

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION

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5 COMMUNITY JUSTICE EXCHANGE,
6 JUST FUTURES LAW,
7 MIJENTE SUPPORT COMMITTEE,

8 Plaintiffs,

9 v.

10 U.S. IMMIGRATION & CUSTOMS
11 ENFORCEMENT and U.S. DEPARTMENT
12 OF HOMELAND SECURITY,

13 Defendants.

) Case No. 3:22-cv-02328-LB

) **SECOND JOINT STATUS REPORT &**
) **[PROPOSED] ORDER**

14 Pursuant to this Court’s Order dated September 30, 2022, the parties submit this Second
15 Joint Status Report to update the Court on the status of the litigation and their proposed next
16 steps. Notice Resetting Case Mgmt. Conf., ECF No. 22.

17 **Background**

18 Plaintiffs brought this action under the Freedom of Information Act (“FOIA”), 5 U.S.C.
19 § 552 *et seq.* They seek nine categories of records related to Defendant U.S. Immigration and
20 Customs Enforcement’s (“ICE”) use of BI, Incorporated’s SmartLINK App as part of its
21 Intensive Supervision and Appearance Program (“ISAP”). Plaintiffs filed this lawsuit against
22 ICE and the U.S. Department of Homeland Security (“DHS”) (collectively “Defendants”) on
23 April 14, 2022. ECF No. 1. Defendants filed an Answer on May 23, 2022. ECF No. 10.

24 Following the filing of Defendants’ Answer, the parties have been engaged in
25 negotiations regarding the scope of records Defendants will produce and when those productions
26 will occur.

27 **Status of Litigation**

28 As the parties previously communicated to the Court, ECF No. 21, Defendants planned to
complete production of records responsive to eight of the nine categories of records Plaintiffs

1 seek by October 14, 2022. And, by October 21, 2022, Defendants would provide an initial
2 production of records responsive to the remaining category (“Category 6”¹), if any such records
3 exist.

4 On October 14, 2022, Defendants completed most of their production of non-Category 6
5 records. However, BI, Inc. had not completed its review of certain records to assess whether any
6 of the material was proprietary. ICE has now received these records back from BI, Inc. and will
7 process them for release by December 9, 2022.

8 For the Category 6 records, Defendants agreed that ICE would task its Enforcement and
9 Removal Operations field offices and its Statistical Tracking Unit with searching for responsive
10 records. ICE has not completed this search, but ICE will determine by December 9, 2022,
11 whether any such responsive records exist. Once the parties know how many responsive
12 Category 6 records exist, if any, they will confer regarding a production timeline.

13 Next steps

14 The parties propose that this Court vacate the December 8, 2022 Case Management
15 Conference and order the parties to file a further Joint Status Report approximately one month
16 after ICE’s December 9, 2022 deadline. In that Joint Status Report, the parties will inform the
17 Court what issues, if any, are left to litigate.

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25 ¹ This remaining category of records is what the parties have called “Category 6,” referencing the
26 ordering in the FOIA request. Category 6 covers “[r]ecords regarding all enforcement operations
27 that used data collected from the SmartLINK application, including but not limited to: a. The
28 types of data used in these enforcement operations. b. Breakdown by ICE field office of
enforcement operations that relied on any data from SmartLINK. c. The sharing of data with
other DHS components and offices or government agencies as listed above for the explicit
purpose of enforcement operations. d. Any policy, procedure, release, and/or form relating to
obtaining this data for the purposes of enforcement operations.”

1 Dated: November 18, 2022

2 Respectfully submitted,
3 s/ Megan Graham
4 Megan Graham
5 Erik Stallman
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13 *Attorneys for Plaintiffs*

14 Dated: November 18, 2022

15 Respectfully submitted,
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21 KELSEY J. HELLAND
22 Assistant United States Attorney

23 *Attorneys for Defendants*

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ECF ATTESTATION

29 In accordance with Civil Local Rule 5-1(h)(3), I, Kelsey J. Helland, attest that I have
30 obtained concurrence in the filing of this document from all other signatories listed here.

[PROPOSED] CASE MANAGEMENT ORDER

The December 8, 2022 Case Management Conference is VACATED. The parties are ORDERED to file a Joint Status Report on or before January 12, 2023. IT IS SO ORDERED.

Dated:

LAUREL BEELER
UNITED STATES MAGISTRATE JUDGE

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