

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KNIGHT FIRST AMENDMENT INSTITUTE
AT COLUMBIA UNIVERSITY,

Plaintiff,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY, U.S. CUSTOMS AND BORDER
PROTECTION, U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT, U.S.
CITIZENSHIP AND IMMIGRATION
SERVICES, U.S. DEPARTMENT OF
JUSTICE, and U.S. DEPARTMENT OF
STATE,

Defendants.

No. 1:17-cv-07572-ALC

**DECLARATION OF CARRIE DECELL IN SUPPORT OF
PLAINTIFF'S REQUEST FOR CLARIFICATION OF ORDERS
SETTING DOS AND ICE PRODUCTION SCHEDULES**

Pursuant to 28 U.S.C. § 1746, I, Carrie DeCell, declare and state as follows:

1. I am a staff attorney at the Knight First Amendment Institute at Columbia University (“Knight Institute” or “Institute”). I have served in this role since July 31, 2017.

2. Along with my colleagues, I submitted identical Freedom of Information Act (“FOIA”) Requests (the “Request”) to the Department of Homeland Security (“DHS”), Customs and Border Protection (“CBP”), Immigration and Customs Enforcement (“ICE”), Citizenship and Immigration Services (“USCIS”), the Department of Justice (“DOJ”), and the Department of State (“DOS”) (collectively, “Defendants”) on August 7, 2017. The Request sought, among other things, agency records concerning the exclusion or removal of individuals from the United States based on their speech, beliefs, or associations, and records concerning any new policies for “vetting”

individuals on these grounds.

3. Seeking the immediate release of all agency records responsive to the Request as required under FOIA, 5 U.S.C. § 552, the Knight Institute filed a complaint in this Court on October 4, 2017. The Knight Institute filed an amended complaint on March 14, 2018.

4. I represent the Knight Institute in this action and have served as the primary contact for Defendants' counsel since the beginning of the litigation.

5. The purpose of this declaration is to provide the Court with information about the parties' negotiations in the wake of the Court-ordered production deadlines for DOS and ICE related to records those agencies have failed to produce.

DOS Productions

6. On May 18, 2018, the Court ordered DOS to "complete its processing and production of all responsive documents no later than June 28, 2018." Order 4, May 18, 2018, ECF No. 63.

7. On June 28, 2018, DOS produced 914 pages of records. The letter accompanying the production stated that DOS was releasing ninety records in full and 126 records in part. The letter also stated that DOS had withheld sixteen records in full and referred eleven records to other agencies for review and response. The letter indicated that this production "complete[d] the processing of" the Request.

8. On July 6, 2018, I emailed Defendants' counsel to ask when DOS would complete its production of the eleven records that had been referred to other agencies.

9. On July 11, 2018, Defendants' counsel emailed indicating that the eleven records totaled thirty-nine pages and that DOS "hope[d]" the other agencies would finish producing records by July 27, 2018.

10. On July 12, 2018, the Knight Institute received a production from DOJ's National Security Division ("DOJ-NSD"). The production consisted of a single page, corresponding to a single record, which was withheld in full. The letter accompanying the production stated that DOS had sent the record to DOJ's Office of Legal Counsel ("DOJ-OLC") on June 28, 2018, and that DOJ-OLC had forwarded it to DOJ-NSD on June 29, 2018, for review and response.

11. On July 16, 2018, the Knight Institute received a letter from DOJ-OLC stating it had reviewed one record that DOS had referred to it for review on June 28, 2018, and that the record was being withheld in full. The letter did not indicate the length of the record at issue.

ICE Productions

12. ICE has made four productions of responsive records. On September 28, 2017, ICE made its first production. None of the responsive records reviewed for that production was referred to other agencies.

13. On March 7, 2018, ICE made its second production. The letter accompanying the production stated that ICE had referred eighty-seven pages to other agencies for review and response.

14. On April 30, 2018, ICE made its third production. The letter accompanying the production stated that ICE had referred 728 pages to other agencies for review and response.

15. On June 26, 2018, the Court ordered ICE to "complete its processing and production of all responsive documents no later than July 3, 2018." Order 1, June 26, 2018, ECF No. 71.

16. On June 29, 2018, ICE made its fourth production. The letter accompanying the production stated that ICE had referred forty-nine pages to other agencies for review and response.

17. To my knowledge, none of the pages that ICE has referred to other agencies has


been released.

18. On July 6, 2018, I emailed Defendants' counsel to ask when ICE would complete production of the 864 pages that it had referred to other agencies.

19. On July 16, 2018, Defendants' counsel emailed indicating that ICE estimates the other agencies "can process and respond in the next 6-8 weeks, so [by] the end of August [2018]."

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed: July 18, 2018



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