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

U.S. Immigration and Customs Enforcement

February 6, 2018

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

RE: 2018-ICAP-00118; 2017-ICFO-43023

Dear Ms. DeCell:

This is in response to your appeal dated and received on January 5, 2017[1], appealing U.S. Immigration and Customs Enforcement's (ICE) response to your Freedom of Information Act (FOIA) request. Your August 7, 2017, request to ICE sought records regarding "any new immigration vetting policies, the government's understanding of its authority to base immigration decisions on individuals' speech, beliefs, or associations, and the government's reliance on specific statutory provisions to exclude or remove individuals from the United States on those grounds."

By letter dated September 28, 2017, the ICE FOIA Office advised you that "[a] search of the ICE Office of Policy and Office of the Principal Legal Advisor for records responsive to your request produced 1666 pages that are responsive to your request." The ICE FOIA Office also informed you that portions of the records responsive to your request were being withheld pursuant to Exemptions of the FOIA. By letter dated January 5, 2018, you appealed the withholdings applied and the adequacy of ICE's search.[2]

ICE applied FOIA Exemption (b)(5) to protect from disclosure intra-agency documents that contain the recommendations, opinions, and conclusions of agency employees. The disclosure of these communications would discourage the expression of candid opinions and inhibit the free and frank exchange of information and opinions among agency personnel on important agency decision-making by having a chilling effect on the agency's deliberative process.

ICE also applied FOIA Exemptions (b)(6) and (b)(7)(C) to protect from disclosure the names, initials, and room numbers of DHS employees, third parties, and other identifying information to prevent an unwarranted invasion of privacy. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in the disclosure of the information.

[1] Although this appeal was received on January 5, 2018, processing did not begin until January 11, 2018, the date that ICE was dismissed from Case No. 1:17-cv-07572.

[2] Requester previously appealed on December 21, 2017, but the appeal was revised with the January 5, 2018 appeal.

Additionally, ICE applied FOIA Exemption (b)(7)(E) to protect from disclosure internal agency law enforcement systems information and investigative case codes, which were compiled for law enforcement purposes, and are not well known to the public. The release of this information would disclose investigative techniques and procedures, and could be reasonably expected to risk circumvention of the law.

Upon a complete review of the information withheld by ICE in the initial determination on your FOIA request, the withholding of this information was proper in all respects, and the information is exempt from disclosure under the applicable provisions of 5 U.S.C. § 552 cited above.

With regard to your appeal of the adequacy of ICE's search, upon review of the administrative record, ICE has determined that new search(s) or modifications to the existing search(s), could be made. We are therefore remanding your appeal to the ICE FOIA Office for processing and re-tasking to the appropriate agency/office(s) to obtain any responsive documents. The ICE FOIA Office will respond directly to you.

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 **2018-ICAP-00118**, and the FOIA case number, which is **2017-ICFO-43023**.

Sincerely,

/s/ Ali Karzba

for

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