UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

KNIGHT FIRST AMENDMENT INSTITUTE AT COLUMBIA UNIVERSITY,	)	
Plaintiff,	)	
v.	)	**No. 1:17-cv-00548-TSC**
DEPARTMENT OF HOMELAND SECURITY, *et al.,*	)	
Defendants.	)	

TWELFTH JOINT STATUS REPORT

The following events have taken place in this case since the filing on March 22, 2019, of the Eleventh Joint Status Report, ECF No. 39:

1. Defendant Department of Homeland Security (DHS) advised plaintiff Knight First Amendment Institute at Columbia University by email of its undersigned counsel dated April 5, 2019, of the efforts that the Compliance Branch of the DHS Office for Civil Rights and Civil Liberties was continuing to make to download and save the complaints and associated records responsive to Item 5 of the request so that those materials could be uploaded by the DHS Privacy Office to FOIAXpress, which is used by the Privacy Office to process records.

2. DHS advised plaintiff by email of its undersigned counsel dated April 12, 2019, that the Compliance Branch had completed extracting all of the complaints and associated records responsive to Item 5; that all of those materials had been uploaded to FOIAXpress except the audio file discussed below; that the amount of potentially-responsive material that had been uploaded to FOIAXpress came to approximately 3,900 pages; that, because of the processing deadline that DHS was unable to meet earlier in this case, the Privacy Office had been able to

obtain FOIA analysts from outside the litigation team to help process this material; that the Privacy Office therefore hoped to be able to finish its work on the material by May 10; but that the Privacy Office also anticipated that the material would include records that originated with other DHS components and that it would need either to refer those records to the FOIA offices of those components for processing or consult with those offices about the records before it could process them itself.

DHS also advised plaintiff that one of the records that the Compliance Branch had extracted was an audio file that contained the voices of officers of defendant U.S. Customs and Border Protection (CBP) and members of the public; that the Privacy Office did not have the technological capability to redact audio or video files; but that the Privacy Office had listened to the file and intended to withhold it in full under FOIA Exemptions 6 and 7(C).

3. Plaintiff asked DHS by email dated May 6, 2019, whether it could "expect to receive a production on May 10 consisting of all records that [had] not been referred to other agencies" and whether it could also receive "an overview of the records that [had been] referred to other agencies, including the total number of pages referred to each agency and the date by which those records [would] be produced." Plaintiff asked by separate email whether a transcript of the audio file would contain any segregable non-exempt information and said that it would like to explore ways in which any such information could be produced if the answer was "yes."

4. DHS advised plaintiff by email of its undersigned counsel dated May 8, 2019, that it expected to make a release on May 10 covering all records responsive to Item 5 other than those referred for processing to components of DHS other than DHS Headquarters; that it would advise plaintiff on May 10 of the total number of pages referred to each component for processing; that it anticipated that most of the referrals, if not all of them, would be referrals to

CBP or to defendant U.S. Immigrations and Customs Enforcement (ICE); and that CBP and ICE would advise plaintiff how long the processing of any such referrals would be likely to take after they received them. DHS further advised plaintiff that the audio file described in its April 12 email did not contain any segregable non-exempt information.

5. DHS advised plaintiff by letter dated May 10, 2019, that it had processed 3,956 pages since April 5, 2019, and that the disposition of those pages was as follows: 424 were being produced in full; 940 were being produced with redactions pursuant to FOIA Exemptions 5 and/or 6; 41 were being withheld in their entirety pursuant to FOIA Exemption 5; 809 had been determined to be duplicative; and 94 had been determined to be non-responsive to the request. It also advised plaintiff that 649 of the pages were being referred to CBP, 293 were being referred to ICE, 7 were being referred to the Department of Health and Human Services, and 2 were being referred to the Department of State for processing and direct response to plaintiff and that 697 had been sent or were being sent to other agencies for consultation.

6. Plaintiff asked by email dated May 20, 2019, for advice as to the dates by which CBP and ICE would complete processing of the pages referred to them by DHS.

7. Clarifying the advice contained in its letter dated May 10, 2019, DHS advised plaintiff by email of its undersigned counsel dated May 21, 2019, that 1,650 pages, rather than 1,648 pages, had been sent elsewhere for consultation or for processing and direct response to plaintiff and that the disposition of these pages was as follows: 39 pages were sent to the DHS Office of Inspector General for consultation or for processing and direct response to plaintiff by letter dated May 16, 2019, and 1,285 pages were referred to CBP, 317 were referred to ICE, 7 were referred to the Department of Health and Human Services (HHS), and 2 were referred to the Department of State for processing and direct response to plaintiff by letters dated May 16, 2019.

ICE advised plaintiff by the same email that it hoped to complete the processing of the 317 pages referred to it by DHS by June 10, 2019. CBP advised that it was reviewing the 1,285 pages referred to it by DHS for the purpose of determining how long it would take to process them and would give plaintiff an estimated date of completion by May 31, 2019.

8. HHS produced the 7 pages referred to it by DHS with redactions pursuant to FOIA Exemption 6 on May 21, 2019.

Respectfully submitted,

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Dated: May 21, 2019

CERTIFICATE OF SERVICE

I hereby certify that I served the within report on all counsel of record by filing it with the Court by means of its ECF system on May 21, 2019.

s/ *David M. Glass*

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DEPARTMENT OF HOMELAND SECURITY, *et al.,*	)	
Defendants.	)	

[PROPOSED] ORDER

It is hereby ordered in view of the joint status report filed on May 21, 2019, that the parties file another joint status report on or before July 22, 2019.

Dated: _____

_____
UNITED STATES DISTRICT JUDGE