

**KNIGHT
FIRST AMENDMENT
INSTITUTE**

at Columbia University

May 14, 2018

Via ECF and Email

The Honorable Andrew L. Carter, Jr.
United States District Court
Southern District of New York
40 Foley Square, Room 435
New York, NY 10007

**Re: *Knigh First Amendment Institute v. U.S. Department of
Homeland Security, et al., Case No. 17-CV-7572 (ALC)***

Dear Judge Carter:

The Knight First Amendment Institute at Columbia University (the “Knight Institute”) respectfully submits this letter to apprise the Court of important information we learned immediately after the status conference held today in this matter, and to clarify our position regarding the reasonableness of our proposed processing schedule for the Department of State (“DOS”) in light of that information.

As indicated in the parties’ April 9, 2018 Joint Status Report, after its initial search, DOS had identified 850 potentially responsive emails and 674 pages of other potentially responsive records. Joint Status Report ¶ 19, ECF No. 48. The Knight Institute and DOS have since been negotiating a production schedule without a clear sense of how many pages of responsive records are actually at issue.

During today’s status conference, the Knight Institute learned along with the Court that, to date, DOS has reviewed 475 records for responsiveness—including an unidentified number of emails—totaling 27,809 pages. Based on that page count and subsequent discussions between the Court and Defendants’ counsel regarding DOS’s current processing status, the Knight Institute understood that DOS had identified nearly 28,000 pages of responsive records, which it would have to review for redactions before production.

Immediately after the status conference, while conferring with Defendants’ counsel regarding possible ways to narrow or prioritize production of those records, the Knight Institute learned that DOS has determined that only 39 of the 475 records it has reviewed are *actually* responsive to its FOIA Request, totaling only 990 pages. That is, DOS will have to review for redactions only 990 pages—about 3.5 percent—of the 27,809 pages Defendants’ counsel referenced during the status conference.

Based on that new information, and on the expectation that DOS will have to review a similarly small proportion of the remaining records for redactions, the Knight Institute believes its proposed processing schedule, with a production deadline of May 30, 2018, remains reasonable. Given today's date, however, and despite the fact that DOS should have had two months to review and produce responsive records after completing its search, the Knight Institute now revises its proposed production deadline for DOS to June 15, 2018. That deadline would still ensure production before the date on which DOS's plan to include troubling new questions on visa applications may be approved, as discussed in the Knight Institute's May 4, 2018 letter brief. *See* ECF No. 55, at 5.

The Knight Institute respectfully requests that the Court rule on our proposed processing schedule for DOS without further delay. The parties would then continue negotiations regarding the processing schedules for Immigration and Customs Enforcement and the Office of Legal Counsel and summarize those negotiations in the joint status report to be filed on May 21, 2018.

Respectfully,

/s/ Carrie DeCell

Carrie DeCell (CD-0731)
Jameel Jaffer (JJ-4653)
Alex Abdo (AA-0527)
Knight First Amendment Institute at
Columbia University
475 Riverside Drive, Suite 302
New York, NY 10115
carrie.decell@knightcolumbia.org
(646) 745-8500

Counsel for Plaintiff

/s/ Megan Graham

Megan Graham (*pro hac vice*)
Catherine Crump (CC-4067)
Samuelson Law, Technology &
Public Policy Clinic
U.C. Berkeley School of Law
354 Boalt Hall
Berkeley, CA 94720-7200
mgraham@clinical.law.berkeley.edu
(510) 664-4381

Counsel for Plaintiff

cc: Ellen Blain, Esq. (via Email)