UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KNIGHT FIRST AMENDMENT INSTITUTE AT COLUMBIA UNIVERSITY, Plaintiff, v. U.S. DEPARTMENT OF HOMELAND SECURITY, U.S. CUSTOMS AND BORDER PROTECTION, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, U.S. CITIZENSHIP AND IMMIGRATION SERVICES, U.S. DEPARTMENT OF JUSTICE, and U.S. DEPARTMENT OF STATE, Defendants.	No. 1:17-cv-07572-ALC

JOINT STATUS REPORT

1. The Knight First Amendment Institute at Columbia University (the "Knight Institute" or "Institute") and Defendants U.S. Department of Homeland Security ("DHS"), U.S. Customs and Border Protection ("CBP"), U.S. Immigration and Customs Enforcement ("ICE"), U.S. Citizenship and Immigration Services ("USCIS"), U.S. Department of Justice ("DOJ"), and U.S. Department of State ("State"), respectfully submit this Joint Status Report to update the Court regarding the progress of Defendants' remaining searches for and productions of records responsive to the Institute's Freedom of Information Act ("FOIA") request (the "Request"), *see* Am. Compl. Ex. B 3–4, ECF No. 42-2, and ICE, UCSIS, and State's appeal of the Court's Opinions and Orders entered on September 13 and 23, 2019, and September 14, 2020, *see* ECF No. 166.

Non-ICE Productions

2. As detailed in the parties' February 24, 2020 Joint Status Report, the parties reached agreements regarding the terms and initial deadlines for the agencies' searches for records responsive to Item 1 of the Request. ECF No. 154 ¶¶ 3–10.

3. As further summarized in the parties' December 11, 2020 Joint Status Report ("Dec. 11 JSR"), DHS, CBP, USCIS, DOJ's Office of Information Policy, and State completed their searches for and processing of any responsive records by November 13, 2020. ECF No. 171 ¶¶ 3–4.

ICE's Productions for Components Not Subject to the Motion for Clarification and Partial Reconsideration

4. Of the Defendants, only ICE is still completing productions responsive to Item 1 of the Request. As detailed in the parties' December 11 JSR, for the components not subject to the Defendants' motion for clarification and partial reconsideration, ECF No. 144, ICE conducted searches for, and continues to process and produce, records responsive to Item 1 of the Request. *See* Dec. 11 JSR ¶ 5.

5. Also as described in the December 11 JSR, ICE reported that it had referred approximately 100 pages of records to DHS's Privacy Office and Office of the Inspector General ("OIG"), USCIS, CBP, and State for direct response to the Institute; and that it was waiting for responses regarding approximately 270 pages of records referred to the DHS Privacy Office and State for consultation. *See* Dec. 11 JSR ¶ 6.

6. On December 18, 2020, ICE provided an update to the Knight Institute, indicating that: (1) State expected to process and produce the documents referred to State by ICE by December 31, 2020; (2) DHS expected to process and produce the first tranche of documents

referred to DHS by ICE by December 31, 2020; and (3) ICE expected to process and produce the documents sent for consult to CBP, USCIS, State, and DHS OIG by January 29, 2021.

7. On December 31, 2020, State reported that it had completed processing of the 23 pages of records referred to State by ICE. State determined that 10 pages were duplicates and 13 pages could be released in part and withheld in part, pursuant to FOIA Exemptions 5, 6, and 7.

8. On February 9, 2021, ICE completed the processing and production of the pages that it had previously sent for consult to CBP, USCIS, State, and DHS OIG. DHS is currently in the process of finalizing for production the documents ICE had previously referred to DHS.

ICE's New Searches

9. Pursuant to the Court's September 13, 2020 Opinion and Order clarifying the Court's September 13 and 23, 2019, orders and denying the Defendants' motion for partial reconsideration, ECF No. 158, ICE conducted new searches within the Immigration Law and Practice Division ("ILPD"), National Security Law Section ("NSLS"), Field Legal Operations ("FLO"), Human Rights Violators Law Division ("HRVLD") and Office of the Executive Deputy Principal Legal Advisor ("EDPLA") using search terms previously agreed upon by the parties, and re-tasked the Enforcement and Removal Operations Law Division ("EROLD") to conduct a search using the same agreed-upon search terms. *See* Dec. 11 JSR ¶ 8.

10. As detailed in the December 11 JSR, ICE completed those searches and informed the Knight Institute of the initial results, indicating that the search had returned at least 263,857 potentially responsive documents (not pages) after de-duplication. *See* Dec. 11 JSR ¶ 9.

11. On January 10, 2021, the Knight Institute proposed measures to provisionally narrow the parameters of ICE's new searches and thus limit the universe of potentially responsive documents.

12. ICE agreed to apply the Knight Institute's suggestions but has not yet completed re-running the searches.

ICE, USCIS, and State's Appeal

13. As detailed in the December 11th JSR, ICE, USCIS, and State filed a notice of appeal on November 10, 2020 of the Opinions and Orders entered by the Court on September 13, 2019, September 23, 2019, and September 14, 2020. Dec. 11 JSR ¶¶ 11–12. The Court stayed production of the records subject to appeal pending disposition of the appeal. *Id.* ¶ 13.

14. ICE, USCIS, and State will file their opening brief on February 23, 2021.

Proposed Next Step

15. The parties have agreed to submit a joint status report by April 9, 2021, providing the Court with further updates regarding the status of ICE's new searches and productions of responsive records.

Dated: February 9, 2021

Sincerely,

/s/ Xiangnong Wang

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