration law, civil rights law, cross-cultural issues, liability issues, complaint procedures, and obligations under federal law.” *See Exhibit 9*, at EXS184-85 (*ERO Facts TFM: 287(g) Task Force Model*, U.S. IMMIGR. & CUSTOMS ENF’T (March 2025), <https://www.ice.gov/doclib/about/offices/ero/287g/factsheetTFM.pdf>). ICE also states that participating officers “must be United States citizens, sworn law enforcement officers (LEO), and have at least 2 years LEO experience.” *Id.*; *see also Exhibit 13*, at EXS197 (July 3, 2025 email sent from DHS to the Carroll Police Department on eligibility criteria, and noting that “volunteers, auxiliary [part-time] officers, etc.” and officers on “extended leave” are not eligible).

25. Indeed, the standard Task Force Model MOA between ICE and local law enforcement—including the MOA signed by the State Police, for example—states in Section VIII that “ICE will provide participating [officers] with the mandatory training tailored to the immigration functions to be performed,” which “may be made available to the [Office] in both in-person and online, recorded or virtual-meeting formats Training will include, among other things: (i) discussion of the terms and limitations of this MOA; (ii) the scope of immigration officer

authority; (iii) relevant immigration law; (iv) the ICE Use of Force Policy; (v) civil rights laws; (vi) the detention of aliens; (vii) public outreach and complaint procedures; (viii) liability issues; (ix) cross-cultural issues; and (x) the obligations under federal law, including applicable treaties or international agreements, to make proper notification upon the arrest or detention of a foreign national.” See *Exhibit 5*, at EXS125 (Apr. 25, 2025 State Police/ICE MOA).

26. On information and belief, the training for some Section 287(g) program models, in general, was previously reduced. Previously, the Jail Enforcement Model required four weeks of training; that training may now only be five days. The Warrant Service Officer Model also may have had its training halved from eight to four hours.²¹

27. The full scope of the training under the Task Force Model is less clear, especially where the Task Force Model had been discontinued in 2012 before it was reconstituted in January 2025. In separate litigation, ICE has produced Section 287(g) training materials to the ACLU-NH that are heavily redacted. See *ACLU Foundation of New Hampshire v. U.S. Immigration and Customs Enforcement*, No. 1:26-cv-00017 (D.N.H., filed Jan. 15, 2026).

28. What we do know is that local police officers participating in this Task Force Model program, including State Police troopers, receive self-paced training using PowerPoint slides through an online portal. On information and belief, generally no written or electronic training

²¹ Nancy Guan, *ICE and All Florida Sheriffs Sign Cooperation Agreements. Now They Await Streamlined Training*, WUSF.org, (Feb. 25, 2025), <https://www.wusf.org/courts-law/2025-02-25/ice-florida-sheriffs-cooperation-agreements-await-streamlined-training> (“The training time for officers under the program have also been shortened, according to Pinellas County Sheriff Bob Gualtieri, who was also appointed to the State Immigration Enforcement Council. The Jail Enforcement model required officers to go through a four-week training where they learn how to interrogate suspected non-citizens to determine their immigration status within the jail and then issue the ICE detainers. That will be condensed into five days. The Warrant Service Officer Model is more common and trains law enforcement to serve detainer requests, not interrogate suspects. That used to require eight hours of training—but now will only require four. ‘The training in the past has been pretty extensive,’ said Gualtieri, ‘but all of it now is going to get streamlined and we can get this done.’”).

materials are provided to the participating officer in a manner that allows the officer to retain and later refer back to the materials when the need arises.

29. On information and belief, a local officer participating in the Section 287(g) program through the Task Force Model is only granted 60 days to complete the training to receive credentials. *See also Exhibit 13*, at EXS197 (July 3, 2025 email sent from DHS to the Carroll Police Department indicating, in part, that once DHS receives a participating officer’s information, that officer will have “60 days to complete” the training).²² On information and belief, after the designated time period to view the training, the officer no longer has access to the training. And even when a participating officer is able to log onto the portal to view the online training during the designated time window, the ability to print or save any of the training information is generally disabled (and, instead, can only be accessed during an active login session during the limited time window provided).

30. How the State Police is implementing the Section 287(g) program—including how they have made detentions under this program—is critically important for the public. ICE agents receive months of formal training in immigration law and federal policy before they can go out and make arrests.²³ And even then, the training ICE has received has been shortened, possibly even contributing to troubling uses of force.²⁴

²² This exhibit omits an attachment identifying certain local officers from the Carroll Police Department who are participating in the Section 287(g) program.

²³ *See* U.S. Immigr. & Customs Enf’t, *Career Frequently Asked Questions (FAQs)*, <https://www.ice.gov/careers/faqs> (“As a new deportation officer you will be required to attend and successfully complete both, a five-week ERO Spanish Language Training Program (DSP) and the 16-week ERO Basic Immigration Law Enforcement Training Program (BIETP) at the Federal Law Enforcement Training Center (FLETC) as well as successfully complete of the Physical Abilities Assessment (PAA) to continue your career as a deportation officer.”); *see also* Peter Biello, *The Trump Administration is Hiring More ICE Agents. What Training Do They Receive?*, NPR (Oct. 29, 2025), <https://www.gpb.org/news/2025/10/29/the-trump-administration-hiring-more-ice-agents-what-training-do-they-receive>.

²⁴ *See* Hamad Aleaziz, *Mullin Says ICE Training Going Back to “Regular Standards,”* N.Y. TIMES (June 3, 2026), <https://www.nytimes.com/2026/06/03/us/politics/mullin-ice-training.html> (“The scope of ICE training became a point of contention as the Trump administration hired thousands of new officers over the past year and apparently cut

31. But New Hampshire’s troopers participating in this Section 287(g) program receive even less training on immigration enforcement than what ICE agents receive, and this more truncated training occurs through an online portal without the trooper apparently even receiving any written materials that they can refer back to in the future. And this truncated training by ICE apparently is the only training State Police troopers receive on immigration enforcement. Beyond the State Police’s June 22, 2025 Fair and Impartial Policing Policy attached as Exhibit 16, at EXS218-32 which makes only passing reference to the Section 287(g) program²⁵, there are no other policies or procedures developed by the State Police addressing the 287(g) Task Force Model program. The State Police provides no additional training on immigration enforcement to its troopers, including what factors a trooper may consider in assessing whether there is reasonable suspicion or probable cause to believe that there has been a violation of federal immigration laws. In other words, how does a state trooper determine when an alleged violation of immigration laws has occurred? When can a state trooper make inquiries into an individual’s citizenship status?

training requirements as a result of the hiring push. A trove of documents released by Senate Democrats earlier this year showed that training hours had dropped by roughly 40 percent as of February, to approximately 336 hours. As of last July, it had been 584 hours The issue of training for new ICE officers became a flashpoint as the agency became involved in major operations in cities like Minneapolis. The shootings of two American citizens in that city, one of whom was shot by an ICE agent, further inflamed those conversations.”); Rebecca Beitsch, *ICE Whistleblower Accuses Agency of ‘Deficient, Defective and Broken’ Training Amid Hiring Surge*, THE HILL (Feb. 23, 2026), <https://thehill.com/homenews/administration/5751455-ice-officer-training-whistleblower/> (“A U.S. Immigration and Customs Enforcement (ICE) whistleblower accused the agency of lying about shortchanging its training, including legal training over whether they are permitted to use deadly force, amid a hiring surge of new officers.”).

²⁵ This policy says little about how state troopers acting under the program are specifically to enforce federal immigration law, including what criteria they should in use in assessing whether a person is undocumented. This policy simply exempts from various immigration-related procedures “Division members that are duly trained and credentialed to enforce federal immigration laws ... when acting pursuant to the authority granted to the Division member pursuant to the terms of the 287(g) Memorandum of Agreement between the Division and the U.S. Department of Homeland Security.” See Exhibit 16, at EXS222 (June 22, 2025 Fair and Impartial Policing Policy). The policy tacitly acknowledges that a trooper can “arrest or otherwise detain an individual solely upon probable cause that the individual is an undocumented alien,” and adds that, “[i]f a Trooper is trained, certified and acting under authority of a 287 (g) agreement with Immigration Customs Enforcement, the Trooper may make inquiries into an individual’s immigration status consistent with applicable federal law and the training provided by Immigration Customs Enforcement.” *Id.*, at EXS229-31. The policy adds that: “Officers who have been trained and certified under that [Section 287(g)] program must adhere to all applicable federal policies regarding said certification and must also adhere to the State Police’s Fair and Impartial Policing Policy’s prohibition on discrimination and profiling.” *Id.*, at EXS227.

Can a state trooper consider race or language in assessing whether there has been a violation of federal immigration laws? *See Noem v. Vasquez Perdomo*, 146 S. Ct. 1 (Sept. 8, 2025) (Kavanaugh, J., concurring) (explaining that, although apparent ethnicity alone cannot justify a stop, it may be considered as a “relevant factor” among others in determining reasonable suspicion under the Fourth Amendment). Can a trooper under the Section 287(g) program question a passenger about their immigration status? The public simply does not know the answers to these questions, and the requested records may provide important clues as to how the State Police construes its own power. These questions are even more important given the State Police’s prior use of pre-textual stops.²⁶

32. The fact that ICE may have provided no written materials to the State Police or any of the other 27 local law enforcement agencies participating in the Section 287(g) program also raises a fundamental question about the adequacy of this training that (i) is significantly more limited than the training ICE agents receive, and (ii) falls under a program that was hastily rechristened in late-January 2025 after being previously shuttered following racial profiling concerns. What good is a training if the officer being trained to ensure that civil liberties are

²⁶ *See, e.g., State of New Hampshire v. Perez*, No. 218-2018-cr-334, at *2-3, 6-7 (Rockingham Cty. Super Ct. Oct. 4, 2019) (Schulman, J.) (in the context of a I-95 pretextual stop in March 2018, citing MET’s practice of pretextual stops, and noting that the State Police had a “de jure department policy of detaining citizens for purely pretextual reasons”; explaining that trooper followed a vehicle for being “suspicious” simply because the driver was “reclined back in his seat,” had his hands on “ten and two” as drivers are trained to do, and did not look in the trooper’s direction despite the trooper being in an unmarked cruiser while it was dark outside); *United States v. Hernandez*, 470 F. Supp. 3d 114, 124 n.5 (D.N.H. July 9, 2019) (McCafferty, J.) (noting that the MET trooper was parked near the tolls on I-95 on March 26, 2018 and decided to stop a vehicle that had a license plate registered to a car rental company—because he opined that rental cars are frequently used for drug trafficking—so he caught up with the vehicle and then noticed that it was speeding and travelling too close to the next vehicle, thereby providing the trooper with grounds to make the stop; holding that the trooper’s scope of the stop exceeded its mission); *United States v. Garcia*, 53 F. Supp. 3d 502, 514 (D.N.H. 2014) (McAuliffe, J.) (a MET trooper, who was parked on I-95 on August 13, 2013, followed a vehicle on a “hunch,” and stayed within the driver’s blind spot for three miles, until the vehicle’s tires partially transgressed the dotted lane line and then corrected by touching the white fog line, whereupon the trooper stopped the vehicle; holding that, “once Trooper Gacek gave the driver an appropriate sanction — a warning — 19 minutes into the stop, the purpose of the traffic stop was completed,” and “[t]he defendants should have been released,” but instead the trooper “impermissibly and measurably extended the traffic stop by approximately 17 more minutes, persisting in his earlier attempts to develop reasonable suspicion before he ran his drug dog”).

protected does not receive any materials related to the training so that the officer can later refer back to these materials as individual situations arise, and so that supervisors (and the public) can ensure that officers are complying with the training that they received? This makes it even more critical to assess how the State Police has implemented this program and what precisely its troopers have done in enforcing immigration law.

33. Indeed, this apparent practice of compelling local police officers—including New Hampshire State troopers—to rely on training from pure memory is a stark departure from “best practices.” For example, the New Hampshire Department of Justice (“NHDOJ”) publishes their 555-page Law Enforcement Manual online so that it is available not only to individual officers who have to comply with it, but also to the public so that the public can hold law enforcement accountable.²⁷ And lawyers, by analogy, routinely are provided in Continuing Legal Education (“CLE”) courses written materials upon which they can rely in future cases. But, here, ICE apparently takes no such precautions.

PETITIONER ACLU-NH’S FOUR RIGHT-TO-KNOW REQUESTS

34. **September 12, 2025 Request on Training, and Outstanding Consultation with ICE:** On September 12, 2025, the ACLU-NH submitted a Right-to-Know Request to the State Police seeking, in part, the following in Item No. 2: “All documents and audio/video recordings in your Department’s possession, custody, or control relating to any training your Department’s troopers have received under ICE’s 287(g) Task Force Model program. This includes documents sufficient to identify the date of the training.” See Exhibit 1, at EXS040-43 (Sept. 12, 2025 Request). In the over eleven (11) months since this request, the ACLU-NH has not received a substantive response.

²⁷ N.H. Dep’t of Justice, *Law Enforcement Manual* (2020 ed.), https://www.doj.nh.gov/sites/g/files/ehbemt721/files/inline-documents/sonh/law-enforcement-manual-2020_0.pdf.

35. The State Police informed the ACLU-NH on September 19, 2025 that “we anticipate that 60 business days will be reasonably necessary to determine the extent of available records, taking into consideration the workloads and availability of the personnel participating in the processing of your request.” *Id.*, at EXS55-56. The ACLU-NH agreed to the extension that same day, but later asked on September 25, 2025 whether this training request can be “bumped up in priority.” *Id.*, at EXS054. On October 1, 2025, the State Police stated that it “will attempt to move up our response as to the training request.” *Id.*, at EXS053.

36. On December 17, 2025, the State Police informed the ACLU-NH that it had not yet completed its search and that it “anticipate[s] that an additional 30 business days will be necessary to determine whether any such material has been downloaded, following which [the State Police] will provide [the ACLU-NH] with a further timeframe to evaluate the public availability of any such material.” *Id.*, at EXS052. The State Police added the following: “By way of further explanation, the training is online, and State Police hasn’t received or disseminated training materials outside of the online training portal to participating troopers. However, we are continuing to determine the extent to which any troopers may have downloaded any part of the online training.” *Id.*

37. The State Police also asked the ACLU-NH if it was “able to confirm a more narrow scope of this part of your request.” *Id.* The State Police specifically inquired whether, “[a]part from any materials relating to the content of the training and materials sufficient to identify the date(s) of any training,” the ACLU-NH can “confirm that [it is] not interested in email correspondence of an administrative nature, e.g. cumulative/repetitive emails regarding the scheduling of individual troopers, resolving scheduling conflicts, troubleshooting connectivity to the online training platform, or asking/answering questions about how to use the online training

platform.” *Id.* On December 22, 2025, the ACLU-NH clarified that it was “not seeking, for now, email correspondence of an administrative nature, e.g. cumulative/repetitive emails regarding the scheduling of individual troopers, resolving scheduling conflicts, troubleshooting connectivity to the online training platform, or asking/answering questions about how to use the online training platform. We are just seeking any training materials in the DOS’s possession or in the possession of any trooper.” *Id.*, at EXS047.

38. On February 4, 2026, the State Police sought yet another extension, informing the ACLU-NH as follows: “Given the current workloads and the personnel involved in fulfilling this request, we will need until May 01, 2026, to evaluate the records responsive to your request for material that is exempt from disclosure under RSA 91-A or applicable statutes or case law and to provide you with the publicly available records.” *Id.*, at EXS047. On April 10, 2026, the State Police further stated that the assigned attorney’s “monthlong absence requires us to extend the deadline to June 30th.” *Id.*, at EXS046.

39. On July 16, 2026, the State Police sought another extension, stating the following: “Given the current workloads, personnel involved and pending request submitted prior to yours, we will need until November 24, 2026, to evaluate the records responsive to your request for material that is exempt from disclosure under RSA 91-A or applicable statutes or case law and to provide you with the publicly available records. An effort will be made to respond before this date if circumstances allow.” *Id.*, at EXS045.

40. Simply put, this request should not take 14 months (from September 12, 2025 to November 24, 2026) to respond to, especially while the State Police likely is continuing to make immigration-related arrests on New Hampshire’s highways.

41. Furthermore, in response to a follow-up email to the NHDOJ about this request, the NHDOJ stated on August 5, 2026 that “[t]his request is in progress but requires input from ICE. My understanding is that DOS reached out to ICE and are waiting to hear back.” *See Exhibit 6*, at EXS138 (NHDOJ Exchange on All Requests). As explained in Paragraph 13—and setting aside the fact that it is unclear exactly when the State Police asked ICE for input on a response that was nearly one year old—neither ICE nor any agreement with ICE can trump the State Police’s obligations under the Right-to-Know Law. Here, any withheld Section 287(g) training records are in the State Police’s control, custody, or possession and, thus, are “governmental records” subject to the Right-to-Know statute. These obligations cannot be evaded by any contract with ICE. *See, e.g., Stone v. City of Claremont*, 176 N.H. 477, 483 (2024) (police department’s confidentiality agreement with former employee did not block disclosure requirements under RSA 91-A:4); *Rahim v. Dist. Att’y for Suffolk Dist.*, 159 N.E.3d 690, 696 (Mass. 2020) (Despite “[t]he FBI’s assertion that the materials are Federal property and outside the purview of the public records law ... [t]he public records law does not vest agencies with the authority to determine the statute’s scope by making interagency agreements.”); *Golden v. N.J. Inst. of Tech.*, 934 F.3d 302, 313-14 (3d Cir. 2019) (“Where NJIT went astray was in failing to exercise independent judgment and, instead, unquestioningly obeying the FBI’s orders to withhold the records. NJIT is responsible for that choice and must bear the consequences, i.e., paying attorneys’ fees.”). While the MOA requires the State Police “to coordinate with ICE prior to releasing any information relating to, or exchanged under, this MOA,” *see Exhibit 5*, at EXS127 (Apr. 25, 2025 State Police/ICE MOA), this provision does not entitle the State Police to withhold records whose disclosure is required under the Right-to-Know Law.

42. **March 16, 2026 Request on Detentions, and Outstanding Consultation with**

ICE: On March 16, 2026, the ACLU-NH emailed to State Police counsel a Right-to-Know Request seeking in Item No. 1 the following: “All records concerning the State Police’s encounter/arrest/detention/stop of any alleged noncitizen since the State Police’s participation in the 287(g) program. For any such encounter/arrest/detention/stop under the 287(g) program, this request includes any complaint, incident reports, interview/police reports, call logs, police officer narratives, emails, and audio/video recordings, as well as any documents reflecting whether and how the State Police/Department of Safety was compensated.” See *Exhibit 2*, at EXS074, 089-90 (March 16, 2026 Right-to-Know Request).

43. On August 10, 2026, the State Police responded, stating the following: “I’m following up on my email below. Regarding your first request, to date the Division of State Police has identified approximately 26 potential cases that may be responsive to that request. We are collecting the records, and I anticipate that I will have them by the end of the week. At that point, we will conduct the legal analysis as to what information/records may be subject to disclosure under the Right to Know law. To the extent that any of these cases fall under the 287(g) MOA, those records would be considered joint records with DHS, and we are required to confer with ICE prior to any release.” *Id.*, at EXS088. The State Police added that, “[f]or the reasons stated above, I will need an additional 30 days from the date of this email to provide any responsive records. Of course, if I can do it sooner, I certainly will.” *Id.*

44. After five (5) months this request remains outstanding. Further, as to the State Police’s statement that any Section 287(g) “records would be considered joint records with DHS, and we are required to confer with ICE prior to any release,” ICE does not get a veto over what is

required to be produced under New Hampshire's Right-to-Know Law for the same reasons stated above in Paragraphs 13 and 41.

45. **April 6, 2026 Request Regarding Two Encounters:** On April 6, 2026, the ACLU-NH submitted a Right-to-Know Request seeking the police reports regarding the arrests of (i) Mario Josue Perez who may have been arrested, detained, or stopped by the State Police on or about March 3, 2026 in Barrington, NH, and (ii) Segundo Manuel Collaguazo Sacancela, who may have been arrested, detained, or stopped by the State Police. *See Exhibit 3*, at EXS104-05 (April 6, 2026 Request). These are two separate incidents. After initially stating it would respond by May 4, 2026, *see id.*, at EXS108-09, the State Police informed the ACLU-NH on May 5, 2026 that, “[g]iven the current workloads and the personnel involved in fulfilling this request, we will need until September 14, 2026, to evaluate the records responsive to your request for material that is exempt from disclosure under RSA 91-A or applicable statutes or case law and to provide you with the publicly available records.” *Id.*, at EXS107. That same day, the ACLU-NH responded, stating that, “[a]s these are very discrete requests for police reports in only two cases, we would ask for a response sooner, as this should take a minimal amount of work.” *Id.*

46. After inquiries by the ACLU-NH to the NHDOJ, the NHDOJ stated on August 5, 2026 that this request was “[i]n progress but requires additional time. I should have an updated timeline soon.” *See Exhibit 6*, at EXS137-38 (NHDOJ Exchange on All Requests). However, still no timeline has been provided.

47. In short, this is a very discrete request that should not take five months (from April 6, 2026 to September 14, 2026) to comply with.

48. **May 22, 2026 Request Regarding an Encounter:** On May 22, 2026, the ACLU-NH submitted a Right-to-Know Request seeking records (including arrest records and police

reports) concerning (i) Byron Raul Sanay Guaraca (a/k/a Byran Raul Sanay Guaraca) who may have been arrested, detained, or stopped by the State Police on or about May 18, 2026 while driving north on Interstate 89 (I-89) between exits 19 and 20, and (ii) Nestor Rafael Guaraca Sanay (a/k/a Nestor Raul Guaraca-Sanay) who may have been arrested, detained, or stopped by the State Police on or about May 18, 2026 while driving north on Interstate 89 (I-89) between exits 19 and 20. *See Exhibit 4*, at EXS112-13 (May 22, 2026 Request).

49. After initially stating it would respond by June 24, 2026, *see id.*, at EXS118-19, the State Police informed the ACLU-NH on June 24, 2026 that, “[g]iven the current workloads, personnel involved and pending requests submitted prior to yours, we will need until November 16, 2026, to evaluate the records responsive to your request for material that is exempt from disclosure under RSA 91-A or applicable statutes or case law and to provide you with the publicly available records. An effort will be made to respond before this date if circumstances allow.” *Id.*, at EXS117. On June 26, 2026, the ACLU-NH responded, stating: “Respectfully, this request is narrow in scope. We are amenable to an additional extension to July 31. If you cannot confirm that this information will be produced by that date, we reserve our rights to seek relief from the courts, including seeking our fees and costs.” *Id.*, at EXS116.

50. After inquiries by the ACLU-NH to the NHDOJ, the NHDOJ stated on August 5, 2026 that this request was “[i]n progress but requires additional time. I should have an updated timeline soon.” *See Exhibit 6*, at EXS137-38 (NHDOJ Exchange on All Requests). However, still no timeline has been provided to date.

51. In short, this is a very discrete request that should not take nearly six months (from May 22, 2026 to November 16, 2026) to comply with.

RIGHT-TO-KNOW LAW PRINCIPLES

52. New Hampshire's Right-to-Know Law under RSA ch. 91-A is designed to create transparency with respect to how the government interacts with its citizens. The preamble to the law states: "Openness in the conduct of public business is essential to a democratic society. The purpose of this chapter is to ensure both the greatest possible public access to the actions, discussions and records of all public bodies, and their accountability to the people." RSA 91-A:1. The Right-to-Know Law "helps further our State Constitutional requirement that the public's right of access to governmental proceedings and records shall not be unreasonably restricted." *Goode v. N.H. Legis., Budget Assistant*, 148 N.H. 551, 553 (2002).

53. The Right-to-Know Law has a firm basis in the New Hampshire Constitution. In 1976, Part 1, Article 8 of the New Hampshire Constitution was amended to provide as follows: "Government ... should be open, accessible, accountable and responsive. To that end, the public's right of access to governmental proceedings and records shall not be unreasonably restricted." *Id.* New Hampshire is one of the few states that explicitly enshrines the public's right of access in its Constitution. *Associated Press v. State*, 153 N.H. 120, 128 (2005). Article 8's language was included upon the recommendation of the Bill of Rights Committee to the 1974 constitutional convention and adopted in 1976. While New Hampshire already had RSA ch. 91-A to address the public's right to access information, the Committee argued that the right was "extremely important and ought to be guaranteed by a constitutional provision." LAWRENCE FRIEDMAN, *THE NEW HAMPSHIRE STATE CONSTITUTION* 53 (2d ed. 2015).

54. Consistent with these principles, courts resolve questions under the Right-to-Know Law "with a view to providing the utmost information in order to best effectuate the statutory and constitutional objective of facilitating access to all public documents." *Union Leader Corp. v. N.H.*

Housing Fin. Auth., 142 N.H. 540, 546 (1997) (citation omitted). Courts therefore construe “provisions favoring disclosure broadly, while construing exemptions narrowly.” *Goode*, 148 N.H. at 554 (citation omitted). “[W]hen a public entity seeks to avoid disclosure of material under the Right-to-Know Law, that entity bears a *heavy burden* to shift the balance toward nondisclosure.” *Murray v. N.H. Div. of State Police*, 154 N.H. 579, 581 (2006) (emphasis added).

COUNTS

COUNT I (ITEM NO. 2 ON TRAINING OF THE SEPTEMBER 12, 2025 REQUEST) **FAILURE TO PRODUCE DOCUMENTS PURSUANT TO RSA CH. 91-A AND PART I,** **ARTICLE 8 OF THE NEW HAMPSHIRE CONSTITUTION**

55. All prior paragraphs are incorporated.

56. On September 12, 2025, Petitioner ACLU-NH requested “[a]ll documents and audio/video recordings in your Department’s possession, custody, or control relating to any training your Department’s troopers have received under ICE’s 287(g) Task Force Model program. This includes documents sufficient to identify the date of the training.” See *Exhibit I*, at EXS040-43 (Sept. 12, 2025 Request). After numerous delays, on July 16, 2026, the State Police stated the following: “Given the current workloads, personnel involved and pending request submitted prior to yours, we will need until November 24, 2026, to evaluate the records responsive to your request for material that is exempt from disclosure under RSA 91-A or applicable statutes or case law and to provide you with the publicly available records. An effort will be made to respond before this date if circumstances allow.” *Id.*, at EXS054.

57. In the over eleven (11) months from this request to today, the ACLU-NH has not received a substantive response. Such a delay, including to November 24, 2026, is not “reasonably necessary to determine whether the request shall be granted or denied” under RSA 91-A:4, IV(b)(3).

58. Further, under RSA 91-A, IV(a), upon receiving Petitioner’s request, the State Police was required to examine the requested records and produce any non-exempt records that were “immediately available.” RSA 91-A:4, IV(a) reads: “Each public body or agency shall, upon request for any governmental record reasonably described, make available for inspection and copying any such governmental record within its files when such records are immediately available for such release.” (emphasis added). The only way State Police could determine whether there were “any such governmental record ... immediately available for such release” is first to inspect the requested records. Having not yet produced a single record, it is unclear based on the State Police’s response whether the State Police timely examined the requested records—as well as whether the State Police timely sought consultation with ICE—to determine what is “immediately available” before setting arbitrary response deadlines. *See also Seavey v. Department of Justice*, 266 F. Supp. 3d 241, 244 (D.D.C. 2017) (“Once an individual makes a FOIA request, “an agency usually has 20 working days to make a ‘determination’” as to the request. “[I]n order to make [this] ‘determination’... the agency must at least: (i) gather and review the documents; (ii) determine and communicate the scope of the documents it intends to produce and withhold, and the reasons for withholding any documents; and (iii) inform the requester that it can appeal whatever portion of the ‘determination’ is adverse.”) (emphasis added) (citations omitted).

59. The State Police’s effective refusal to produce this information fails to comply with the dictates of RSA ch. 91-A and Part I, Article 8 of the New Hampshire Constitution.

60. Accordingly, the requested records are public documents under RSA ch. 91-A and should be produced immediately.

COUNT II (ITEM NO. 1 ON DETENTIONS IN MARCH 16, 2026 REQUEST)
FAILURE TO PRODUCE DOCUMENTS PURSUANT TO RSA CH. 91-A AND PART I,
ARTICLE 8 OF THE NEW HAMPSHIRE CONSTITUTION

61. All prior paragraphs are incorporated.

62. On March 16, 2026, Petitioner ACLU-NH requested “[a]ll records concerning the State Police’s encounter/arrest/detention/stop of any alleged noncitizen since the State Police’s participation in the 287(g) program. For any such encounter/arrest/detention/stop under the 287(g) program, this request includes any complaint, incident reports, interview/police reports, call logs, police officer narratives, emails, and audio/video recordings, as well as any documents reflecting whether and how the State Police/Department of Safety was compensated.” See *Exhibit 2*, at EXS074 (March 16, 2026 Right-to-Know Request). On August 10, 2026, the State Police responded, stating the following: “I’m following up on my email below. Regarding your first request, to date the Division of State Police has identified approximately 26 potential cases that may be responsive to that request. We are collecting the records, and I anticipate that I will have them by the end of the week. At that point, we will conduct the legal analysis as to what information/records may be subject to disclosure under the Right to Know law. To the extent that any of these cases fall under the 287(g) MOA, those records would be considered joint records with DHS, and we are required to confer with ICE prior to any release.” *Id.*, at EXS088. The State Police added that, “[f]or the reasons stated above, I will need an additional 30 days from the date of this email to provide any responsive records. Of course, if I can do it sooner, I certainly will.” *Id.*

63. In the over five (5) months from this request to today, the ACLU-NH has not received a substantive response. Such a delay is not “reasonably necessary to determine whether the request shall be granted or denied” under RSA 91-A:4, IV(b)(3).

64. Further, under RSA 91-A, IV(a), upon receiving Petitioner’s request, the State Police was required to examine the requested records and produce any non-exempt records that were “immediately available.” RSA 91-A:4, IV(a) reads: “Each public body or agency shall, upon request for any governmental record reasonably described, make available for inspection and copying any such governmental record within its files when such records are *immediately available* for such release.” (emphasis added). The only way State Police could determine whether there were “any such governmental record ... immediately available for such release” is first to inspect the requested records. Having not yet produced a single record, it is unclear based on the State Police’s response—which indicated that it is “collecting the records”—whether the State Police timely examined the requested records to determine what is “immediately available.” *See also Seavey*, 266 F. Supp. 3d at 244.

65. The State Police’s effective refusal to produce this information fails to comply with the dictates of RSA ch. 91-A and Part I, Article 8 of the New Hampshire Constitution.

66. Accordingly, the requested records are public documents under RSA ch. 91-A and should be produced immediately.

COUNT III (THE APRIL 6, 2026 REQUEST REGARDING TWO ENCOUNTERS)
FAILURE TO PRODUCE DOCUMENTS PURSUANT TO RSA CH. 91-A AND PART I,
ARTICLE 8 OF THE NEW HAMPSHIRE CONSTITUTION

67. All prior paragraphs are incorporated.

68. On April 6, 2026, Petitioner ACLU-NH requested the police reports regarding the arrests of (i) Mario Josue Perez who may have been arrested, detained, or stopped by the State Police on or about March 3, 2026 in Barrington, NH, and (ii) Segundo Manuel Collaguazo Sacancela, who may have been arrested, detained, or stopped by the State Police. *See Exhibit 3*, at EXS104-05 (April 6, 2026 Request). These are two separate incidents. The State Police

informed the ACLU-NH on May 5, 2026 that, “[g]iven the current workloads and the personnel involved in fulfilling this request, we will need until September 14, 2026, to evaluate the records responsive to your request for material that is exempt from disclosure under RSA 91-A or applicable statutes or case law and to provide you with the publicly available records.” *Id.*, at EXS107.

69. In the over four (4) months from this request to today, the ACLU-NH has not received a substantive response. Such a delay, including to September 14, 2026, is not “reasonably necessary to determine whether the request shall be granted or denied” under RSA 91-A:4, IV(b)(3).

70. Further, under RSA 91-A, IV(a), upon receiving Petitioner’s request, the State Police was required to examine the requested records and produce any non-exempt records that were “immediately available.” RSA 91-A:4, IV(a) reads: “Each public body or agency shall, upon request for any governmental record reasonably described, make available for inspection and copying any such governmental record within its files when such records are immediately available for such release.” (emphasis added). The only way State Police could determine whether there were “any such governmental record ... immediately available for such release” is first to inspect the requested records. Having not yet produced a single record, it is unclear based on the State Police’s response whether the State Police timely examined the requested records to determine what is “immediately available” before setting arbitrary May 4, 2026 and September 14, 2026 response deadlines. *See also Seavey*, 266 F. Supp. 3d at 244.

71. The State Police’s effective refusal to produce this information fails to comply with the dictates of RSA ch. 91-A and Part I, Article 8 of the New Hampshire Constitution.

72. Accordingly, the requested records are public documents under RSA ch. 91-A and should be produced immediately.

COUNT IV (MAY 22, 2026 REQUEST REGARDING AN ENCOUNTER)
FAILURE TO PRODUCE DOCUMENTS PURSUANT TO RSA CH. 91-A AND PART I,
ARTICLE 8 OF THE NEW HAMPSHIRE CONSTITUTION

73. All prior paragraphs are incorporated.

74. On May 22, 2026, Petitioner ACLU-NH requested records (including arrest records and police reports) concerning (i) Byron Raul Sanay Guaraca (a/k/a Byran Raul Sanay Guaraca) who may have been arrested, detained, or stopped by the State Police on or about May 18, 2026 while driving north on Interstate 89 (I-89) between exits 19 and 20, and (ii) Nestor Rafael Guaraca Sanay (a/k/a Nestor Raul Guaraca-Sanay) who may have been arrested, detained, or stopped by the State Police on or about May 18, 2026 while driving north on Interstate 89 (I-89) between exits 19 and 20. *See Exhibit 4*, at EXS112-13 (May 22, 2026 Request). The State Police informed the ACLU-NH on June 24, 2026 that, “[g]iven the current workloads, personnel involved and pending requests submitted prior to yours, we will need until November 16, 2026, to evaluate the records responsive to your request for material that is exempt from disclosure under RSA 91-A or applicable statutes or case law and to provide you with the publicly available records. An effort will be made to respond before this date if circumstances allow.” *Id.*, at EXS117.

75. In the three (3) months from this request to today, the ACLU-NH has not received a substantive response. Such a delay, including to November 16, 2026, is not “reasonably necessary to determine whether the request shall be granted or denied” under RSA 91-A:4, IV(b)(3).

76. Further, under RSA 91-A, IV(a), upon receiving Petitioner’s request, the State Police was required to examine the requested records and produce any non-exempt records that

were “immediately available.” RSA 91-A:4, IV(a) reads: “Each public body or agency shall, upon request for any governmental record reasonably described, make available for inspection and copying any such governmental record within its files when such records are immediately available for such release.” (emphasis added). The only way State Police could determine whether there were “any such governmental record ... immediately available for such release” is first to inspect the requested records. Having not yet produced a single record, it is unclear based on the State Police’s response whether the State Police timely examined the requested records to determine what is “immediately available” before setting an arbitrary November 16, 2026 response deadline. *See also Seavey*, 266 F. Supp. 3d at 244.

77. The State Police’s effective refusal to produce this information fails to comply with the dictates of RSA ch. 91-A and Part I, Article 8 of the New Hampshire Constitution.

78. Accordingly, the requested records are public documents under RSA ch. 91-A and should be produced immediately.

WHEREFORE, Petitioner ACLU-NH respectfully prays that this Honorable Court:

- A. Declare that all records sought under the September 12, 2025 Request (only item no. 2), the March 16, 2026 (only item no. 1), the April 6, 2026 Request, and the May 22, 2026 Request are public records that must be made available for inspection by Petitioner and members of the public under RSA ch. 91-A and Part I, Article 8 of the New Hampshire Constitution;
- B. Declare that Respondent’s actions in response to the September 12, 2025 Request (only item no. 2), the March 16, 2026 (only item no. 1), the April 6, 2026 Request, and the May 22, 2026 Request are violating, and have violated, RSA ch. 91-A and Part I, Article 8 of the New Hampshire Constitution;
- C. Pursuant to RSA 91-A:8, I, grant Petitioner reasonable attorneys’ fees and costs as this lawsuit was necessary to enforce compliance with the provisions of RSA ch. 91-A or to address a purposeful violation of RSA ch. 91-A. Fees are appropriate because the Department knew or should have known that the conduct engaged in was in violation of RSA ch. 91-A;

D. Give this action “priority on the Court calendar” as required by RSA 91-A:7, by issuing Orders of Notice forthwith and scheduling a hearing on the relief Petitioner seeks; and

E. Award such other relief as may be equitable.

Respectfully submitted,

AMERICAN CIVIL LIBERTIES UNION OF NEW
HAMPSHIRE

By its attorneys,

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