

VIA CERTIFIED MAIL AND EMAIL

Deborah Nichols, Town Clerk
FOAA
17 Highland Ave
Winthrop, ME 04364
dnichols@winthropmaine.gov

Police Chief Paul Ferland
Winthrop Police Department
15 Town Hall Lane
Winthrop, ME 04364
policechief@winthropmaine.org

April 17, 2025

RE: Request for Inspection and Copying of Public Records Pursuant to the Maine
Freedom of Access Act, 1 M.R.S. § 408-A

Dear Clerk Nichols and Chief Ferland:

This is a request for inspection and copying of public records under 1 M.R.S. § 408-A submitted by the American Civil Liberties Union of Maine Foundation (ACLU of Maine). As detailed below, we request records regarding the City of Winthrop's and Monmouth's contracts and practices regarding cooperation with federal immigration law enforcement.

It is our understanding that Winthrop and Monmouth have recently and jointly entered into a 287(g) task force agreement with U.S. Immigration and Customs Enforcement ("ICE"). These agreements cost local law enforcement money in the form of overtime payments, litigation, and the expense of holding immigration detainees. For example, Harris County, Texas terminated its 287(g) agreement after spending \$675,000 on activities compelled, but not reimbursed, under the agreement.¹ Prince William County, Virginia, found that its 287(g) program would cost \$26 million dollars over five years, and had to raise property taxes to cover the cost.² These

¹ Patricia Ortiz, *Harris County would be required to collaborate with ICE under proposed Texas Senate Bill*, Houston Public Media (Mar. 20, 2025), <https://www.houstonpublicmedia.org/articles/news/politics/immigration/2025/03/20/516366/harris-county-would-be-required-to-collaborate-with-ice-if-a-new-bill-is-approved-by-the-texas-senate/>.

² Mai Thi Nguyen, *The 287(g) Program: The Costs and Consequences of Local Immigration Enforcement in North Carolina Communities*, The Latino Migration Project (2010), https://www.researchgate.net/publication/280234453_The_287g_Program_The_Costs_and_Consequences_of_Local_Immigration_Enforcement_in_North_Carolina_Communities.

enforcement costs offloaded to local law enforcement will presumably only grow as the federal government aggressively pursues cost-cutting³ while increasing immigration enforcement.⁴

These agreements can also expose local law enforcement to legal liability. Police cannot arrest anyone simply because someone else asks them to, even if that someone else is the federal government. Local police have been sanctioned by courts for violating prohibitions against racial profiling while acting under 287(g) task force agreements.⁵ The Department of Homeland Security acknowledges the problem and has found that “claims of civil rights violations have surfaced in connection with several [law enforcement agencies] participating in the program.”⁶

To increase public understanding of exactly which federal responsibilities the Monmouth Winthrop Police Department has decided to take on, and the potential use of public funds in that effort, we request public records related to 287(g) agreements between Winthrop, Monmouth and ICE.

Specifically, we request:

1. Any 287(g) agreement between Winthrop and ICE;
2. Any 287(g) agreement between Monmouth and ICE;
3. All communications, from December 1, 2024 to present, between any Winthrop government employee and any federal employee related to immigration enforcement;
4. All communications, from December 1, 2024 to present, between any Monmouth government employee and any federal employee related to immigration enforcement;
5. All communications, from December 1, 2024 to present, between any Winthrop government employee and any federal employee related to any 287(g) agreement between Winthrop and ICE;
6. All communications, from December 1, 2024 to present, between any Monmouth government employee and any federal employee related to any 287(g) agreement between Monmouth and ICE;

³ Danielle Wallace, *Noem offers Homeland Security employee buyouts in move to shrink department*, Fox News (Apr. 8, 2025), <https://www.foxnews.com/politics/noem-offers-homeland-security-employee-buyouts-move-shrink-department>.

⁴ Adam Shaw, *Trump-backed bill to avert shutdown boosts funding for illegal immigrant arrests, deportations*, Fox News (Mar. 13, 2025), <https://www.foxnews.com/politics/trump-backed-bill-avert-shutdown-boosts-funding-illegal-immigrant-arrests-deportations>.

⁵ American Civil Liberties Union, Letter to Bruce Friedman (Mar. 15, 2016), <https://www.aclu.org/documents/aclu-letter-dhs-crcl-re-287g-renewals-march-2016>.

⁶ Jimmy Williams, *Trump wants local police to step up and enforce federal immigration laws*, News 5 Cleveland (Apr. 25, 2017), <https://www.news5cleveland.com/decodedc/trump-wants-local-police-to-step-up-and-enforce-federal-immigration-laws>.

7. All documents related to payments made by ICE to Winthrop in connection with any 287(g) agreement;
8. All documents related to payments made by ICE to Monmouth in connection with any 287(g) agreement;
9. All documents related to expenses incurred by Winthrop for tasks carried out under any 287(g) agreement; and
10. All documents related to expenses incurred by Monmouth for tasks carried out under any 287(g) agreement

Maine's Freedom of Access Act (FOAA) must "be liberally construed and applied to promote its underlying purposes" of promoting openness and transparency in governance, and exceptions to the law are interpreted narrowly. 1 M.R.S. § 401. The law broadly defines the term "public records" to include:

any written, printed or graphic matter or any mechanical or electronic data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension, that is in the possession or custody of an agency or public official of this State or any of its political subdivisions, . . . and has been received or prepared for use in connection with the transaction of public or governmental business or contains information relating to the transaction of public or governmental business.

1 M.R.S. § 402(3).

The term "public records" includes, but is not limited to, electronic data stored on computers and electronic communications such as e-mails and text messages. Information "received or prepared for use in connection with the transaction of public or governmental business or contains information relating to the transaction of public or governmental business" includes, but is not limited to, information stored on the home computers, phones, and other devices of government officials and employees.

Under FOAA, you are required to acknowledge this request within five working days. You are further required, within a reasonable time, to provide an estimate of the time frame for your response. 1 M.R.S. § 408-A(3). Failure to comply in good faith with the requirements of FOAA can result in substantial penalties. *See, e.g., Human Rights Defense Center v. MCCA Risk Pool*, (Super. Ct. No. 21-131) (ordering government entity to pay over \$130,000 in attorneys' fees and costs based on its bad faith failure to comply with FOAA request for records).

If you deny all or any part of this request, please provide written notice of the denial and the asserted basis for that denial within five working days of the receipt of the request, as required by law. 1 M.R.S. § 408-A(4). Please cite each specific FOAA exemption that you assert as a basis for your denial. To the extent that you deny this request on the basis of 16 M.R.S. § 804, please indicate which subsection of the statute is applicable to the withheld records.

Under 1 M.R.S. § 408-A(11)(B), ACLU of Maine is entitled to a waiver of any fees because release of the requested records is in the public interest. Release of the requested records is "likely to

contribute significantly to public understanding of the operations of activities of government and is not primarily in the commercial interest of the requester.” 1 M.R.S. § 408-A(11)(B). To the extent that fee waiver is not granted, please provide a cost estimate within a reasonable time as required by law. *See* 1 M.R.S. § 408-A(3), (9).

If any records responsive to this request are stored electronically, please produce them in the medium in which they are stored. *See* 1 M.R.S. § 408-A(7).

Please provide the applicable records to:

Anahita D. Sotoohi
ACLU of Maine
P.O. Box 7860
Portland, ME 04112
asotoohi@aclumaine.org

Thank you for your anticipated cooperation. We look forward to hearing from you as soon as possible and no later than five working days from your receipt of this request.

Respectfully,



Anahita D. Sotoohi
Staff Attorney
ACLU of Maine
asotoohi@aclumaine.org
207.613.4350