IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

KNIGHT FIRST AMENDMENT INSTITUTE AT COLUMBIA UNIVERSITY,

Plaintiff,

v.

DEPARTMENT OF HOMELAND SECURITY, *et al.*,

Defendants.

Oral Argument Requested

Civil Action No. 1:17-cv-00548-TSC

CORRECTED DECLARATION OF MATTHEW HELLMAN IN SUPPORT OF PLAINTIFF'S CROSS-MOTION FOR SUMMARY JUDGMENT

Pursuant to 28 U.S.C. § 1746, I, Matthew Hellman, declare and state as follows:

1. I am an attorney at Jenner & Block, LLP.

2. Attorneys at the Knight First Amendment Institute at Columbia University (the "Knight Institute" or "Plaintiff") submitted a Freedom of Information Act ("FOIA") request (the "Request") to the Department of Homeland Security ("DHS"), Immigration and Customs Enforcement ("ICE"), and Customs and Border Patrol ("CBP") on March 15, 2017, on behalf of the Knight Institute. The Request sought records concerning the government's suspicionless searches of electronic devices at the nation's borders.

3. Seeking the immediate release of all agency records responsive to the Request, as required by FOIA, 5 U.S.C. § 552, the Knight Institute filed a complaint in this Court on March 27, 2017.

4. I represent the Knight Institute in this action.

5. I submit this declaration in support of the Knight Institute's Cross-Motion for Summary Judgment.

6. Attached hereto as Exhibit A is a true and correct copy of an electronic media report ("EMR") dated September 5, 2018 (beginning at CBP004721) that was produced by CBP in response to the Request.

7. Attached hereto as Exhibit B is a true and correct copy of the first page of the spreadsheet containing the data fields CBP considered non-exempt from all EMRs dated from the beginning of fiscal year 2012 through December 31, 2017 (beginning at CBP003182) that was produced by CBP in response to the Request.

8. Attached hereto as Exhibit C is a true and correct copy of an EMR dated February 20, 2018 (beginning at CBP001469) that was produced by CBP in response to the Request.

9. Attached hereto as Exhibit D is a true and correct copy of an EMR dated April 17, 2018 (beginning at CBP002295) that was produced by CBP in response to the Request.

10. Attached hereto as Exhibit E is a true and correct copy of an undated spreadsheet (beginning at CBP000147) that was produced by CBP in response to the Request.

11. Attached hereto as Exhibit F is a true and correct copy of the Homeland Security Investigations Child Sexual Exploitation Handbook dated November 19, 2012 (beginning at 2017-ICLI-00011 27) that was produced by ICE in response to the Request.

12. Attached hereto as Exhibit G is a true and correct copy of the Homeland Security Investigations National Security Investigations Handbook dated April 26, 2013 (beginning at 2017-ICLI-00011 31) that was produced by ICE in response to the Request.

13. Attached hereto as Exhibit H is a true and correct copy of the March 15, 2019 cover letter accompanying CBP's production of documents to the Knight Institute on that date.

14. Attached hereto as Exhibit I is a true and correct copy of a series of email communications, including an attachment (beginning at DHS-001-585-000117) that was produced by DHS in response to the Request.

15. Attached hereto as Exhibit J is a true and correct copy of a response to a traveler complaint (beginning at CBP005274) that was produced by CBP in response to the Request.

16. Attached hereto as Exhibit K is a true and correct copy of a report of investigation ("ROI") with a date of approval of July 20, 2012 (beginning at 2017-ICLI-00011 2027) that was produced by ICE in response to the Request.

17. Attached hereto as Exhibit L is a true and correct copy of an ROI with a date of approval of April 22, 2013 (beginning at 2017-ICLI-00011 1697) that was produced by ICE in response to the Request.

18. Attached hereto as Exhibit M is a true and correct copy of the Civil Rights and Civil Liberties Impact Assessment of Border Searches of Electronic Devices (beginning at DHS-001-00585-00894) that was produced by DHS in response to the Request.

19. Attached hereto as Exhibit N is a true and correct copy of an undated search report that was produced by CBP on March 22, 2019 (pages 18–21 of that production) in response to the Request.

20. Attached hereto as Exhibit O is a true and correct copy of a document titled "Muster 2009-17" that was produced by CBP on March 15, 2019 (pages 43–44 of that production) in response to the Request.

21. Attached hereto as Exhibit P is a true and correct copy of a June 2017 email exchange in which David Glass, an employee of the United States Department of Justice, notified the Knight Institute's counsel of "four civil actions of which ICE is aware in which its authority to conduct border searches of electronic devices has been challenged."

22. Attached hereto as Exhibit Q is a true and correct copy of the June 23, 2017 cover letter accompanying CBP's production of documents to the Knight Institute on that date.

23. Attached hereto as Exhibit R is a true and correct copy of a September 27, 2017 email from David Glass, an employee of the United States Department of Justice, to the Knight Institute's counsel, explaining the search terms CBP intended to use to search for records responsive to Item 5 of the Request.

24. Attached hereto as Exhibit S is a true and correct copy of the September 15, 2017 cover letter accompanying CBP's production of documents to the Knight Institute on that date.

25. Attached hereto as Exhibit T is a true and correct copy of the June 16, 2017 cover letter accompanying ICE's production of documents to the Knight Institute on that date.

26. Attached hereto as Exhibit U is a true and correct copy of the December 1, 2017 cover letter accompanying DHS's production of documents to the Knight Institute on that date.

27. Attached hereto as Exhibit V is a true and correct copy of the May 30, 2018 cover letter accompanying DHS's production of documents to the Knight Institute on that date.

28. Attached hereto as Exhibit W is a true and correct copy of the September 21, 2017 cover accompanying the DHS Office of the Inspector General's production of documents to the Knight Institute on that date.

30. Attached hereto as Exhibit X is a true and correct copy of the July 14, 2017 cover letter accompanying the Transportation Security Administration's production of documents to the Knight Institute on that date.

31. Attached hereto as Exhibit Y is a true and correct copy of the July 19, 2017 cover letter accompanying the State Department's production of documents to the Knight Institute on that date.

32. Attached hereto as Exhibit Z is a true and correct copy of a document (beginning DHS-001-513-000351) produced by DHS in response to the Request that was withheld in full under Exemption 3.

33. Attached hereto as Exhibit AA is a true and correct copy of a series of email communications (beginning at 2017-ICLI-00011 2089) that was produced by ICE in response to the Request.

34. Attached hereto as Exhibit BB is a true and correct copy of the March 23, 2018 cover letter accompanying ICE's production of documents to the Knight Institute on that date.

35. Attached hereto as Exhibit CC is a true and correct copy of the April 30, 2018 cover letter accompanying DHS's production of documents to the Knight Institute on that date.

36. Attached hereto as Exhibit DD is a true and correct copy of the May 10, 2019 cover letter accompanying DHS's production of documents to the Knight Institute on that date.

37. Attached hereto as Exhibit EE is a true and correct copy of a document titled "Electronic Device Inspection: A Follow-Up Study to CRCL," which was produced by CBP on March 22, 2019 (pages 1–17 of that production) in response to the Request.

38. Attached hereto as Exhibit FF is a true and correct copy of a document titled "CBP Internal Affairs Report: Border Search of Electronic Devices and Documents," which was produced by CBP on March 15, 2019 (page 37 of that production) in response to the Request.

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

Executed: March 3, 2020



Matthew S. Hellman (484132)
JENNER & BLOCK LLP
1099 New York Avenue, NW Suite 900
Washington, DC 20001
T: (202) 639-6000
F: (202) 639-6066
mhellman@jenner.com

Counsel for Plaintiff