U.S. Department of Homeland Security
500 12th St. SW; STOP 5009
Washington, DC 20536-5009

U.S. Immigration and Customs Enforcement

September 26, 2017

Caroline M. DeCell
Knight First Amendment Institute
535 West 116th Street
314 Low Library
New York, NY 10027

RE: 2017-ICAP-00549, 2017-ICFO-43023

Dear Ms. DeCell:

This is in response to your letter dated August 31, 2017, and received on September 7, 2017, appealing the determination of your Freedom of Information Act (FOIA) request by U.S. Immigration & Customs Enforcement (ICE) denying expedited treatment of your FOIA request. Specifically, your FOIA request sought:

1. All directives, memoranda, guidance, emails, or other communications sent by the White House to any federal agency since January 19, 2017, regarding consideration of individuals' speech, beliefs, or associations in connection with immigration determinations, including decisions to exclude or remove individuals from the United States.

2. All memoranda concerning the legal implications of excluding or removing individuals from the United States based on their speech, beliefs, or associations.

3. All legal or policy memoranda concerning the endorse or espouse provisions, or the foreign policy provision as it relates to "beliefs, statements or associations."

4. All records containing policies, procedures, or guidance regarding the application or waiver of the endorse or espouse provisions or the foreign policy provision. Such records would include policies, procedures, or guidance concerning the entry or retrieval of data relevant to the endorse or espouse provisions or the foreign policy provision into or from an electronic or computer database.

5. All Foreign Affairs Manual sections (current and former) relating to the endorse or espouse provisions or the foreign policy provision, as well as records discussing, interpreting, or providing guidance regarding such sections.

6. All records concerning the application, waiver, or contemplated application or waiver of the endorse or espouse provisions to exclude or remove individuals from the United States, or the application, waiver, or contemplated application or waiver of the foreign policy provision to exclude or remove individuals from the

United States based on "beliefs, statements or associations," including: (subsections "a-e" as referenced in your original request).

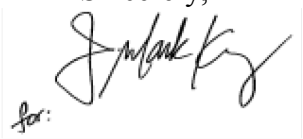
As was explained in a letter dated July 13, 2017, the ICE FOIA Office denied your request for expedited processing because your request did not qualify under the applicable standards. The expedited processing of a FOIA request is warranted only "if the request involves 'circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual,' 6 C.F.R. § 5.5(d)(1)(i), or 'an urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information,' 6 C.F.R. § 5.5(d)(l)(ii)." As explained by ICE FOIA, you "failed to demonstrate a particular urgency to inform the public about the government activity involved in the request beyond the public's right to know about government activity generally" and that your letter "did not present any facts to justify a grant of expedited processing under the applicable standards."

Your subsequent letter dated August 31, 2017 responding to, and appealing, this determination first notes that both the U.S. Department of Homeland Security and State Department granted your "request for expedited processing of the same FOIA request." You then cite to news articles regarding the debate surrounding President Trump's executive orders on immigration and that the development of new vetting standards and related policies will ensure "continued public interest in the issue." You further assert that "the public's interest in the records is even greater because current practices may violate constitutional rights."

Upon a complete review of the administrative record, ICE has determined that you may be entitled to an expedited processing of your request. ICE is therefore remanding your appeal to the ICE FOIA office to have your FOIA request processed expeditiously.

Should you have any questions regarding this appeal remand, please contact ICE at ice-foia@dhs.gov. In the subject line of the email please include the word "appeal," your appeal number, which is **2017-ICAP-00549**, and the FOIA case number, which is **2017-ICFO-43023**.

Sincerely,



Erin Clifford
Chief
Government Information Law Division
ICE Office of the Principal Legal Advisor
U.S. Department of Homeland Security