

Knight First Amend. Inst. at Columbia Univ. v.
Dep't of Homeland Sec.
No. 1:17-cv-00548-TSC

Answer

Ex. D

March 28, 2017

Katherine Fallow
Knight First Amendment Institute at Columbia University
314 Low Library
535 West 116th Street
New York, NY 10027

RE: ICE FOIA Case Number 2017-ICFO-21227

Dear Fallow:

This acknowledges receipt of your Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), dated March 15, 2017, and to your request for expedited treatment and a waiver of all assessable FOIA fees. Your request was received in this office on March 15, 2017. Specifically, you requested records pertaining to documents containing statistical information concerning the search, detention, retention, or sharing of electronic devices or information of individuals at the border since FY 2012 (see request for specific details); documents relating to each instance since FY 2012 in which CBP or ICE searched, detained, retained, or shared an electronic device or information accessible on it (see request for specific details); revisions of or documents supplementing or superseding ICE Directive No. 7-6.1, Border Searches of Electronic Devices (Aug. 18, 2009) (see request for specific details); specific records pertaining to any reviews of CBP's or ICE's policies or practices concerning electronic device searches (see request for specific details); Documents containing or relating to complaints filed by individuals or organizations about CBP's and/or ICE's search, review, retention or sharing of the information on travelers' electronic devices; documents reflecting policies, practices, or procedures concerning how CBP officers handle "privileged or other sensitive material", including "work-related information carried by journalists" as referenced in 5.2 of the CBP Directive; documents reflecting policies, practices, and procedures concerning CBP's anti-discrimination policy as applied to discretionary device searches.

Your request for expedited treatment is hereby granted.

As it pertains to your request for a fee waiver, ICE evaluates fee waiver requests under the legal standard set forth above and the fee waiver policy guidance issued by the Department of Justice on April 2, 1987, as incorporated into the Department of Homeland Security's Freedom of Information Act regulations [\[1\]](#). These regulations set forth six factors to examine in determining whether the applicable legal standard for fee waiver has been met. I have considered the following factors in my evaluation of your request for a fee waiver:

- (1) Whether the subject of the requested records concerns "the operations or activities of the government";
- (2) Whether the disclosure is "likely to contribute" to an understanding of government operations or activities;
- (3) Whether disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requestor or a narrow segment of interested persons;
- (4) Whether the contribution to public understanding of government operations or activities will be "significant";
- (5) Whether the requestor has a commercial interest that would be furthered by the requested disclosure; and
- (6) Whether the magnitude of any identified commercial interest to the requestor is sufficiently large in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requestor.

Upon review of your request and a careful consideration of the factors listed above, I have determined to grant your request for a fee waiver.

ICE has queried the appropriate program offices within ICE for responsive records. If any responsive records are located, they will be reviewed for determination of releasability. Please be assured that one of the processors in our office will respond to your request as expeditiously as possible. We appreciate your patience as we proceed with your request.

Your request has been assigned reference number **2017-ICFO-21227**. Please refer to this identifier in any future correspondence. To check the status of an ICE FOIA/PA request, please visit <http://www.dhs.gov/foia-status>. Please note that to check the status of a request, you must enter the 2016-ICFO-XXXXX or 2017-ICFO-XXXXX tracking number. If you need any further assistance or would like to discuss any aspect of your request, please contact ICE FOIA Office. You may send an e-mail to ice-foia@ice.dhs.gov, call toll free (866) 633-1182, or you may contact our FOIA Public Liaison in the same manner.

Regards,

ICE FOIA Office
Immigration and Customs Enforcement
Freedom of Information Act Office
500 12th Street, S.W., Stop 5009
Washington, D.C. 20536-5009
Telephone: 1-866-633-1182
Visit our FOIA website at www.ice.gov/foia