

The Honorable Gary Feinerman

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

COOK COUNTY, ILLINOIS, et al.,

Plaintiffs,

v.

CHAD F. WOLF, in his official capacity  
as Acting Secretary of U.S. Department  
of Homeland Security, et al.,

Defendants.

No. 19-cv-6334

DECLARATION OF KARRIE E.  
LEGAGNEUX IN SUPPORT OF  
DEFENDANTS’ BRIEF REGARDING  
MOTION FOR EXPEDITED  
DISCOVERY

I, Karrie E. Legagneux, do hereby declare and say:

1. I am Chief of the Forensics & Discovery Branch (FDB) of the Office of Information Technology (“OIT”) of United States Citizenship and Immigration Services (“USCIS”), Department of Homeland Security. I make this declaration in support of Defendants’ Opposition to Plaintiff’s Motion for Expedited Discovery on Equal Protection Claim.

2. FDB provides digital forensics and data collection and analysis support to the USCIS enterprise, as well as support to other DHS components, federal law enforcement, and intelligence community organizations. FDB provides services including data extraction, digital media analysis, digital forensics and USCIS-specific systems queries in

1 support of cases involving criminal activity, employee misconduct, management  
2 inquiries, and in support of civil discovery. FDB consists of seven (7) people.

3 3. The matters contained in this declaration are based upon my understanding of the  
4 Motion for Expedited Discovery and its Exhibits, which was filed in the case *Cook*  
5 *County, Illinois, et al., v. Chad Wolf in his Official Capacity as Acting Secretary of the*  
6 *Department of Homeland Security, et al.*, Case No. 19-cv-6334, pending in the United  
7 States District Court for the Northern District of Illinois.

8 4. USCIS does not possess an eDiscovery document review platform to review  
9 documents in the context of litigation. In order to support eDiscovery, FDB conducts an  
10 initial forensic search of USCIS data sources, and will in some instances digitize paper  
11 and other non-digital materials responsive to a discovery request. The results are verified  
12 and then transferred to the Department of Justice for ingestion into their Civil Online  
13 Relativity Application (CORA). USCIS counsel are provided remote access to CORA to  
14 conduct document review, including application of privileges and redactions. Document  
15 processing and other matters related to CORA are outside of the scope of this declaration.

16 5. When running search requests, FDB personnel are able to run searches using  
17 terms, phrases, and Boolean strings by custodian over a specified date range against (1)  
18 USCIS's unclassified e-mail systems, (2) USCIS custodians' personal server drives and  
19 local hard drives, and (3) USCIS non-custodian shared server drives.

20 6. The process of searching data contained in USCIS emails and drives is  
21 burdensome for FDB personnel due to resource limitations. These limitations include  
22 both limitations as to manhours available to conduct searches given competing litigation  
23 and other priorities, as well as speed at which such searches may be conducted. FDB  
24 personnel must conduct separate searches in different system environments, which  
25 require operational personnel to separately set each search up differently. All search  
26 terms must be entered manually into the search engine. In the Microsoft Search  
27 environment, FDB can run no more than 20 searches at a time. Searches must be  
28 monitored to ensure processing continues without error.

1 7. In light of COVID-19 disruptions in operations and the increase in government-  
2 wide telework, the process of pulling and transferring data will likely be significantly  
3 delayed due to network speed concerns. Since mid-March 2019, FDB personnel have  
4 experienced significant delays in transferring data across servers due to the increased use  
5 of network systems and virtual private networks. Reduction in speed of transfer increases  
6 with the size of the data transfer. Because the size of data is currently unknown, FDB  
7 personnel cannot estimate the amount of time the data transfers would take.

8 **THE MOTION FOR EXPEDITED DISCOVERY**

9 8. I understand that on June 9, 2020, the Plaintiffs in this matter filed a Motion for  
10 Expedited Discovery, with four Exhibits, which requested that, for purposes of  
11 responding to four proposed document requests USCIS be compelled to conduct a series  
12 of extraordinarily complex searches regarding multiple custodians and email domains.

13 9. It is my understanding that plaintiffs are asking the government to respond to  
14 discovery requests, including a complete production of documents, within 14 days of the  
15 Court's ruling on Plaintiff's Motion.

16 10. Plaintiffs have defined the key term "COMMUNICATION(S)" to mean "any  
17 contact or transfer of information between two or more people, whether written, oral or  
18 electronic and whether direct or through one or more animate or inanimate agents."

19 11. Plaintiffs have defined the key term "DOCUMENT(S)" as follows:

20 "Document" is defined to be synonymous in meaning and equal in scope to the  
21 usage of this term in Fed. R. Civ. P. 34(a)(1)(A) and means the original or a copy  
22 of any and all handwriting, computer word processing, computer database,  
23 typewriting, printing, photo stating, photographing, electronic mail (email), text  
24 messages, tweets, blogs, and every other means of recording upon any tangible  
25 thing any form of COMMUNICATION or representation, including letters, words,  
26 pictures, sounds or symbols, or combinations of them, however produced or  
27 reproduced, of every kind and description, in whatever form (e.g., final and draft  
28 versions) in YOUR actual or constructive possession, custody, care or control,

1 including, but not limited to, all writings, contracts, policy statements, manuals,  
2 telephone messages, summaries and records of telephone conversations, telephone  
3 bills, checks, correspondence, letters, telegrams, notes, mailgrams, minutes of any  
4 meetings, agendas, memoranda, interoffice COMMUNICATIONS, reports,  
5 studies, forecasts, project analyses, working papers, charts, expense account  
6 reports, ledgers, journals, financial statements, statements of account, confirmation  
7 slips, calendars, appointment books, diaries, drawings, graphs, photographs, video  
8 or audio tape recordings, computer DOCUMENTS. The term "DOCUMENT"  
9 also means originals and copies of all of the above upon which notations in  
10 writing, print, or otherwise have been made, which do not appear on the originals.  
11 This definition covers all DOCUMENTS in YOUR possession, custody or control,  
12 regardless of their location, including all copies of such DOCUMENTS, the  
13 contents of which differ in any respect from the original.

14 The requested DOCUMENTS include all attachments, envelopes,  
15 explanatory notes or memoranda, and any other material that accompanied the  
16 DOCUMENT(s) requested. If the specific DOCUMENT elicited a response, that  
17 response is also to be identified and produced. If the DOCUMENT was itself a  
18 response, the DOCUMENT to which it is responding is also to be identified and  
19 produced.

20 12. The search criteria described in Exhibit 2, Appendix A: Proposed List of  
21 Custodians and Search Terms, are not fully comprehensible in the context of the  
22 proposed document requests to which they are supposed to be related, and raise questions  
23 regarding whether plaintiffs intended the consequences of the search that they have  
24 requested.

25 **REQUIREMENTS FOR PROPOSED DOCUMENT REQUEST 3**

26 13. Proposed document request 3 is as follows:

27 3. All DOCUMENTS relating to COMMUNICATIONS between or among  
28 DHS or DHS's components and the United States Department of State, the

1 United States Department of Health and Human Services, the United States  
2 Department of Agriculture, the United States Department of Housing and  
3 Urban Development, and/or the Centers for Medicare and Medicaid  
4 Services related to the purpose, effect, or potential impact of the PUBLIC  
5 CHARGE RULE on individuals by national origin, race, or ethnic group,  
6 including but not limited to non-white individuals or individuals born in or  
7 descendent from Asia, Latin America, the Caribbean, Africa, and the  
8 Middle East.

9 14. Appendix A states, regarding custodians and/or email domains and Request 3, that  
10 the pool of communications to which search terms should be applied consists of the  
11 following:

12 For Request No. 3, emails between or among any of the following email  
13 domains: @hq.dhs.gov, @uscis.dhs.gov, @ice.dhs.gov, @hud.gov,  
14 @state.gov, @hhs.gov, @cms.hhs.gov, @usda.gov

15 15. The proposed date range is January 1, 2017 to current.

16 16. It is unclear whether the expedited discovery request would require FDB to  
17 conduct searches of sources other than email, as the terms COMMUNICATIONS and  
18 DOCUMENTS are defined to mean information that is far broader in scope than email,  
19 but the Appendix A email domain instruction suggests the request is limited to email.

20 17. At a minimum, presuming the required search is limited to the identified email  
21 domains, in order to identify documents responsive to Request 3, I understand the request  
22 to require FDB to apply the Appendix A search criteria to a document set that includes all  
23 communications sent to or received from any of the identified email domains, and  
24 including communications among the identified domains: USCIS (@uscis.dhs.gov), DHS  
25 headquarters (@hq.dhs.gov), U.S. ICE (@ice.dhs.gov), HUD (@hud.gov), the  
26 Department of State (@state.gov), the Department of Health and Human Services  
27 (@hhs.gov), the Centers for Medicare & Medicaid Services (@cms.hhs.gov), or the U.S.  
28 Department of Agriculture (@usda.gov).

1 18. The Appendix A email domain instruction would require FDB to apply the  
2 Appendix A search terms to all USCIS email within the date parameters. There is no  
3 practical way to limit the search. All of those communications are potentially within the  
4 set of communications that the Appendix A email domain instruction requires, as they are  
5 emails “between or among” people having the @uscis.dhs.gov email domain. A search  
6 of this scope and magnitude is unprecedented for FDB in my experience. Conducting this  
7 search will substantially tax the limited FDB personnel resources, as well FDB’s  
8 computing and system resources.

9 19. The amount of time necessary to set up and complete a search within these  
10 parameters is impossible to predict at this time. It may take days or weeks. It is likely  
11 that the volume of processing necessary to conduct a search of the USCIS data implicated  
12 by Request 3, a substantial volume of which is in the cloud, will trigger automatic  
13 throttling of cloud-based search processing, which will have the effect slowing the down  
14 the search process. Once the initial search is complete, it will be necessary to transfer  
15 data that contains one or more hits, and that resides in separate servers and in the cloud,  
16 to a common server location for FDB to verify the data and prepare it to be transferred to  
17 the Department of Justice for ingestion into CORA. I anticipate that the volume of data  
18 that will be returned as a consequence of the search required by Request 3 will exceed  
19 FDB’s ability to collectively store responsive data in an FDB server for verification and  
20 preparation for transfer. Instead, responsive data will have to be transferred in batches to  
21 a common FDB server location for verification and preparation for transfer to DOJ. This  
22 will further delay FDB’s ability to complete this search process and transfer data to DOJ.

23 **REQUIREMENTS FOR PROPOSED DOCUMENT REQUESTS 1, 2, and 4**

24 20. Proposed Document Request 1 is as follows:

- 25 1. All DOCUMENTS, including but not limited to COMMUNICATIONS,  
26 within DHS or DHS’s components related to the purpose, effect, or  
27 potential impact of the PUBLIC CHARGE RULE on individuals by  
28 national origin, race, or ethnic group, including but not limited to non-white

1 individuals or individuals born in or descendent from Asia, Latin America,  
2 the Caribbean, Africa, and the Middle East.

3 21. Proposed Document Request 2 is as follows:

4 2. All DOCUMENTS relating to COMMUNICATIONS between or among  
5 DHS or DHS's components and the WHITE HOUSE related to the  
6 purpose, effect, or potential impact of the PUBLIC CHARGE RULE on  
7 individuals by national origin, race, or ethnic group, including but not  
8 limited to non-white individuals or individuals born in or descendent from  
9 Asia, Latin America, the Caribbean, Africa, and the Middle East.

10 22. Proposed Document Request 4 is as follows:

11 4. All DOCUMENTS, including but not limited to COMMUNICATIONS  
12 between or among DHS or DHS's components and the WHITE HOUSE,  
13 related to the Federation for American Immigration Reform, Center for  
14 Immigration Studies, or Immigration Reform Law Institute.

15 23. The proposed date range is January 1, 2017 to current.

16 24. To perform Plaintiff's requested search for documents potentially responsive to  
17 request numbers 1, 2, and 4, FDB would be required to conduct a search using the  
18 Appendix A search criteria of the data and records of the USCIS personnel listed as  
19 custodians on Appendix A. That includes John Zadrozny, Mark Koumans, Kathy Neubel  
20 Kovarik, Robert Law, Elizabeth Ann Jacobs, Lee Francis Cissna, and Kenneth Cuccinelli.

21 25. FDB has not had sufficient time to fully analyze how much time would be  
22 required to complete the tasks of searching for, identifying, collecting, and transferring  
23 information responsive to all four (4) proposed document requests.

24 26. On June 11, 2020 FDB commenced efforts to run a test search for a single  
25 custodian using the required search terms, and which involved work over the weekend.  
26 As of the preparation of this declaration, that test search is not complete.

27 27. As noted previously, FDB has not previously had to complete a search of this size  
28 and complexity, involving the comparison of four search terms with 127 other search

1 terms and variants. For each custodian, this requires running 508 (127 x 4 = 508)  
2 queries, each of which must be manually entered into the system. FDB does not have the  
3 capability of running more than 20 searches at a time in the Microsoft environment where  
4 a substantial portion of our email is stored. This means that for each custodian, at least  
5 25 sets of 20-term searches will be required to complete a search of our Microsoft  
6 environment.

7 28. FDB will take all steps necessary to attempt to comply with any order issued by  
8 the court; however, given my understanding of what would be necessary to complete the  
9 searches Plaintiff has proposed, the volume of potentially responsive materials, as well as  
10 the agency's available resources to search for, process, and transmit that material to the  
11 Department of Justice for ingestion into the CORA document review platform I believe it  
12 would take far beyond the timeframe proposed by Plaintiff to complete the searches,  
13 collection, transfer, processing, review, and production of documents.

14 29. Pursuant to the provisions of 28 U.S.C. § 1746, I declare under penalty of perjury  
15 that the foregoing is true and correct to the best of my information, knowledge, and  
16 belief.

17 30.

18  
19 Executed this 16th day of June, 2020 at Washington, D.C.

20 KARRIE E  
21 LEGAGNEUX

Digitally signed by KARRIE E  
LEGAGNEUX  
Date: 2020.06.16 16:14:47 -04'00'

22 Karrie E. Legagneux  
23 Chief, Forensics & Discovery Branch  
24 Office of Information Technology  
25 U.S. Citizenship and Immigration Services  
26 U.S. Department of Homeland Security  
27  
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