UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KNIGHT FIRST AMENDMENT INSTITUTE AT COLUMBIA UNIVERSITY,

Plaintiff,

-v-

UNITED STATES DEPARTMENT OF HOMELAND SECURITY, et al.

Defendants.

17 Civ. 7572 (ALC)

DECLARATION OF ELLIOT B. VIKER
IN SUPPORT OF UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES
MOTION FOR SUMMARY JUDGMENT

I, ELLIOT B. VIKER, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury:

1. I am the Chief of Operations in the Freedom of Information and Privacy Act ("FOIA/PA") Unit, National Records Center ("NRC"), United States Citizenship and Immigration Services ("USCIS"), within the United States Department of Homeland Security ("DHS"), in Lee's Summit, Missouri. I have held the position of Chief of Operations since June 4, 2018. Previously, I served as a Supervisory Government Information Specialist at the NRC since June 5, 2006. I have held multiple leadership positions of authority and responsibility within the FOIA/PA unit since I joined the program in 2005. As part of my duties with USCIS, among other things, I provide guidance to the agency on the release of information sought under the FOIA and PA.

2. As the Chief of Operations, I supervise managers of teams of Government Information Specialists at the NRC who are responsible for the orderly processing of all public, congressional, judicial, and inter-intra agency requests or demands for access to USCIS records and information pursuant to FOIA, Privacy Act, Executive Orders, departmental directives, regulations, and compulsory legal process.

3. This declaration is submitted in support of USCIS's motion for summary judgment in this matter. This declaration describes agency action taken in response to the FOIA request submitted by the Knight First Amendment Institute at Columbia University ("Plaintiff"). The statements contained in this declaration are based on my personal knowledge, my review of relevant documents kept by USCIS in the course of ordinary business, and upon information provided to me by other USCIS employees in the course of my official duties.

PROCESSING OF PLAINTIFF KNIGHT FIRST AMENDMENT INSTITUTE'S FOIA REQUEST

4. On August 7. 2017, the NRC received a FOIA request submitted by Plaintiff, Knight First Amendment Institute at Columbia University. Plaintiff's request sought the following records:

    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:

        a. Statistical data or statistical reports regarding such application, waiver, or contemplated application or waiver;

        b. Records reflecting the application, waiver, or contemplated application or waiver of the endorse or espouse provisions or foreign affairs provision by an immigration officer, a border officer, a Department of Homeland Security official or a Department of justice official;

        c. Records concerning any determination made by the Attorney General pursuant to 8 U.S.C. § 1225(c) regarding the admissibility of arriving aliens under the endorse or espouse provisions or the foreign policy provision;

        d. Department of Homeland Security and Department of Justice records concerning consultation between the Secretary of State, the Secretary of

Homeland Security, and/or the Attorney General (or their designees) relating to any waiver or contemplated waiver of the endorse or espouse provision pursuant to 8 U.S.C. §§ 1158(b)(2)(v), 1182(d)(3)(A), or 1182(d)(3)(B)(i); and

e. Notifications or reports from the Secretary of Homeland Security or the Secretary of State concerning waivers of the endorse or espouse provision pursuant to 8 U.S.C. § 1182(d)(3)(B)(ii).

5. Through an agreement reached between the parties, *see* Dkt. No. 48 at ¶ B.2, Plaintiff's request was modified to exclude draft documents and emails and limited to the following USCIS records:

1. All final policy or legal memorandums concerning the legal implications of excluding or removing individuals from the United States based on their speech, beliefs, or associations.
-Final records only since May 11, 2005.

2. All final policy or legal memorandums concerning the endorse or espouse provisions, or the foreign policy provision as it relates to "beliefs, statements or associations."
-Final records only since May 11, 2005.

3. All final policy, procedures or guidance regarding the application or waiver of the endorse or espouse provisions or the foreign policy provision.
-Final records only since May 11, 2005.

4. Statistical data or statistical reports regarding such application, waiver, or contemplated application or waiver.

6. Plaintiff filed the instant FOIA Complaint on October 4, 2017, *see* Dkt. No. 1. As described in the declaration submitted by Jill A. Eggleston, dated March 14, 2019, USCIS searched, processed, and produced records responsive to Plaintiff's narrowed FOIA request. *See* Dkt. No. 97. Subsequent to Plaintiff's lawsuit, Immigration and Customs Enforcement ("ICE") referred 15 pages of records to USCIS on July 26, 2018. These records were deemed responsive to Plaintiff's FOIA request that gave rise to this action, without regard to the fact that the records are not responsive to Plaintiff's narrowed FOIA request, as discussed in paragraph 8, *infra*. Nonetheless, USCIS promptly processed the 15 pages referred by ICE and produced them to Plaintiff on July 27, 2018, fully redacted. *See* USCIS FOIA Response Letter, dated July 27, 2018, attached hereto as Exhibit A.

7. USCIS withheld the 15 pages referred from ICE in full, pursuant to FOIA Exemptions 7(C) and 7(E) (5 U.S.C. § 552 (b)(7)(C) and (b)(7)(E)). *See* Exhibit A. USCIS has now additionally applied FOIA Exemption 7(A). (5 U.S.C. § 552(b)(7)(A).)

SUPPLEMENTAL *VAUGHN* INDEX

Referred Records Are Not Responsive to Plaintiff's Modified FOIA Request

8. The 15 pages of records referred to USCIS are not responsive to Plaintiff's narrowed FOIA request, as described in paragraph 5, *supra.* Accordingly, production of these records on July 27, 2018, was in error. Specifically, the 15 pages of records ICE referred to USCIS on July 26, 2018, are records that are responsive to item 6 (b) of Plaintiff's original request, but not responsive to the narrowed request. These records are records "reflecting the application, waiver, or contemplated application or waiver of the endorse or espouse provisions or foreign affairs provision by an immigration officer, a border officer, a Department of Homeland Security official or a Department of justice official." The 15 pages of records, as more fully described in paragraphs 21-22, *infra*, relate to a Department of Homeland Security official's review of an individual applicant's background, activities, and associations during the course of a USCIS adjudication of the individual's application to USCIS seeking immigration benefits. The records thus pertain to an individual immigration applicant and Plaintiff agreed to no longer seek any individual immigration records, which would have been responsive to item 6 (b) of Plaintiff's original request. Indeed, Plaintiff did not provide written authorization from any individual covered by the criteria in these subsections that would authorize USCIS to disclose their records to Plaintiff.

9. Nonetheless, in the event that the Court does consider these records responsive to Plaintiff's narrowed FOIA request, USCIS is providing, as part of the text of this declaration, a Supplemental *Vaughn* index[1] justifying the FOIA exemptions it applied to the 15 pages of records that ICE referred to USCIS in July 2018. The Supplemental *Vaughn* index, which I have reviewed in conjunction with the records and that I incorporate into my Declaration, justifies USCIS's application of Exemptions 7(A), 7(C) and 7(E) to these records.[2]

DESCRIPTION OF FREEDOM OF INFORMATION ACT WITHHOLDINGS

FOIA Exemption 7(A)

(codified at 5 U.S.C. § 552(b)(7)(A)

10. FOIA Exemption 7(A) protects records or information compiled for law enforcement purposes if production of such law enforcement records or information could reasonably be expected to interfere with enforcement proceedings.

11. To fit within Exemption 7(A), the agency must show that (1) a law enforcement proceeding is pending or prospective and (2) release of the information could reasonably be expected to cause some articulable harm.

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[1] *See Vaughn v. Rosen,* 484 F.2d 820 (D.C. Cir. 1973) (a *Vaughn* index is a document that agencies prepare in FOIA litigation to describe the withheld records and justify each withholding of information under a FOIA exemption; no specific format is required, it can be, as here, submitted as a Declaration).

[2] USCIS also now asserts FOIA Exemption 7(A) to 12 pages of the records ICE referred to USCIS on July 26, 2018, although that exemption was not asserted at the administrative stage. The government can assert a FOIA exemption that was not asserted at the administrative stage even when it is asserted for the first time in a reply brief before the district court. *See Abdul Ahmed v. USCIS*, 2013 WL 27697, at n.8 (E.D.N.Y. January 2, 2013).

12. 12 pages of the referred records described herein relate to prospective federal law enforcement proceedings against an individual and organization related to widespread suspected immigration fraud.

FOIA Exemption 7(C)

(codified at 5 U.S.C. § 552(b)(7)(C)

13. FOIA Exemption 7(C) protects records or information compiled for law enforcement purposes if production of such law enforcement records or information could reasonably be expected to constitute an unwarranted invasion of personal privacy. 5 U.S.C. § 552(b)(7)(C).

14. To qualify for Exemption 7(C) protection, a document must satisfy two conditions. The document must have been compiled for a law enforcement purpose and disclosure of that document by the government could reasonably be expected to constitute an unwarranted invasion of an individual's personal privacy.

15. A third party's request for law enforcement records pertaining to a private individual invades that individual's privacy. Unless the third party has written authorization from the individual to access his or her records, or has submitted proof of the individual's death, or has shown that public interest in the individual's records outweighs his or her personal privacy interests, then the individual's records are exempt from FOIA disclosure pursuant to Exemption 7(C).

16. The 15 pages of records described in my Declaration pertain to law enforcement records concerning a private individual. Plaintiff has not provided written authorization from the individual to access his records nor has Plaintiff provided proof of his death or showed that public interest in his records outweighs his privacy interests. As such, USCIS properly withheld the records in full pursuant to Exemption 7(C).

FOIA Exemption 7(E)

(codified at 5 U.S.C. § 552(b)(7)(E))

17. FOIA Exemption 7(E) protects from disclosure records or information compiled for law enforcement purposes and would disclose techniques, procedures or guidelines for law enforcement investigations or prosecutions. 5 U.S.C. § 552(b)(7)(E).

18. Exemption 7(E) applies to categorical protections of law enforcement techniques and procedures, and it does not require that the disclosure will cause harm.

19. Documents compiled by USCIS that relate to immigration fraud investigations conducted by its staff are documents considered to be compiled for law enforcement purposes. The records described in my Declaration that were produced to Plaintiff relate to USCIS's duty to properly enforce United States immigration law and ensure the integrity of the United State immigration system by ensuring individuals seeking immigration benefits from the United States government are properly entitled to those benefits. The records described herein that are withheld pursuant to FOIA Exemption 7(E) were compiled for a law enforcement purpose.

20. Exemption 7(E) applies even if the law enforcement procedures or techniques are generally known, as disclosure of the specific procedures or techniques may reduce or nullify their effectiveness.

DESCRIPTION OF RECORDS EXEMPT FROM DISCLOSURE

21. **Pages 1-3; Immigration Systems History Report dated July 17, 2016, prepared by the USCIS Fraud Detection and National Security Directorate (FDNS) Intelligence Division.**

These three pages of records were prepared by a Branch Chief with FDNS. The Immigration Systems History Report is intended to rapidly provide basic immigration history on an individual as derived from electronic systems checks. The report is deemed law enforcement sensitive. These three pages were withheld in full pursuant to Exemptions 7(C) and 7(E).

Exemption 7(C)

A. USCIS/FDNS Conducts Law Enforcement Investigations.

FDNS, which prepared the three page report in question, is a specialized law enforcement arm of USCIS. It was created in 2004 in order to strengthen USCIS's efforts to ensure immigration benefits are not granted to individuals who pose a threat to national security or public safety, or who seek to defraud our immigration system. FDNS has been officially delegated by the Department of Homeland Security, through the USCIS Director, to conduct law enforcement activities. *See* Department of Homeland Security (DHS) Delegation Number 15002, Revision 00, Delegation to the Director of U.S. Citizenship and Immigration Services to Conduct Certain Law Enforcement Activities; 8 C.F.R. § 2.1.

FDNS's primary mission is to determine whether individuals or organizations filing for immigration benefits pose a threat to national security, public safety, or the integrity of the nation's legal immigration system. FDNS officers are located in every USCIS Center, District, Field, and Asylum Office. FDNS officers are also located in other government agencies. FDNS officers resolve law enforcement background check information and other concerns that surface during the processing of immigration benefit applications and petitions.

B. Records are Compiled for the Law Enforcement Purpose of Adjudicating an Immigration Benefit.

The three page Immigration Systems History Report contains a compilation of highly sensitive law enforcement database systems checks on a particular individual who is a national from a foreign country. The report details the individual's name, date of birth, alien number, and country of origin, along with a photograph of the individual. The report details the specific immigration application this individual had pending with USCIS, as of July 2016. The FDNS report details the results of the law enforcement database checks run on this individual. The report contains a detailed chronology of this individual's immigration history vis-a-vis the United States and highlights a number of items of derogatory information found as a result of the law enforcement systems database checks that concern this individual's activities and associations, including suspected criminal conduct. The law enforcement database checks results and the FDNS officer's summary regarding this particular individual's history and transactions with the United States immigration system were compiled for a law enforcement purpose. They are used by FDNS to determine whether the individual poses a national security risk, to detect possible immigration fraud, and to determine whether the individual is eligible for immigration benefits pursuant to the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq*.

C. Disclosure Could Reasonably be Expected to Constitute an Unwarranted Invasion of Personal Privacy.

The three page Immigration Systems History Report pertains to a private individual. It contains derogatory law enforcement information about the individual and details highly personal information about him, his travels, his activities, and his associations, as well as specific personally identifiable information about him that, if disclosed, could reasonably be expected to constitute an unwarranted invasion of this individual's personal privacy. Reasonably foreseeable harm that could result from public release of the highly personal information about this individual to the Plaintiff includes the risk of identity theft, as well as harassment and ridicule. Public disclosure of this highly personal information could be damaging in other ways as well, *e.g.,* it could impair his employment prospects and be highly embarrassing to the individual.

Plaintiff did not provide written authorization from this individual that permits USCIS to release the three page Immigration Systems History Report about the individual to Plaintiff. Plaintiff did not provide written authorization or proof of the individual's death, as described in the DHS FOIA regulation at 6 C.F.R. § 5.3(a)(4), in order to access the individual's records, nor has Plaintiff shown that public interest in this particular individual's records outweighs his privacy interests in maintaining the confidentiality of government records about the individual.

Accordingly, the three page Immigration Systems History Report is properly exempt from FOIA disclosure pursuant to Exemption 7(C). Upon careful review and inspection of this record, USCIS properly determined that no reasonably segregable information exists; disclosure of any portion of this record would result in disclosure of non-exempt information that is exempt from disclosure under Exemption 7(C).

Privacy Act Prohibits Disclosure

Further, the individual in question is a lawful permanent resident (LPR) of the United States and as such, he is covered by the protections of the Privacy Act, 5 U.S.C. § 552a. The Privacy Act provides that no records about an individual, which includes LPR's, which are maintained in a Privacy Act Systems of Records, can be disclosed to Plaintiff without the individual's prior written consent. *See* 5 U.S.C. § 552a(b). As such, these government records cannot be disclosed without the subject individual's prior written consent, which he has not provided to USCIS or the Plaintiff.

Exemption 7(E)

The three page Immigration Systems History Report reflects techniques, procedures, and guidelines for FDNS-USCIS law enforcement investigations. As described above, an FDNS official examined the background of an individual applicant who sought immigration benefits from USCIS. As reflected in the document, the FDNS official checked several highly sensitive federal law enforcement database systems for any derogatory information that could impact USCIS's adjudication of the individual's application and detect any national security and immigration fraud concerns posed by this individual. The Report also summarizes the individual's activities and associations and highlights a number of derogatory factors that would impact the USCIS adjudication of his benefits application. Moreover, this individual was flagged as a national security and immigration fraud concern and the basis for those concerns were discussed in detail in this report.

Disclosure of this Immigration Systems History Report would reveal a large number of law enforcement techniques used by DHS officials when investigating an immigration applicant's background – including a description of database systems and the materials collected by those systems – and would reveal specific derogatory factors that would negatively impact a USCIS immigration adjudication. Disclosure of such techniques, procedures, and guidelines for law enforcement investigations would enable individuals to tailor their immigration applications and interviews with USCIS officials in such a manner as to conceal information, illicitly gain immigration benefits, and frustrate USCIS's ability to detect and deter immigration fraud and national security concerns. Therefore, the three page Immigration Systems History Report is appropriately exempt from disclosure pursuant to Exemption 7(E). Upon careful review and inspection of this record, USCIS properly determined that no reasonably segregable information exists; disclosure of any portion of this record would result in disclosure of non-exempt information that is exempt from disclosure under Exemption 7(E).

22. **Pages 4-15; "Request to Investigation" from USCIS to another federal law enforcement agency. Document was prepared by the USCIS Fraud Detection and National Security Directorate (FDNS).**

These 12 pages of records were prepared by an FDNS official. The document, entitled "Request to Investigation," is a law enforcement memorandum addressed to another federal law enforcement agency for the purpose of requesting that the law enforcement agency undertake an investigation into a specific individual and organization affiliated with that individual for suspected immigration fraud and money laundering. These 12 pages were withheld in full pursuant to Exemptions 7(C) and 7(E) and USCIS now asserts Exemption 7(A) is applicable as well.

Exemption 7(A)

As discussed *supra*, paragraph 21, FDNS conducts law enforcement investigations for USCIS and the records it compiles are compiled for a law enforcement purpose. In the instant case, the "Request to Investigation" is a 12 page law enforcement record that describes a number of specific immigration petitions submitted to USCIS that were suspected of immigration fraud in violation of the INA. A specific individual was named as a suspect in this immigration fraud. Therefore, these records were compiled for the law enforcement purpose of combating immigration fraud and enforcing the INA.

The "Request to Investigation" document includes highly specific and thorough law enforcement investigative details about an individual, his organization, and information from informants and other law enforcement sources about the nature and scope of his suspected immigration fraud. The "Request to Investigation" contains detailed information supporting the FDNS memorandum, which finds that this individual and his organization are involved in a coordinated immigration benefit fraud scheme adverse to the national security interests of the United States and requests the assistance of another federal law enforcement agency to investigate this individual for criminal activities.

The "Request to Investigation" document indicates that several thousand immigration petitions submitted to USCIS and filed by dozens of petitioners affiliated with the suspect individual and his organization may be involved in a nationwide immigration fraud scheme deliberately designed to circumvent U.S. immigration law. The "Request to Investigation"

document specifically asks another federal law enforcement agency to open a criminal investigation into this individual, his organization, and possibly the suspected fraudulent immigration petitions submitted by his affiliates to USCIS seeking immigration benefits.

Accordingly, this document is properly exempt in its entirety pursuant to Exemption 7(A) because public disclosure of this record could reasonably be expected to interfere with ongoing or prospective enforcement proceedings related to the widespread suspected immigration fraud detailed in this record. Upon careful review and inspection of this record, USCIS properly determined that no reasonably segregable information exists; disclosure of any portion of this record would result in disclosure of non-exempt information that is exempt from disclosure under Exemption 7(A).

Exemption 7(C)

The 12 page "Request to Investigation" prepared by FDNS includes specific personally identifiable information pertaining to an individual, including his name, date of birth, social security number, and country of origin. In addition, the "Request to Investigation" document includes highly specific and thorough law enforcement investigative details about this individual, his organization, and information from informants and other law enforcement sources about the nature and scope of his suspected immigration fraud. The "Request to Investigation" contains detailed information supporting the FDNS memorandum, which finds that this individual and his organization are involved in a coordinated immigration benefit fraud scheme adverse to the national security interests of the United States and requests the assistance of another federal law enforcement agency to investigate this individual for criminal activities.

Disclosure of the personal information about this individual to the public could reasonably be expected to constitute an unwarranted invasion of this individual's personal privacy and subject him to heightened public scrutiny, ridicule, harassment and possibly threats to his personal safety. Accordingly, the 12 page "Request to Investigation" is properly exempt from FOIA disclosure pursuant to Exemption 7(C). Upon careful review and inspection of this record, USCIS properly determined that no reasonably segregable information exists; disclosure of any portion of this record would result in disclosure of non-exempt information that is exempt from disclosure under Exemption 7(C).

Privacy Act Prohibits Disclosure

Further, the individual in question is a lawful permanent resident (LPR) of the United States and as such, he is covered by the protections of the Privacy Act, 5 U.S.C. § 552a. The Privacy Act provides that no records about an individual, which includes LPR's, which are maintained in a Privacy Act Systems of Records, can be disclosed to Plaintiff without the individual's prior written consent. See 5 U.S.C. § 552a(b). As such, these government records cannot be disclosed without the subject individual's prior written consent, which he has not provided to USCIS or the Plaintiff.

Exemption 7(E)

The 12 page "Request to Investigation" FDNS memorandum reflects techniques, procedures, and guidelines for FDNS-USCIS law enforcement investigations. As described

above, an FDNS official examined the background of an individual applicant who sought immigration benefits from USCIS as well as his organization and other immigration petitions submitted by the individual's affiliates to USCIS. The "Request to Investigation" summarizes the individual's activities and associations and highlights a number of derogatory factors and national security concerns related to this individual and his organization that would impact the USCIS adjudication of his benefits application as well as the numerous other immigration petitions submitted by his affiliates. Moreover, this individual was flagged as a national security and immigration fraud concern and the basis for those concerns were discussed in detail in this report, concluding with a request to another federal law enforcement agency to initiate a possible criminal investigation into this individual, his affiliates and his organization for suspected nationwide immigration fraud designed to circumvent U.S. immigration law.

Disclosure of this "Request to Investigation" would reveal a large number of law enforcement techniques used by DHS officials when investigating an immigration applicant's background. For example, this document contains a detailed and bullet-pointed list of investigative techniques recommended by FDNS for a criminal investigation to be conducted by another federal law enforcement agency. The listed techniques for the proposed investigation describe specific targets for the investigation as well as suggestions about law enforcement and other sources that should be utilized during the ensuing investigation. The document also contains details about derogatory evidence that another federal law enforcement agency obtained regarding the individual and his organization and discloses the manner in which the agency obtained that information.

Disclosure of this record would reveal specific derogatory factors that would negatively impact a USCIS immigration adjudication and could trigger a federal law enforcement investigation for criminal activity. Disclosure of such techniques, procedures, and guidelines for law enforcement investigations could enable individuals to tailor their immigration applications and interviews with USCIS officials in such a manner as to conceal information, illicitly gain immigration benefits, and frustrate USCIS's ability to detect and deter immigration fraud and national security concerns. Therefore, the 12 page "Request to Investigation" is appropriately exempt from disclosure pursuant to Exemption 7(E). Upon careful review and inspection of this record, USCIS properly determined that no reasonably segregable information exists; disclosure of any portion of this record would result in disclosure of non-exempt information that is exempt from disclosure under Exemption 7(E).

CONCLUSION

23. As described in my Declaration, USCIS properly processed Plaintiff's FOIA request and provided all responsive, reasonably segregable, non-exempt information. For these reasons, USCIS's actions in response to Plaintiff's FOIA request were in full compliance with FOIA. Therefore, USCIS's motion for summary judgment should be granted.

I declare under the penalty of perjury that the foregoing is true and accurate to the best of my knowledge and belief.

Executed in Lee's Summit, Missouri, on this 17th day of May 2019.

Elliot B. Viker

Elliot B. Viker
Chief of Operations
Freedom of Information Act and Privacy Act Unit
USCIS National Records Center

EXHIBIT A

U.S. Department of Homeland Security
National Records Center
P.O. Box 648010
Lee's Summit, MO 64064-8010

U.S. Citizenship and Immigration Services

July 27, 2018

COW2018000894

Caroline M. DeCell
Knight First Amendment Institute at
Columbia University
475 Riverside Drive, Suite 302
New York, NY 10115

Dear Caroline M. DeCell:

The United States Citizenship and Immigration Services (USCIS) is providing records in response to a Freedom of Information Act/Privacy Act (FOIA/PA) referral received in this office on July 26, 2018 from Immigration and Customs Enforcement (ICE) regarding ICE FOIA request 2018-ICAP-0011. This request is the subject of litigation, *Knight First Amendment Institute vs. Dep't of Homeland Security, et al.*, 17-cv-7572 (S.D.N.Y.).

We have completed the review of all documents and have identified 15 pages that are responsive to your request. Enclosed are 15 pages withheld in full. In our review of these pages, we have determined that they contain no reasonably segregable portion(s) of non-exempt information. We have reviewed and have determined these pages are exempt pursuant to 5 U.S.C. § 552 (b)(7)(C) and (b)(7)(E) of the FOIA.

The following exemptions are applicable:

Exemption (b)(7)(C) provides protection for personal information in law enforcement records, which could reasonably be expected to constitute an unwarranted invasion of personal privacy. We have withheld information relating to third-party individuals. The types of documents and/or information we have withheld could consist of names, addresses, identification numbers, telephone numbers, fax numbers, or various other documents that are considered personal.

Exemption (b)(7)(E) provides protection for records or information for law enforcement purposes which would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. The types of documents and/or information we have withheld could consist of law enforcement systems checks, manuals, checkpoint locations, surveillance techniques, and various other documents.

If you have any questions about our response to your FOIA request, please contact Assistant United States Attorney Ellen Blain, Southern District of New York, 86 Chambers Street, New York, New York 10007.

Sincerely,

Jill A. Eggleston
Director, FOIA Operations