

**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

MEMO ENDORSED

**JOINT STATUS REPORT**

1. Pursuant to the Court's order, *see* ECF No. 175, the Knight First Amendment Institute at Columbia University (the "Knight Institute" or "Institute") and Defendants U.S. Department of Homeland Security ("DHS"), U.S. Customs and Border Protection ("CBP"), U.S. Immigration and Customs Enforcement ("ICE"), U.S. Citizenship and Immigration Services ("USCIS"), U.S. Department of Justice ("DOJ"), and U.S. Department of State ("State"), respectfully submit this Joint Status Report to update the Court regarding the progress of Defendants' remaining searches for and productions of records responsive to the Institute's Freedom of Information Act ("FOIA") request (the "Request"), *see* Am. Compl. Ex. B 3-4, ECF No. 42-2, and ICE, UCSIS, and State's appeal of the Court's Opinions and Orders entered on September 13 and 23, 2019, and September 14, 2020, *see* ECF No. 166.

**Non-ICE Productions**

2. The parties provided comprehensive updates as to the status of the non-ICE searches in the February 9, 2021 Joint Status Report (“Feb. 9 JSR”). *See* ECF No. 172 ¶¶ 2–3.

**ICE’s Productions for Components Not Subject to the Motion for Clarification and Partial Reconsideration**

3. The parties described ICE’s processing of records for components not subject to the Defendants’ motion for clarification and partial reconsideration in detail in the February 9 JSR. *See* Feb. 9 JSR ¶¶ 4–8.

4. As noted in the February 9 JSR, ICE completed its production of the pages that it had previously sent for consult to DHS’s Office of the Inspector General (“DHS OIG”), USCIS, CBP, and State. *See* Feb. 9 JSR ¶ 8. In this production, DHS OIG released 62 pages in full; USCIS released 8 pages in full and withheld 20 pages in part, applying FOIA Exemptions (b)(5), (b)(6), and (b)(7)(C); CBP withheld 7 pages in part, applying FOIA Exemptions (b)(5) and (b)(6); and State released 5 pages in full and withheld 5 pages in part, applying FOIA Exemptions (b)(6), (b)(7)(C), and (b)(7)(E).

5. On February 10, 2021, DHS completed processing of 247 pages of responsive records previously referred to the DHS Privacy Office. Of these pages, DHS determined that 91 pages must be withheld in full, pursuant to FOIA Exemption (b)(5), and that 68 pages could be released in part and withheld in part, pursuant to FOIA Exemptions (b)(5), (b)(6), (b)(7)(C), and (b)(7)(E).

6. ICE, DHS, USCIS, CBP, and State have completed their processing and production of records sent for consult or referral by ICE that were responsive to Item 1 of the Request and not subject to the Defendants’ motion for clarification and partial reconsideration.

**ICE's New Searches**

7. Pursuant to the Court's September 13, 2020 Opinion and Order clarifying the Court's September 13 and 23, 2019 Orders and denying the Defendants' motion for partial reconsideration, ECF No. 158, ICE conducted new searches within the Immigration Law and Practice Division ("ILPD"), National Security Law Section ("NSLS"), Field Legal Operations ("FLO"), Human Rights Violators Law Division ("HRVLD") and Office of the Executive Deputy Principal Legal Advisor ("EDPLA") using search terms previously agreed upon by the parties, and re-tasked the Enforcement and Removal Operations Law Division ("EROLD") to conduct a search using the same agreed-upon search terms. *See* Dec. 11 JSR ¶ 8.

8. As detailed in the December 11 JSR, ICE completed those searches and informed the Knight Institute of the initial results, indicating that the search had returned at least 263,857 potentially responsive documents (not pages) after de-duplication. *See* Dec. 11 JSR ¶ 9. As noted in the February 9 JSR, the Knight Institute proposed measures to provisionally narrow the parameters of ICE's new searches, which ICE agreed to apply. *See* Feb. 9 JSR ¶ 11–12.

9. On February 19, 2021, ICE reported that its revised search returned 128,164 documents. ICE indicated that it would take the agency years to review and process such a volume of records. Subsequently, the Knight Institute and ICE entered into negotiations to provisionally refine and narrow the search parameters in order to reduce the set of potentially responsive records; the parties narrowed the potentially responsive documents by custodian and year; and ICE has agreed to process and review 650 pages, produce to the Institute any responsive, non-exempt material, and propose criteria based on that review to narrow the universe of potentially responsive documents. ICE will use best efforts to do so by June 4, and in any event will complete the production and propose narrowing criteria by June 10, 2021.

**ICE, USCIS, and State’s Appeal**

10. As detailed in the December 11th JSR, ICE, USCIS, and State filed a notice of appeal on November 10, 2020 of the Opinions and Orders entered by the Court on September 13, 2019, September 23, 2019, and September 14, 2020. Dec. 11 JSR ¶¶ 11–12. The Court stayed production of the records subject to appeal pending disposition of the appeal. *Id.* ¶ 13.

11. On February 23, 2021, ICE, USCIS, and State filed their opening brief; the Knight Institute’s opposition brief is due by May 5, 2021.

12. On March 24, 2021, after a further review of 11 records at issue in its appeal, State produced additional material from those documents to the Knight Institute.

**Proposed Next Step**

13. The parties have agreed to submit a joint status report by June 14, 2021, providing the Court with further updates regarding the status of ICE’s new searches and productions of responsive records.

Dated: April 14, 2021

AUDREY STRAUSS  
United States Attorney

By: /s/ Ellen Blain

Ellen Blain  
Assistant United States Attorney  
86 Chambers Street, 3rd Floor  
New York, NY 10007  
ellen.blain@usdoj.gov  
(212) 637-2743

*Counsel for Defendants*

Sincerely,

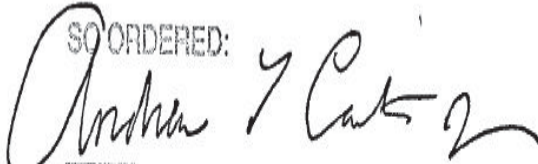
/s/ Xiangnong Wang

Xiangnong Wang (*pro hac vice*)  
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  
george.wang@knightcolumbia.org  
(646) 745-8500

*Counsel for Plaintiff*

/s/ Megan Graham

Megan Graham (5400460)  
Catherine Crump (CC-4067)  
Samuelson Law, Technology & Public Policy  
Clinic  
353 Law Building  
University of California, Berkeley, School of  
Law  
Berkeley, CA 94720-7200  
mgraham@clinical.law.berkeley.edu  
(510) 664-4381

SO ORDERED:  
  
HON. ANDREW L. CARTER, JR.  
UNITED STATES DISTRICT JUDGE

April 15, 2021  
The Parties shall file a joint status  
report by June 14, 2021.

*Counsel for Plaintiff*