

# Exhibit D



U.S. Department of Justice

Office of Legal Counsel

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Washington, D.C. 20530

July 16, 2018

Caroline M. DeCell  
Knight First Amendment Institute at  
Columbia University  
carrie.decell@knightcolumbia.org

**Re: FOIA Tracking Nos. FY17-275 & FY18-156;  
Knight First Amendment Inst. v. DHS, No. 17-cv-7572 (S.D.N.Y.)**

Dear Ms. DeCell:

This letter serves as a final response to your August 7, 2017 Freedom of Information Act (“FOIA”) request to the Office of Legal Counsel (“OLC”), among others, seeking six categories of “records concerning the exclusion or removal of individuals from the United States based on their speech, beliefs, or associations,” with certain date limitations. As you know, that request was assigned tracking number **FY17-275**, is the subject of the above-captioned litigation, and was narrowed in various ways through counsel. Pursuant to 28 C.F.R. § 16.5(b), **FY17-275** was processed in the complex track.

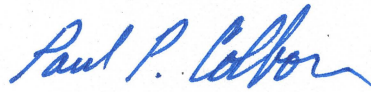
You were informed in a letter dated May 30, 2018 that we had processed and withheld in full 111 pages of responsive records and that we were continuing to process your FOIA request. We have now completed processing your request and have identified 17 additional pages of responsive records. We have withheld all 17 pages in full pursuant to FOIA Exemption Five, 5 U.S.C. § 552(b)(5). The documents are protected by the attorney-client and deliberative process privileges, and we have determined that none of the material is appropriate for discretionary release.

In processing your request, the Department of State referred one record to OLC for our direct response to you. We received the referral on June 28, 2018, and it was assigned tracking number **FY18-156**. Pursuant to 28 C.F.R. § 16.5(b), **FY18-156** was processed in the simple track. We are withholding the referred document pursuant to FOIA Exemption Five, 5 U.S.C. § 552(b)(5). The record is protected by the attorney-client, deliberative process, and presidential communications privileges, and we have determined that it is not appropriate for discretionary release.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. § 552(c). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

Although your request is the subject of ongoing litigation, and administrative appeals are not ordinarily acted upon in such situations, I am required by statute and regulation to inform you of your right to file an administrative appeal. You may administratively appeal by writing to the Director, Office of Information Policy ("OIP"), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIAonline portal by creating an account on the following web site: <https://foiaonline.regulations.gov/foia/action/public/home>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

A handwritten signature in blue ink that reads "Paul P. Colborn". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Paul P. Colborn  
Special Counsel

cc: Ellen Blain, Assistant U.S. Attorney  
Southern District of New York