

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MICHIGAN IMMIGRANT RIGHTS)
CENTER, *et al.*,)
)
Plaintiffs,) Civil Action No. 2:16-cv-14192
)
v.) HON. Mark Goldsmith
)
U.S. DEPARTMENT OF)
HOMELAND)
SECURITY, *et al.*,)
)
Defendants.)
_____)

**STIPULATED ORDER RESOLVING CROSS-MOTIONS FOR PARTIAL
SUMMARY JUDGMENT (ECF 28 & 32)**

WHEREAS on November 30, 2016, Michigan Immigrant Rights Center, Dr. Geoffrey Boyce, Dr. Elizabeth Oglesby, and American Civil Liberties Union of Michigan (“Plaintiffs”) filed a complaint pursuant to the Freedom of Information Act, 5 U.S.C. § 552, *et seq.* (“FOIA”), seeking the release of four categories of documents (categories A-D), for Fiscal Years 2012 through 2014, by United States Customs and Border Protection (“CBP”) and the United States Department of Homeland Security (“DHS,” and, collectively with CBP the “Defendants”); and

WHEREAS on May 3, 2017, Plaintiffs submitted a second, related FOIA request (collectively, with the initial FOIA Request the “FOIA Requests”), seeking

the same categories of documents for the period of January 1, 2015 through the date of production; and

WHEREAS, Defendants have produced Category A records for the 2015 and 2017 FOIA Requests, samples of Category B records for the 2015 FOIA Request, and Category C and D records for the 2015 FOIA Request, and whereas the parties have agreed that in the interests of judicial economy and conservation of the parties' resources, the parties would first resolve the propriety of the redactions to Category A and B records;

WHEREAS the parties each filed motions for partial summary judgment regarding the redaction of geographic marker information from the Category A and B records; and

WHEREAS the parties hereby agree and stipulate to the relief set out below,

IT IS ORDERED THAT:

1. For Category A records, Plaintiffs have withdrawn their challenge to Defendants' redaction of the apprehension logs.
2. For Category B records, Defendants shall produce every fifth responsive Form I-213 and I-44 for every year from 2012 through 2017. Plaintiffs will narrow their request for I-213s and I-44s to only those documents. The I-213s and I-44s will be released with the following geographic markers intact:
 - a. For Form I-213s, Defendants will not redact the "At/Near" field, which reveals the nearest city and state where the encounter occurred.

- b. For Form I-44s, Defendants will not redact city/township and state location information within the “Place of Apprehension or Seizure” field. Where information other than city/township and state is included in the “Place of Apprehension or Seizure” field, Defendants may redact such information. If the “Place of Apprehension or Seizure” field cannot be unredacted to provide city/township-level information on a sampled form (for example, because no city/township information was contained in the field for that form), the subsequent form will be sampled (i.e. sixth rather than fifth, or if the sixth form is also not usable, then the seventh form, etc.).
- c. For both Form I-44s and Form I-213s, Defendants will not redact location information contained in the narrative description of the incident wherever that location information reflects city/township and state. Additionally, Defendants will not redact the name of any local law enforcement agency assisting in the apprehension/stop, including information contained within the “assisted by [agency]” field on the I-44 Form.
- d. As Plaintiffs have withdrawn their challenge to redaction of the remaining geographic markers on the Form I-44s and I-213s, and as Plaintiffs have not challenged other redactions on those forms,

Defendants may redact the Forms I-44s and I-213s in accordance with the sample at ECF 32-8, except as set out above.

- e. Defendants will produce the documents on a rolling three month production schedule. They will produce every fifth I-213 and I-44 for 2012 and 2013 by the end of October 2018; every fifth I-213 and I-44 for 2014 and 2015 by the end of November 2018; and every fifth I-213 and I-44 for 2016 and 2017 by the end of December 2018.

3. Defendants will conduct a supplemental search for Category C records from the 2015 FOIA Request (according to the search terms and list of custodians agreed upon by the parties) and produce the remaining Category C and D records for the 2017 FOIA Request. By Friday, September 14, 2018, the parties shall provide the Court with a stipulated order setting a production schedule for those records, or, if they cannot agree, with the parties' respective proposals for that schedule.

4. The parties shall submit a status report to the Court upon completion of these productions regarding whether any issues remain in dispute.

IT IS SO ORDERED.

Dated: September 7, 2018
Detroit, Michigan

s/Mark A. Goldsmith
MARK A. GOLDSMITH
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on September 7, 2018.

s/Karri Sandusky
Case Manager

APPROVED BY:

Date: September 7, 2018

/s/Miriam Aukerman
Miriam Aukerman (P63165)
American Civil Liberties Union
Fund of Michigan
maukerman@aclumich.org

Corey Q. Wheaton (P80202)
Dykema Gossett PLLP
cwheaton@dykema.com
Counsel for Plaintiffs

/s/ Christopher R. Healy
CHRISTOPHER R. HEALY (DC Bar 219460)
Trial Attorney
U.S. Department of Justice, Civil Division
Christopher.Healy@usdoj.gov
Counsel for Defendants