

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF CONNECTICUT
3 No. 3:12-CV-00355 (WWE)

4 _____
5 AMERICAN IMMIGRATION COUNCIL, et al,)
6 Plaintiffs,)
7 v.)
8 DEPARTMENT OF HOMELAND SECURITY,)
9 Defendant.)

10 _____)
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12
13 DEPOSITION OF JAMISON MATUSZEWSKI
14 Washington, D.C.
15 February 1, 2013
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21 Reported by: Mary Ann Payonk, RDR-CRR
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February 1, 2013
9:16 a.m.

Deposition of JAMISON MATUSZEWSKI, held at the offices of the American Immigration Council, 1331 G Street, N.W., Washington, D.C., pursuant to Notice before Mary Ann Payonk, Certified Realtime Reporter and notary public of the District of Columbia.

APPEARANCES:
ON BEHALF OF PLAINTIFFS:
MICHAEL WISHNIE
MELISSA CROW
EMILY CREIGHTON
AMERICAN IMMIGRATION COUNCIL
1331 G Street, N.W., Suite 200
Washington, DC 20004

CODY WOFSY
ANNE LAI
CHARANYA KRISHNASWAMI
WORKER & IMMIGRANT RIGHTS ADVOCACY CLINIC
Yale Law School
P.O. Box 208215
New Haven, CT 06520

ON BEHALF OF DEFENDANT and THE WITNESS:
MARCIA BERMAN
U.S. DEPARTMENT OF JUSTICE
20 Massachusetts Ave., N.W., Room 7132
Washington, DC 20001

APPEARANCES:
Appearances (Cont'd.):
LISA E. PERKINS
UNITED STATES ATTORNEY'S OFFICE
DISTRICT OF CONNECTICUT
450 Main Street
Hartford, CT 06103

ABBY MELTZER
Government Information Law Division
Office of the Principal Legal Advisor
U.S. Department of Homeland Security
500 12th Street, S.W.
Washington, D.C. 20536

J. Matuszewski
JAMISON MATUSZEWSKI,
called as a witness, having been duly sworn, was examined and testified as follows:
EXAMINATION
BY MR. WOFSY:
Q. Good morning, Mr. Matuszewski.
A. Good morning.
Q. My name is Cody Wofsy, and I represent the plaintiff in this case, American Immigration Council, versus DHS. I'd just like to talk a little bit about the ground rules of the deposition.
Have you ever been deposed before?
A. No.
Q. Okay. So I'm going to be asking the questions. I'll try and be clear. If there's something that you don't understand or I'm not clear about, please let me know.
After you, the court reporter is the most important person in the room, and she can only take down clear verbal responses, so please try to avoid mumbling or shaking or nodding your head in response to me.

1 J. Matuszewski
 2 Do you understand?
 3 A. Okay.
 4 Q. Is there any reason that you can't
 5 give full and complete testimony today?
 6 A. No.
 7 Q. All right. I'd like to talk to you a
 8 little bit about your background.
 9 Could you state your full job title.
 10 A. I'm the Criminal Alien Program unit
 11 chief.
 12 Q. And can you describe your
 13 responsibilities at that position?
 14 A. I'm the supervisor in charge of two
 15 section chiefs and 10 staff officers that
 16 controls, at the headquarters level, the
 17 Criminal Alien Program for the enforcement
 18 removal operations.
 19 Q. How long have you been at that
 20 position?
 21 A. A little over one year.
 22 Q. And so let's -- from that position,
 23 let's work our way up the chain of command.
 24 Who do you report to?
 25 A. The Deputy Assistant Director for the

1 J. Matuszewski
 2 A. Mr. Mead reports to -- do you want
 3 the whole chain?
 4 Q. How many steps are there between here
 5 and there?
 6 A. Several.
 7 Q. Okay.
 8 A. Ultimately, it's the Director, Morton
 9 Freys (ph).
 10 Q. Now, you mentioned you supervise a
 11 number of people. What are the positions that
 12 you directly supervise?
 13 A. I am the direct supervisor to two
 14 section chiefs within the program.
 15 Q. And what are the positions of those
 16 two section chiefs?
 17 A. One section chief covers the east
 18 side of the country, the other section chief
 19 covers the west side of the country.
 20 Q. And who are in those positions?
 21 A. The west side is Adonna Smith and the
 22 east side is Louise Figueroa.
 23 Q. Are those the only two people that
 24 you directly supervise?
 25 A. Yes.

1 J. Matuszewski
 2 Criminal Alien Division within the Secured
 3 Communities and Enforcement Division in the
 4 Office of Enforcement and Removal Operations.
 5 Q. Okay. And who is in that position?
 6 A. Currently, it's Matthew -- well, hold
 7 on, hold on. I'm actually currently the Acting
 8 Deputy Assistant Director.
 9 Q. Okay.
 10 A. Yes.
 11 Q. And as Acting Assistant Deputy
 12 Director, who do you report to?
 13 A. Deputy Assistant Director --
 14 Assistant Director is Matthew Albans.
 15 Q. Okay. So you currently report to the
 16 Assistant Director?
 17 A. Correct.
 18 Q. And who does the Assistant Director
 19 report to?
 20 A. Reports to the Deputy Executive
 21 Associate Director, which is Thomas Holman, who
 22 then reports to the executive associate
 23 Director, Gary Mead. I was going to say
 24 mister. Sorry.
 25 Q. Who does Gary Mead report to?

1 J. Matuszewski
 2 Q. And who do they supervise?
 3 A. They supervise 10 officers within the
 4 program itself.
 5 Q. Each, or together?
 6 A. Together. They both do five.
 7 Q. Okay. Do you supervise any other
 8 government officials?
 9 A. No.
 10 Q. Okay. So is it accurate to say that
 11 you supervise the two section chiefs and they
 12 in turn each supervise five --
 13 A. Staff officers.
 14 Q. -- subordinates? Staff officers?
 15 A. Yes.
 16 Q. Okay. So you're in an acting
 17 position now.
 18 Are you also still the unit chief of
 19 CAP?
 20 A. Yes.
 21 Q. And prior to your current position,
 22 what was your position before that?
 23 A. I was a -- I was the Acting Special
 24 Assistant to the Deputy Assistant Director for
 25 the Criminal Alien Division.

1 J. Matuszewski
 2 Q. And how long were you at that
 3 position?
 4 A. Little over a year.
 5 Q. And before that?
 6 A. A staff officer for the Criminal
 7 Alien Program.
 8 Q. And how long were you there?
 9 A. 2008 to 2009. A little over a year.
 10 Q. And prior to that?
 11 A. Prior to that, I was a deportation
 12 officer in the Florence, Arizona Service
 13 Processing Center.
 14 Q. For how long?
 15 A. About a year and a half, almost two
 16 years.
 17 Q. Prior to that?
 18 A. Border Patrol agent within Casa
 19 Grande Border Patrol Station in Tucson Sector.
 20 Q. How long were you in that position?
 21 A. A little more than two years.
 22 Q. And prior to that?
 23 A. Prior to that, I was a Border Patrol
 24 agent in the San Diego Sector's Chula Vista
 25 Station.

1 J. Matuszewski
 2 Q. And how long were you there?
 3 A. Roughly eight years.
 4 Q. Prior to that?
 5 A. Prior to that, I was a warehouse
 6 worker in Tonawanda, New York.
 7 Q. Did you have other nongovernment jobs
 8 between your time in college and starting with
 9 Customs and Border Patrol?
 10 A. Going backwards, I worked in retail,
 11 fast food, and I was a paperboy.
 12 Q. Did you have any other government
 13 jobs that you haven't mentioned?
 14 A. No.
 15 Q. I'd like to ask you a little bit
 16 about your time as a CAP officer, your
 17 day-to-day duties.
 18 A. Staff officer within the Criminal
 19 Alien Program will review and monitor
 20 day-to-day operations within a field office
 21 that that person is then assigned.
 22 On average, a day would consist of
 23 monitoring jail intake numbers, prosecution
 24 numbers, operational coordination with the
 25 program itself.

1 J. Matuszewski
 2 Q. When you say "prosecution numbers,"
 3 do you mean state-level prosecution or --
 4 A. We only deal with federal
 5 prosecutions within ICE.
 6 MS. BERMAN: I think he was talking
 7 about when you did it, not currently, so
 8 I don't know if there's a difference.
 9 THE WITNESS: Same thing.
 10 MR. WOFSY: Thank you.
 11 Q. When you say "federal prosecutions,"
 12 is that prosecutions for immigration, criminal
 13 immigration violations, or for other criminal
 14 violations?
 15 A. Any violation of the criminal code.
 16 Q. Did you attend college?
 17 A. Yes.
 18 Q. And where?
 19 A. I have a master's degree from Johns
 20 Hopkins, master's from the University of
 21 Phoenix, a bachelor's degree from the
 22 University of Phoenix, and associate's degree
 23 from Bettiah College.
 24 Q. What are your master's degrees in?
 25 A. Criminal justice management and

1 J. Matuszewski
 2 management.
 3 Q. And your bachelor's degree?
 4 A. Criminal justice.
 5 Q. And your associate degree?
 6 A. Business.
 7 Q. Okay.
 8 (PX Exhibit No. 1 was marked for
 9 identification.)
 10 BY MR. WOFSY:
 11 Q. Do you recognize this document?
 12 A. Yes.
 13 Q. You can pass it back to me. Is that
 14 the FOIA request in this matter?
 15 A. I believe so.
 16 Q. Okay. And did you review this FOIA
 17 request?
 18 A. Yes.
 19 Q. How did you come to be involved in
 20 this FOIA matter?
 21 A. I'm considered a subject matter
 22 expert in the CAP.
 23 Q. And at what point did you become
 24 involved in the FOIA request?
 25 A. I don't remember the exact date. It

1 J. Matuszewski
 2 came out as a task from our Tasking Division.
 3 Q. Was this before or after this case
 4 was in litigation?
 5 A. I would not know that.
 6 Q. What actions have you taken in
 7 connection with this FOIA matter?
 8 A. I provided subject matter expert
 9 testimony through written declarations.
 10 Q. Okay. Did you do anything else?
 11 A. Reviewed documents to provide those
 12 declarations.
 13 Q. And you prepared two declarations in
 14 this matter; is that right?
 15 A. Correct.
 16 Q. Did you converse with anyone in the
 17 course of preparing those declarations?
 18 MS. PERKINS: Object to the
 19 question to the extent it calls for
 20 attorney-client privilege matter.
 21 MR. WOFSY: I'll rephrase.
 22 Q. Without telling me anything about
 23 your conversations with your counsel, did you
 24 have conversations with anyone regarding this
 25 FOIA request?

1 J. Matuszewski
 2 Q. Okay. Have you disclosed all the
 3 documents that you reviewed?
 4 A. To my knowledge, yes.
 5 Q. Okay. So the current and past
 6 policies and procedures that you reviewed,
 7 those were the documents that were disclosed to
 8 plaintiffs, 400 pages' worth?
 9 A. To my knowledge, yes.
 10 Q. How was the search for those
 11 documents conducted?
 12 A. Typical with any search for any type
 13 of Freedom of Information Act, we will search
 14 all of our drives to determine whether or not
 15 we have hard copies or electronic copies of
 16 documents that have to do with policy and
 17 procedures.
 18 Q. Did you conduct a search in this
 19 case?
 20 A. No.
 21 Q. Who did?
 22 A. I do not know.
 23 Q. You -- when you referred to drives,
 24 are you talking about electronic storage
 25 drives?

1 J. Matuszewski
 2 MS. BERMAN: To interject, by
 3 "counsel," he means any counsel,
 4 including agency counsel, not just DOJ
 5 counsel.
 6 THE WITNESS: Okay.
 7 A. Typical with any FOIA request, as a
 8 supervisor or Special Assistant, I would send
 9 the request to a subordinate and that would be
 10 the discussions I would have on what you would
 11 have to look at in the FOIA, how to decipher
 12 what the FOIA is requesting.
 13 Q. Did you send this FOIA request to a
 14 subordinate or subordinates?
 15 A. I believe I did.
 16 Q. Okay. Who did you send it to?
 17 A. I'd have to go back and look at the
 18 time because we have had multiple acting
 19 supervisors when I was a Special Assistant.
 20 Q. You stated that you reviewed
 21 documents in the course of preparing these
 22 declarations; is that right?
 23 A. Correct.
 24 Q. What documents did you review?
 25 A. Current past policy and procedures.

1 J. Matuszewski
 2 A. Correct.
 3 Q. Okay. And can you explain what
 4 drives exist? Withdrawn.
 5 Can you explain -- do you know what
 6 drives were searched in this case?
 7 A. I can't say for certain. All I know
 8 is what the typical search would entail.
 9 Q. Okay. What would the typical search
 10 entail?
 11 A. A typical search would entail a
 12 search of ERO's shared drive.
 13 Q. Does ERO have one shared drive or
 14 multiple shared drives?
 15 A. One.
 16 Q. Is there something separate called a
 17 CAP shared drive?
 18 A. No.
 19 Q. Was there ever a CAP shared drive?
 20 A. No.
 21 Q. How is the ERO shared drive
 22 organized?
 23 A. It's organized the same way you'd
 24 organize your home folders. Everybody put in
 25 their own personal folders. Each division puts

1 J. Matuszewski
 2 in its own folder.
 3 Q. So, for example -- is the Criminal
 4 Alien Program considered a division of the ERO?
 5 A. Program.
 6 Q. Program? Okay.
 7 What would be a division of the ERO?
 8 A. The Criminal Alien Division.
 9 Q. And the Criminal Alien Program is a
 10 program of the Criminal Alien Division; is that
 11 right?
 12 A. Yes.
 13 Q. So within the ERO shared drive, there
 14 is a Criminal Alien Division folder?
 15 A. Correct.
 16 Q. Okay. What are the other divisions
 17 of ERO?
 18 A. Currently? Repatriations, removals,
 19 law enforcement support analysis, and operation
 20 support.
 21 Q. And how are the division's folders
 22 organized?
 23 A. I can't answer that only because I
 24 don't know.
 25 Q. Okay. Is there a Criminal Alien

1 J. Matuszewski
 2 Program folder within the Criminal Alien
 3 Division folder?
 4 A. Yes.
 5 Q. Do other programs have their own
 6 folders as well?
 7 A. Correct.
 8 Q. Are there other folders within the
 9 division folders that you know of?
 10 A. Yes.
 11 Q. Can you give us an example?
 12 A. No, because we're not -- each folder
 13 is proprietary to each division.
 14 Q. Okay. And so your division is the
 15 Criminal Alien Division?
 16 A. Correct.
 17 Q. What other folders does the Criminal
 18 Alien Division folder contain?
 19 A. Criminal Alien Division would also
 20 contain 287G and Secure Communities.
 21 Q. Okay. So just to make sure I
 22 understand, within the ERO shared drive,
 23 there's a Criminal Alien Division folder, and
 24 within that folder, there are Criminal Alien
 25 Program folder 287G folder and Secure

1 J. Matuszewski
 2 Communities folder; is that right?
 3 A. Correct.
 4 Q. Are there any other folders within
 5 the Criminal Alien Division folder?
 6 A. Yes.
 7 Q. What else?
 8 A. Too many that I could even think
 9 to -- to say. You have everything from a
 10 personal folder that a statistician might put
 11 in calling it whatever name that that
 12 statistician might want to call it, to
 13 something from 287G having an operation. They
 14 have an operation name they put on the folder.
 15 MS. PERKINS: Take a brief -- a
 16 moment.
 17 (Discussion held off the record.)
 18 BY MR. WOFSY:
 19 Q. So let's talk a little bit about the
 20 documents that were disclosed. You reviewed
 21 those documents?
 22 A. Yes.
 23 Q. Okay. And can you describe what was
 24 contained in those documents?
 25 A. ERO, DRO, ICE policy and procedures,

1 J. Matuszewski
 2 documentation on the Criminal Alien Program.
 3 Q. And I believe you said you don't know
 4 who conducted that search.
 5 A. Multiple people did so I cannot say
 6 exactly who.
 7 Q. Okay. Do you know what positions of
 8 people conducted that search?
 9 A. It would be a range from a staff
 10 officer to me as a unit chief to policy
 11 contractor to anybody that would be involved in
 12 the FOIA process.
 13 Q. And are the names of the people who
 14 did conduct that search documented somewhere?
 15 A. They should be on the FOIA forms.
 16 Q. Okay. Would they be documented
 17 anywhere else?
 18 A. No.
 19 Q. And when you say "the FOIA form,"
 20 what are you referring to?
 21 MS. BERMAN: I'm going to object to
 22 the form of the question. Just don't
 23 answer anything that's internal
 24 procedures that, you know, would be
 25 protected under the FOIA.

1 J. Matuszewski
 2 Q. You can answer.
 3 A. I don't know the form numbers. I
 4 know that FOIA requests are done in specific
 5 way so that you know what procedures were taken
 6 to conduct any type of searches along with any
 7 fees that might be associated to those
 8 searches.
 9 Q. Okay. So when you describe or refer
 10 to a FOIA form, that is some sort of internal
 11 processing document?
 12 A. I can't even say if it's internal or
 13 not. It's something that I've always been
 14 dealing with at headquarters. I don't have any
 15 knowledge of whether it's internal or external.
 16 Q. Do you know if FOIA forms are
 17 disclosed to FOIA requesters?
 18 A. Do not know.
 19 Q. Among the documents that were
 20 disclosed was a request for documents from OIG;
 21 is that right?
 22 A. I believe so.
 23 Q. And what is OIG?
 24 A. The Office of Inspector General.
 25 Q. And along with that request were

1 J. Matuszewski
 2 (PX Exhibit No. 2 was marked for
 3 identification.)
 4 THE WITNESS: It may have been --
 5 MS. BERMAN: There's no question
 6 pending.
 7 THE WITNESS: Right.
 8 MR. WOF SY: Just let me know when
 9 you're ready.
 10 MS. LAI: Could we just have the
 11 Bates number?
 12 MR. WOF SY: It's 34.
 13 BY MR. WOF SY:
 14 Q. So directing your attention to
 15 Plaintiff's Exhibit 2, was this part of the
 16 documents that were produced to plaintiffs in
 17 this case?
 18 MS. BERMAN: Object to the form of
 19 the question. You can answer.
 20 Q. You can answer.
 21 A. This one, I don't remember being --
 22 MS. BERMAN: Are you directing him
 23 to a specific page, or is there two
 24 pages to it?
 25 MR. WOF SY: Both pages.

1 J. Matuszewski
 2 documents that were sent to OIG in response; is
 3 that right?
 4 A. To my knowledge.
 5 Q. Were you prepared -- withdrawn.
 6 Were you involved in preparing the
 7 response to that OIG request?
 8 A. Can you clarify the question?
 9 Q. The -- one of the documents produced
 10 to plaintiffs was an OIG request to ICE about
 11 the CAP program; is that right?
 12 A. To my knowledge, yes.
 13 Q. And ICE prepared a response to OIG,
 14 including a number of documents; is that right?
 15 MS. PERKINS: Object to the form.
 16 Do you have some documents to show him?
 17 I just wouldn't want him -- if you know.
 18 MS. BERMAN: He said it was 400
 19 pages.
 20 A. I dealt with OIG for many
 21 circumstances so I need to know what it is
 22 you're talking about. Any request I would have
 23 put together to give back to them, based on a
 24 question they would have posed to me.
 25 MR. WOF SY: All right.

1 J. Matuszewski
 2 MS. BERMAN: One piece of paper.
 3 MS. PERKINS: Just asking if he
 4 knows whether it was produced to you.
 5 MR. WOF SY: Yes.
 6 A. And I don't remember if it was
 7 produced. I have no recollection of the
 8 document itself.
 9 Q. Okay. Directing your attention to
 10 the first page of Exhibit 2, does this appear
 11 to be a processing sheet for responding to an
 12 OIG request?
 13 A. It's a standard routing form.
 14 Q. Were you involved in responding to
 15 this OIG request?
 16 MS. BERMAN: I'm going to just
 17 object to the form of the question and
 18 note that it predates the FOIA involved
 19 in this case. I think we're getting far
 20 afield here, but go ahead and answer.
 21 A. And I can't answer whether I was
 22 involved or not because during the dates, I
 23 wasn't in that chain.
 24 Q. Okay. So in order to understand what
 25 policy documents might be out there, we want to

1 J. Matuszewski
2 understand the program a little bit better, so
3 I'm going to ask you some general questions.

4 In your own words, can you explain
5 what the Criminal Alien Program is?

6 A. The program locates, identifies, and
7 arrests incarcerated criminal aliens within the
8 more than 4300 jails and prisons that we have
9 in the United States. It also is responsible
10 for investigating and arresting at-large
11 criminal aliens that circumvent that criminal
12 justice system.

13 Q. So if I understand correctly, there's
14 basically two components. One, to identify and
15 process criminal aliens in prisons and jails.
16 And the other, to locate and prosecute at-large
17 criminal aliens outside of prisons and jails.

18 A. No. It's all one program.

19 Q. Okay. Are those two distinct
20 functions of the program?

21 A. It's two responsibilities for the
22 program, not distinct functions.

23 Q. Can you explain that distinction?

24 A. The function of the Criminal Alien
25 Program is to identify those aliens that are

1 J. Matuszewski
2 incarcerated in jails and prisons across the
3 nation. The responsibility of the Criminal
4 Alien Program is to make sure that those people
5 are then arrested and brought into custody if
6 found to be subject to removal.

7 If the person is found incarcerated
8 but unable to be arrested at the time, then the
9 function still stands and it's -- the
10 responsibility of the Criminal Alien Program is
11 to get that person when he becomes at-large.

12 Q. So if I understand correctly, the
13 responsibility of the Criminal Alien Program
14 extends to people who were identified when they
15 were in prisons and jails, whether or not they
16 are currently in prison or jail?

17 A. Correct.

18 Q. If I understand right, CAP is made up
19 of a number of initiatives; is that correct?

20 A. That you -- how would you -- I would
21 need to have you clarify what you mean by
22 "initiatives."

23 Q. Well, I understand that there's the
24 Violent Criminal Alien section. Is that an
25 initiative of CAP?

1 J. Matuszewski

2 A. It's a section of CAP.

3 Q. Section of CAP? Okay. And what is
4 the Violent Criminal Alien section?

5 A. It's the section of CAP which
6 prosecutes anybody that would be considered --
7 that would have violated criminal law in
8 conjunction with the United States Attorney's
9 Office.

10 Q. Okay. Is it any violations of
11 criminal law, or specific ones?

12 A. Any of them.

13 Q. What about the Joint Criminal Alien
14 Removal Task Forces?

15 A. Within CAP, it's a task force meant
16 to work with other federal and local partners
17 to arrest and investigate at-large criminal
18 aliens.

19 Q. And when you say "work with," what
20 does that entail?

21 A. As a task force, agencies will
22 combine efforts and resources in order to
23 obtain an objective.

24 Q. What about the Deport Center?

25 A. Deport Center is a location in

1 J. Matuszewski
2 Chicago that is the primary entity that deals
3 with the Federal Bureau of Prisons inmates.

4 Q. Okay. Does the Deport Center deal
5 exclusively with Federal Bureau of Prisons
6 inmates?

7 A. Correct.

8 Q. Does the Deport Center ever screen
9 state -- excuse me. Withdrawn.

10 Does the Deport Center ever screen
11 individuals in state or local prisons or jails?

12 A. It's not their mission.

13 Q. What about Rapid REPAT?

14 A. Would be considered an initiative,
15 because it's not a program or a section or a
16 task force within the Criminal Alien Program.
17 It is a effort for ICE to work with state
18 legislators and legislation and states
19 themselves to help alleviate the prison
20 populations.

21 Q. And how do they do that?

22 A. If, for example, in California you
23 have a large prison population and you have a
24 lessening number of budget resources, then if
25 you have -- if the alien can have a final order

1 J. Matuszewski
 2 prior to his end of sentence, then the state
 3 through Rapid REPAT will agree to release that
 4 alien into ICE's custody for a deportation.
 5 Q. And just so I understand, what is the
 6 difference between an initiative, a section,
 7 and a program?
 8 A. Initiative -- for me, initiative is
 9 something that we're doing in order to promote
 10 the program. A section is a part of the
 11 program. And the task force is the program
 12 working with other people.
 13 Q. What about the Law Enforcement Agency
 14 Response? What is that?
 15 A. Law Enforcement Agency Response is
 16 actually a Homeland Security investigations
 17 program within ERO. There's only one, located
 18 in Phoenix, and that team is roughly 16 people
 19 that respond to local law enforcement for
 20 assistance.
 21 Q. So if I understand right, there are
 22 other Law Enforcement Agency Response centers.
 23 A. No.
 24 Q. No?
 25 What do you mean that the rest of it

1 J. Matuszewski
 2 Q. So it's not that -- can I call it
 3 LEAR?
 4 A. Yes.
 5 Q. It's not that LEAR is taking calls,
 6 it's that they are responding to calls for
 7 assistance?
 8 MS. BERMAN: Object to the form of
 9 the question. Go ahead.
 10 A. The unit actually takes and receives
 11 calls.
 12 Q. What calls go to LESC and what calls
 13 go to LEAR?
 14 A. That depends on the law enforcement
 15 agency. If the law enforcement agency doesn't
 16 have a local number or duty phone for the LEAR
 17 person that's on call at that time, they will
 18 call the Law Enforcement Support Center, which
 19 will then direct that call back to the Phoenix
 20 area or any other law enforcement agency within
 21 the federal government that requires it.
 22 Q. In your declaration, you indicated
 23 there are a number of offices within ICE that
 24 have records related to CAP; is that right?
 25 A. Yes.

1 J. Matuszewski
 2 is within Homeland Security Investigations?
 3 A. Homeland Security Investigations is
 4 the lead on that program and that initiative,
 5 if you'd like to call it an initiative, to work
 6 with local law enforcement. They're the lead.
 7 ERO only has one section, one part within CAP
 8 that is a unit that is located in Phoenix.
 9 Q. Okay. But there are other units?
 10 A. That would have to be referred to
 11 HSI.
 12 Q. So you don't know?
 13 A. I know that HSI has control of it. I
 14 don't know what resources that they apply to
 15 it.
 16 Q. And what does the unit in Phoenix do?
 17 A. Respond to local law enforcement
 18 assistance calls.
 19 Q. How is that related to the Law
 20 Enforcement Support Center?
 21 A. Law Enforcement Support Center is
 22 called from local law enforcement for
 23 assistance. And if the local law enforcement
 24 requires assistance, specifically in Phoenix,
 25 those officers will show up.

1 J. Matuszewski
 2 Q. I'd like to talk about them each in
 3 turn. The first is ERO, and that's your
 4 office; is that right?
 5 A. That's -- yes.
 6 Q. And what is ERO?
 7 A. ERO is the Enforcement Removal
 8 Operations.
 9 Q. I believe the second was OPLA?
 10 A. Office of Principal Legal Advisor.
 11 Q. OCR?
 12 A. Office of Congressional Relations.
 13 Q. Office of State, Local, and Tribal
 14 Coordination? Is that right?
 15 A. Uh-huh, yes.
 16 Q. Office of Policy and Planning?
 17 A. Yes.
 18 Q. And Homeland Security Investigations?
 19 A. Correct.
 20 Q. What is the relationship between the
 21 CAP program and the Homeland Security
 22 Investigations?
 23 A. The Criminal Alien Program was --
 24 Homeland Security Investigations originated the
 25 administrative Criminal Alien Program, and that

1 J. Matuszewski
 2 was combined in 2006 with ERO's, at that time,
 3 DRO's, Institutional Removal Program to create
 4 CAP.
 5 Q. So can we call the Administrative
 6 Criminal Alien Program ACAP?
 7 A. Yes.
 8 Q. And the Institutional Removal Program
 9 we can call IRP?
 10 A. Correct.
 11 Q. So what was the difference between
 12 ACAP and IRP?
 13 A. IRP is case management within prisons
 14 and jails. Let me rephrase. Within prisons.
 15 ACAP was responsible for law enforcement to the
 16 need of immigration officers within jails and
 17 local facilities.
 18 Q. Okay. And what kind of -- what kind
 19 of support did ACAP give?
 20 A. If a local law enforcement entity
 21 needed immigration determination, the
 22 investigators would go and determine whether or
 23 not the person was illegally in the country,
 24 legally in the country, if an immigration
 25 detainer would have to be placed.

1 J. Matuszewski
 2 A. It was a part of it, because as they
 3 were working in the prisons, if somebody was
 4 missed through ACAP, then they would identify
 5 and place them in detainer and place them in
 6 proceedings.
 7 Q. Was ACAP functioning in the federal
 8 prisons as well as state and local?
 9 A. Generally, no. But it wasn't
 10 specific to local jails and local entities. It
 11 could be in the federal prison.
 12 Q. Okay. Now, at some point, the ACAP
 13 functions were transitioned from the Office of
 14 Investigation to DRO or ERO?
 15 A. Correct.
 16 Q. And why was that?
 17 A. The decision was made, something at a
 18 higher state than I am now, or was before;
 19 however, based on documentation that I think
 20 you received, it was just a standard combining
 21 of the programs to make it more efficient.
 22 Q. Now, the relationship between ACAP,
 23 IRP, and what became CAP, what documents exist
 24 that explain that transition?
 25 MS. BERMAN: Object to the form of

1 J. Matuszewski
 2 Q. So in other words, ACAP was a program
 3 in which local or state prisons and jails would
 4 request some kind of immigration investigation
 5 from ICE?
 6 A. It was both request and mutual
 7 cooperation.
 8 Q. Now, IRP. Was IRP -- I think you
 9 described it as case management.
 10 A. Correct.
 11 Q. What does that mean?
 12 A. If a person is found to be
 13 incarcerated for a long period of time, the
 14 person must have a -- must -- if found to be
 15 illegal, will be placed within removal
 16 proceedings. Those removal proceedings have to
 17 be managed just like any other docket officer,
 18 whether it be probation and parole or any type
 19 of courtroom docket. It's managed.
 20 So case management within the prisons
 21 was IRP working with officers to manage the
 22 removal proceedings of people that were not in
 23 ICE custody.
 24 Q. Was part of IRP also identifying
 25 individuals as being noncitizens?

1 J. Matuszewski
 2 the question. Go ahead.
 3 A. There's a conglomerate of documents,
 4 everything from memorandums to policies to --
 5 everything. It would explain the transition at
 6 the time. I wasn't involve in the transition.
 7 I can't say exactly what's available.
 8 Q. And where would those policies,
 9 memoranda, be maintained?
 10 MS. BERMAN: Object to the form of
 11 the question. He just said he wasn't
 12 involved in the transition and he really
 13 doesn't know about them, about the
 14 documents.
 15 Q. You can answer.
 16 MS. BERMAN: If you know.
 17 A. Maintained? Anywhere from someone's
 18 personal file folder, to their email, to the
 19 shared drive.
 20 Q. Is there one of the offices within
 21 ICE that would have primary responsibility for
 22 maintaining those kinds of policies and
 23 memoranda?
 24 MS. BERMAN: Same objection to the
 25 form of the question. If you know, you

1 J. Matuszewski
 2 can answer.
 3 A. I would not know what held all those
 4 documents as a prime entity at that time.
 5 Q. So turning to present day CAP, how is
 6 the program organized now?
 7 A. Clarify what you mean by "organized."
 8 Q. I mean -- well, let's take one step
 9 back. I understand previously there was such a
 10 thing as a CAP team. Is that right?
 11 A. Correct.
 12 Q. And what was a CAP team?
 13 A. CAP team was 10 employees, federal
 14 employees, that were combined to make one team.
 15 There was a supervisor, six immigration
 16 enforcement agents, one -- I'm sorry, I'm going
 17 to mix the terms back and forth because we've
 18 changed it over the years. But six immigration
 19 enforcement agents, two deportation removal
 20 assistants. And did I say supervisor already?
 21 Supervisory deportation, detention/deportation
 22 officer.
 23 Q. What is a -- I'm sorry, I'm not sure
 24 I caught the entire title. Deportation
 25 assistant?

1 J. Matuszewski
 2 A. Headquarters created a Criminal Alien
 3 Program risk assessment database that
 4 identified the more than 4300 jails that had
 5 self-admitted foreign-born nationals within it.
 6 Those jails were then differentiated by level
 7 to security risk and also how many foreign-born
 8 nationals are actually in the prisons.
 9 The percentage of screening was then
 10 monitored throughout the nation, and also the
 11 productivity of arrests, charging documents,
 12 was monitored.
 13 Q. When was the risk assessment database
 14 created?
 15 A. 2006-2011.
 16 Q. And how was data about self-admitted
 17 aliens collected?
 18 A. Received from the -- each individual
 19 field office, which then received it from the
 20 actual jails.
 21 Q. The CAP teams, did the number vary
 22 over time?
 23 A. Yes.
 24 Q. And how -- withdrawn.
 25 Where were those teams placed?

1 J. Matuszewski
 2 A. Deportation removal assistant. Now
 3 it's an enforcement removal assistant.
 4 Q. Okay. That is a -- essentially an
 5 assistant to a deportation officer?
 6 A. That's the thing I could come up --
 7 my reference to would be an equivalent to an
 8 officer that has the ability to input records
 9 and help manage cases, but not an officer.
 10 Q. And who did the CAP teams report to?
 11 A. The employees of the team would
 12 report to the supervisor. The supervisor would
 13 then report to the assistant field office
 14 director, who then reported to the field office
 15 director.
 16 MS. PERKINS: Clarify the time
 17 period.
 18 MR. WOFSY: Yes.
 19 Q. When were CAP teams first created?
 20 A. 2011.
 21 Q. And when did CAP teams cease to
 22 exist?
 23 A. Somewhere between 2009, 2010.
 24 Q. How was oversight over CAP teams
 25 exercised from headquarters?

1 J. Matuszewski
 2 A. Throughout the entire nation.
 3 Q. And they were based in field offices?
 4 A. Correct.
 5 Q. And I believe they're called subfield
 6 offices.
 7 A. No. Field offices.
 8 Q. Only field offices?
 9 And how was it determined where they
 10 would be placed?
 11 A. Based on the risk assessment
 12 database, on who needed what resources to -- in
 13 order to screen the level of jails and prisons
 14 that were identified.
 15 Q. What kinds of documents did CAP teams
 16 produce?
 17 A. Clarify what kind of documents.
 18 Q. I assume they produced individual
 19 records.
 20 MS. BERMAN: Object to the form of
 21 the question.
 22 A. I'm still not quite understanding
 23 what they're producing. I mean, you have an
 24 average day, and then you have requests for
 25 information from headquarters.

1 J. Matuszewski
 2 Q. On an average day, what kind of
 3 documents would a CAP team produce?
 4 A. To encompass the whole thing that
 5 they would do, they'd create name files.
 6 Q. And they would also input information
 7 into databases?
 8 A. Yes, but that's not creating a
 9 document.
 10 Q. Was there anything else that they
 11 would produce on an average day?
 12 MS. BERMAN: Object to the form of
 13 the question.
 14 A. I don't even know what you're -- I
 15 need you to clarify on that one, because after
 16 creating a name file and inputting records,
 17 there's nothing that they're creating.
 18 Q. Okay. Now, you mentioned requests
 19 from headquarters. What kinds of requests
 20 would CAP teams receive?
 21 A. The field office actually was
 22 mandated to do a manual report so that we
 23 could -- in headquarters, it could monitor its
 24 progress throughout the nation through the
 25 transition.

1 J. Matuszewski
 2 before you answer it.
 3 THE WITNESS: Right.
 4 Q. What is a CAP team surge operation?
 5 A. A CAP surge is a deployment of
 6 Criminal Alien Program resources into one area.
 7 Q. And how frequently are CAP surges --
 8 withdrawn.
 9 During this period from 2007 to 2009
 10 or '10, how frequently were CAP surges
 11 undertaken?
 12 A. It would be dependent upon the field
 13 office. The request for a surge or
 14 headquarters request for a surge based on its
 15 analysis of a jail would happen on average
 16 maybe once every two months.
 17 Q. Why was the team structure eliminated
 18 around 2009-2010?
 19 A. It was determined that the number of
 20 people that were actually conducting Criminal
 21 Alien Program duties within the field offices
 22 went beyond the team structure.
 23 Each team did not have one jail.
 24 Each team did not have one set of jails that it
 25 was responsible for. A team would be split up

1 J. Matuszewski
 2 Q. The transition?
 3 A. From HSI to DRO.
 4 Q. And what's a manual report?
 5 A. A report that's manually created.
 6 Q. And how often were these reports
 7 created?
 8 A. Usually, once a week.
 9 Q. And what information was included in
 10 these reports?
 11 A. Number of encounters, number of
 12 detainees, whether it be federal, state, local
 13 facilities.
 14 Q. Were there also aggregate reports
 15 over a longer term than a week?
 16 A. Each week was combined to the
 17 previous week.
 18 Q. In other words, there was a sort of
 19 running report of how --
 20 A. Correct.
 21 Q. -- many detainees, for example, that
 22 CAP team had issued?
 23 A. Correct.
 24 MS. BERMAN: I'm just going to
 25 interrupt. Let him finish the question

1 J. Matuszewski
 2 through -- would be split up, and one or two
 3 people might have the responsibility of a jail,
 4 not the team.
 5 Because of that, it -- and the fact
 6 that the field office directors were taking
 7 additional resources to be placed in the jails
 8 that weren't covered by a Criminal Alien
 9 Program officer at the time, it was decided
 10 that it was more efficient to say that it's ERO
 11 officers conducting Criminal Alien Program
 12 duties.
 13 Q. Okay. So now, all ERO officers
 14 conduct criminal alien duties?
 15 MS. BERMAN: Object to the form of
 16 the question.
 17 A. Any ERO officer at any time can
 18 conduct a Criminal Alien Program duty.
 19 Q. But there are still officers who are
 20 designated as CAP officers?
 21 A. There are officers that are
 22 designated by their individual personnel number
 23 as CAP due to congressional funding.
 24 Q. Okay. So whether somebody is a CAP
 25 officer or not is about where the funding for

1 J. Matuszewski
 2 their paycheck comes from?
 3 A. No.
 4 Q. Okay. What does it mean to be a CAP
 5 officer now?
 6 A. It means that you're conducting
 7 Criminal Alien Program duties, either within a
 8 jail or dealing with the criminal justice
 9 system.
 10 Somebody that circumvented the
 11 criminal justice system got released, somebody
 12 that has been identified but is no longer in
 13 jail, or someone that's being prosecuted for
 14 any Title within the United States Code.
 15 Q. Okay. I'm just trying to understand
 16 if anyone within ERO could be doing CAP duties,
 17 what makes them different from somebody
 18 specifically designated as a CAP official?
 19 A. There's nothing. There's no one
 20 specifically designated except for dealing with
 21 monetary purposes and budgetary issues.
 22 Q. Okay. So being specifically
 23 designated as a CAP officer, all that means is
 24 that your salary is coming from the pot of
 25 money that's specified for CAP officers?

1 J. Matuszewski
 2 MS. BERMAN: Object to the form of
 3 the question. It's been asked and
 4 answered. Go ahead.
 5 A. Yes.
 6 Q. In your declaration, you refer to
 7 CAP-related activities. What does that term
 8 mean?
 9 MS. BERMAN: Object to the form of
 10 the question.
 11 A. I'd like to see where is it you're
 12 referring to CAP-related activities.
 13 Q. Sure.
 14 (PX Exhibit No. 3 was marked for
 15 identification.)
 16 BY MR. WOFSY:
 17 Q. This is your -- the first declaration
 18 you filed in this matter?
 19 A. Uh-huh, yes.
 20 Q. And I direct your attention to
 21 paragraph 20, line 3.
 22 A. Okay. In this sense, CAP-related
 23 activities would be any duties related to CAP.
 24 Q. And how are such duties related to
 25 CAP tracked?

1 J. Matuszewski
 2 MS. BERMAN: Object to the form of
 3 the question. I mean, I think you need
 4 to specify what you're talking about.
 5 Q. Are -- is there some -- withdrawn.
 6 Is there a system for tracking what
 7 you refer to in your declaration as CAP-related
 8 activities?
 9 MS. BERMAN: Same objection.
 10 A. There's no system that tracks all
 11 CAP-related activities.
 12 Q. Directing your attention to the same
 13 paragraph, you describe personnel solely
 14 assigned to CAP; is that right?
 15 A. The 10 staff officers that I have
 16 within the Criminal Alien Program in
 17 headquarters are only assigned to CAP, yes.
 18 Q. What is their role?
 19 A. As is discussed earlier, it's to
 20 monitor the field offices and the activities in
 21 the field office that relate to CAP.
 22 Q. And specifically, what kind of
 23 monitoring do they do?
 24 A. They'll speak to the field offices
 25 through points of contact, usually an assistant

1 J. Matuszewski
 2 field office director. They review statistical
 3 reports obtained from the Law Enforcement
 4 Support Analysis Division, also review any type
 5 of screenings or lack thereof within the
 6 Criminal Alien Program risk assessment.
 7 Q. What's the Law Enforcement Support
 8 analysis system?
 9 A. Division.
 10 Q. Division.
 11 A. It is one of the divisions within ERO
 12 that I talked about earlier.
 13 Q. And so they produce statistical
 14 analyses?
 15 A. Yes.
 16 Q. And the statistical analyses that are
 17 provided to CAP, are those maintained together?
 18 MS. BERMAN: Object to the form of
 19 the question.
 20 A. You got to clarify what you mean by
 21 "maintained together."
 22 Q. Sure. Do you -- does CAP keep copies
 23 of the statistical analyses that are produced
 24 by the Law Enforcement Support Analysis
 25 Division?

1 J. Matuszewski
 2 A. Yes.
 3 Q. Sorry. Do they keep those copies all
 4 in the same place?
 5 A. Yes.
 6 Q. And where is that?
 7 A. Within the criminal alien folder.
 8 Q. Is there --
 9 A. Program folder. Within the Criminal
 10 Alien Division folder within ERO shared drive.
 11 Q. Is there a specific subfolder where
 12 those are kept?
 13 A. Multiple subfolders.
 14 Q. How many?
 15 A. I can't say how many, only because
 16 each officer might have his own within that
 17 drive.
 18 Q. What would be involved in searching
 19 the shared drive for those statistical
 20 analyses?
 21 MS. PERKINS: Object to the form of
 22 the question and instruct him not to
 23 answer if it would reveal the program
 24 code that he has to enter, because that
 25 would be subject to exemption under the

1 J. Matuszewski
 2 FOIA, I believe.
 3 But to the extent you can answer it
 4 without revealing that, please do.
 5 A. Any search within the shared drive
 6 would be a search within any type of drive.
 7 You'd have to input whatever key word you want
 8 to look for.
 9 Q. I'd like to ask you about performance
 10 evaluations. Are performance evaluations for
 11 ICE officers tied in any way to CAP activities
 12 or encounters?
 13 MS. BERMAN: Object to the form of
 14 the question.
 15 MS. PERKINS: Object to the
 16 relevance of this question. How does it
 17 go to your FOIA request?
 18 Q. You can answer.
 19 MS. PERKINS: I'm not so sure I'm
 20 going to have him answer. Sorry.
 21 What's the relevance of a CAP officer's
 22 performance evaluations? Is that
 23 something you've asked for?
 24 MS. BERMAN: It's not a CAP officer
 25 performance evaluation. I'm sorry, your

1 J. Matuszewski
 2 question was performance evaluations for
 3 ICE officers. Right?
 4 MR. WOFSY: Related to CAP, yes.
 5 MS. BERMAN: Can you repeat the
 6 question, please?
 7 (The reporter read from the record.)
 8 MS. BERMAN: I understood the
 9 question as being performance
 10 evaluations for all ICE officers.
 11 MR. WOFSY: That's right.
 12 MS. BERMAN: So I think that's an
 13 extremely broad question that doesn't
 14 relate to your FOIA request. Can you
 15 explain how it relates?
 16 MR. WOFSY: Well, the FOIA request
 17 is for documents related to CAP and CAP
 18 encounters, and what we're trying to
 19 determine is whether documents exist
 20 tying CAP encounters to performance
 21 evaluations.
 22 MS. PERKINS: You need to break it
 23 down into questions about are there
 24 records or, you know, does ICE maintain
 25 performance evaluation records, and

1 J. Matuszewski
 2 where?
 3 MR. WISHNIE: I'll put something on
 4 the record here only because it's
 5 happened several times now. I'd
 6 understood you were defending the
 7 deposition. If, Lisa, you're doing the
 8 defense, that's fine. But I think there
 9 should be objections from one person
 10 from your side of the table. I don't
 11 think it's appropriate for multiple
 12 counsel for the same witness to be
 13 lodging consecutive objections. We'll
 14 certainly give you time if you want to
 15 confer, but I would ask that there be
 16 one person defending. And, of course,
 17 you will identify that person.
 18 MS. BERMAN: We're actually
 19 co-counsel.
 20 MR. WISHNIE: I understand. But I
 21 still think it's not appropriate for
 22 multiple co-counsel at a single
 23 deposition to be all lodging objections.
 24 MS. BERMAN: So you won't be asking
 25 any questions then?

1 J. Matuszewski
 2 MR. WISHNIE: I think it's
 3 appropriate for one person at a time to
 4 do objections and one person at a time
 5 to do questions. We might switch off
 6 later, but we're not going to be
 7 simultaneously asking questions, and we
 8 think it's inappropriate for
 9 simultaneous objections as well.

10 MS. BERMAN: That objection is
 11 noted.

12 MR. WISHNIE: In addition, I think
 13 if there's an instruction to the
 14 witness, as I think I just heard
 15 previously, we'd ask that you put the
 16 basis for the instruction on the record
 17 if it's an objection, because I think
 18 that there's been statements that have
 19 been crossing back and forth so we would
 20 just appreciate it if there was an
 21 objection. If it's an instruction, you
 22 can be clear it's an instruction.

23 MS. PERKINS: You should give us a
 24 moment and we will confer.

25 MS. BERMAN: I think we were trying

1 J. Matuszewski
 2 on the record.

3 MS. PERKINS: Okay.

4 MR. WISHNIE: Why don't we take a
 5 break for a minute and allow counsel to
 6 confer.

7 (Recess taken.)

8 MS. BERMAN: If you want to have
 9 the question read back or rephrased, we
 10 can take it from there.

11 BY MR. WOFSY:

12 Q. I think we're going to come back to
 13 this later and switch gears a little bit. What
 14 I'd like to ask you about now is some of the
 15 specifics about the FOIA request itself.

16 So I'll direct your attention to
 17 Exhibit 1, page 4, Roman numeral V, Individual
 18 Records. Do you see that?

19 A. Uh-huh, yes.

20 Q. If I understand correctly from your
 21 declaration, individual records responsive to
 22 Roman numeral V will be measured in CAP
 23 encounters; is that right?

24 MS. BERMAN: Object to the form of
 25 the question.

1 J. Matuszewski

2 to have a conversation to determine if
 3 there would be an instruction, which is
 4 an entirely appropriate thing to do.

5 MS. PERKINS: I think what I said
 6 was I'm not sure that I'm going to allow
 7 him to answer that question.

8 MS. BERMAN: Right. But he
 9 instructed the witness to answer, which
 10 was not appropriate.

11 MS. PERKINS: So I was seeking
 12 clarification in the form of where are
 13 you going in the form of how it relates
 14 to the records you're seeking.

15 MR. WISHNIE: If you are going to
 16 start to make objections based on
 17 relevance as opposed to privilege, I
 18 don't think that's an appropriate basis
 19 and I think we will have some issues
 20 over that, so --

21 MS. PERKINS: Perhaps it's just
 22 beyond the scope of a FOIA deposition.

23 MR. WISHNIE: Again, if that's the
 24 basis for an instruction as opposed to
 25 an objection, we need that to be clear

1 J. Matuszewski

2 Q. You can answer.

3 A. Can you clarify? Because I'm trying
 4 to see how a CAP encounter would be part of a
 5 transfer or identification, detained or arrest.

6 Q. Certainly. I believe you still have
 7 Exhibit 3 in front of you.

8 A. Yeah.

9 Q. Directing your attention to page 7 of
 10 Exhibit 3, down at the bottom, records
 11 potentially responsive to plaintiff's FOIA
 12 request, individual records, answer then on to
 13 page 8, paragraph 22, you describe CAP
 14 encounters; is that correct?

15 A. Correct.

16 Q. Does that mean that records of CAP
 17 encounters would be potentially responsive to
 18 Roman numeral V of plaintiff's FOIA request?

19 A. And what time frame are you speaking?
 20 The entirety of the FOIA, or --

21 Q. Would records of CAP encounters be
 22 responsive to Roman numeral V for the periods
 23 for which those records exist?

24 A. CAP encounters for the -- for periods
 25 in which a CAP encounter can be identified

1 J. Matuszewski
 2 would -- would respond to the FOIA, yes.
 3 Q. And how do you define a CAP
 4 encounter?
 5 A. CAP encounter would be an individual
 6 screening of an individual done by a Criminal
 7 Alien Program assigned officer at the time.
 8 Q. Can you explain a little bit more
 9 what you mean by an interview?
 10 A. Interview would be similar to what
 11 we're doing now, talking to one another.
 12 Q. And a screening?
 13 A. Look at biometric or biographic
 14 records.
 15 Q. So if I understand correctly, a CAP
 16 encounter would be an officer either talking to
 17 someone, an interview, or looking at, for
 18 example, information in an ICE database
 19 screening?
 20 A. An ICE database or any other database
 21 available to that officer.
 22 Q. Does any encounter with anyone in a
 23 prison or jail by a CAP officer count as a CAP
 24 encounter?
 25 A. Based on the entirety of the FOIA,

1 J. Matuszewski
 2 typical encounter.
 3 Q. When you talk about an at-large
 4 interview or screening of somebody not
 5 incarcerated, under what circumstances would
 6 those qualify as CAP encounters?
 7 A. It would be defined based on the
 8 Criminal Alien Program officer. And when I say
 9 Criminal Alien Program officer, I'm saying that
 10 as a general statement that at the time, the
 11 person is working with the duties of the
 12 Criminal Alien Program. So there's actually no
 13 officer that is specific to it at all times,
 14 it's just that specific time.
 15 But the officer conducting CAP would
 16 have either had a lead generated, a lead being
 17 a notification that somebody may have left the
 18 jail without being identified, that left the
 19 jail and later was found to be someone subject
 20 to being removable that wasn't determined at
 21 the time the person was in the jail.
 22 Those are the types of situations
 23 that CAP would deal with at-large people.
 24 Q. So I'd sort of like to take these one
 25 by one. So an at-large interview, what

1 J. Matuszewski
 2 no.
 3 Q. What do you mean by that?
 4 A. Meaning that if you look at the
 5 entirety of the FOIA, CAP only existed from
 6 2006 to present, so therefore, CAP encounter
 7 cannot exist prior to 2006.
 8 Q. So from 2006 to the present is any
 9 encounter between a CAP officer and an
 10 individual incarcerated a CAP encounter?
 11 A. It would be considered a CAP
 12 encounter.
 13 Q. In your declaration, you stated there
 14 was no typical CAP encounter. Is that right?
 15 A. Correct.
 16 Q. Can you explain how CAP encounters
 17 vary?
 18 A. An encounter can be anything from an
 19 at-large interview where a person's on the
 20 street and you're talking to the person on the
 21 street, going down to a screening of an
 22 individual's records that is not incarcerated,
 23 and then on the reverse side doing the same
 24 thing to somebody that is incarcerated, either
 25 talking to or screening records. There's no

1 J. Matuszewski
 2 documents would ordinarily be produced as a
 3 result of an at-large --
 4 A. It would depend upon whether or not
 5 the person's a foreign-born national or not.
 6 Q. If they're not?
 7 A. No documents.
 8 Q. And if they are?
 9 A. Then the person's interview would be
 10 designated as an encounter, but only from 2010
 11 on.
 12 Q. And then what documents would be
 13 produced as a result?
 14 A. Documents generally won't be
 15 produced. It would be inputted into the
 16 Enforce system.
 17 Q. So if there is an at-large interview
 18 by a CAP officer, that does not necessarily
 19 produce an I213 --
 20 A. No.
 21 Q. -- for example? But that officer
 22 would input information into the Enforce
 23 program?
 24 A. Correct.
 25 Q. At what point is an I213 generated?

1 J. Matuszewski
 2 A. I213 is a record of inadmissible or
 3 deportable alien. So if I talk to you, I can't
 4 put one into the system. Only for someone who
 5 is admissible or deportable.
 6 Q. If a CAP officer does identify
 7 someone who is deportable, for example, at what
 8 point do they generate an I213?
 9 A. The I213 is generated as the basis of
 10 processing, so the person would have to be
 11 determined that they're going to be placed into
 12 removal proceedings.
 13 Q. But prior to that, the agent would
 14 enter information into Enforce?
 15 A. Can you clarify under what? Because
 16 you went back from the first deportable to
 17 somebody that maybe not be.
 18 Q. So still thinking about a situation
 19 in which it's a person who is -- it's an
 20 at-large interview, an individual who is
 21 deportable. Information is entered into
 22 Enforce before an I213 is generated? Is that
 23 right?
 24 A. Generally, yes.
 25 Q. Does that information include what

1 J. Matuszewski
 2 Q. You were describing -- withdrawn.
 3 We were discussing an officer, a CAP
 4 officer conducting an at-large interview of an
 5 individual who is not a U.S. citizen. What
 6 documents are produced as a result of that CAP?
 7 A. If the person's found to be
 8 deportable, the entire A file would be either
 9 generated or added to, depending if the person
 10 was already a legal permanent resident and
 11 found to be deportable.
 12 Documents created generally for a
 13 deportable alien would be an I213, whatever
 14 processing method would be applied to that
 15 person, whether it be a notice, a notice to
 16 appear, a reinstatement order, an
 17 administrative, an expat removal order, or a
 18 voluntary return, depending on if it was a
 19 legal permanent resident or not. There's a
 20 large number of documents that can be created
 21 off of that large interview based on the
 22 processing method and the processing
 23 disposition.
 24 Q. So directing your attention to
 25 paragraph 25 of Exhibit 3, your declaration,

1 J. Matuszewski
 2 would become the narrative portion of the I213?
 3 A. Some of the information.
 4 Q. What information?
 5 A. The narrative of the I213 is a
 6 freeform text that the person will put in when
 7 they decide to create a 213. Any of the
 8 information prior to that would be biographic.
 9 Q. Okay. So the narrative text of the
 10 I213 is only entered at the time an officer
 11 creates an I213, not before?
 12 MS. BERMAN: Object to the form of
 13 the question.
 14 Q. You can answer.
 15 A. The I213 narrative is created when
 16 someone is found to be inadmissible or
 17 deportable.
 18 Q. Whenever that is?
 19 A. Yes.
 20 Q. But an I213 might be created later?
 21 A. Correct.
 22 Q. Are there any other documents that
 23 are created by an officer conducting an
 24 at-large interview of an individual?
 25 A. Under what circumstance?

1 J. Matuszewski
 2 you state that an encounter can produce 25 to
 3 50 records. Is that right?
 4 A. Correct.
 5 Q. I know you can't list all of them,
 6 but in general, what are those records?
 7 A. When speaking of a CAP encounter, and
 8 the records, it's not only the processing forms
 9 that we speak about. It's the actual records
 10 that we would research and pull out.
 11 For example, an NCIC record. NCIC
 12 record could be multiple pages with -- with
 13 varied ways of reading the NCIC record because
 14 each individual state has its own proprietary
 15 way of putting it into NCIC. You also have
 16 records from court documents that could
 17 possibly be included into each of the
 18 encounters. You also have minutes and other
 19 things from the criminal court system that we
 20 would have to add to the encounter because it's
 21 part of the administrative file, the A file.
 22 So those are the type of things on top of the
 23 processing forms that we would add.
 24 Q. Among those records would be previous
 25 notices to appear I213s?

1 J. Matuszewski
 2 A. That we created as part of the
 3 encounter depending on whether or not the file
 4 was -- was a temporary file because maybe it
 5 was destroyed in a fire or something such as
 6 that. A temp file is always created if the A
 7 file is not able to be obtained immediately
 8 anyway so each record almost is duplicated at
 9 the time of the encounter if the A file is not
 10 in hand.
 11 Q. Okay. What about notes of
 12 interviews? Are those created as a result of
 13 the CAP encounters?
 14 A. That would be dependent on the
 15 officer. So I cannot speak to whether or not
 16 notes are generated for each officer and, if
 17 those notes are generated, whether they're in
 18 the A file or not.
 19 Q. Is there any general policy regarding
 20 notes of interviews for CAP officers?
 21 A. There's policy under the -- the
 22 criminal court codes that any -- that says any
 23 other law enforcement officer has -- when they
 24 take notes, it would be admissible in court.
 25 Q. But -- so, for example, there's no

1 J. Matuszewski
 2 Q. Do you know any of them?
 3 A. I know some.
 4 Q. What are the ones that you know?
 5 A. Specifically, the processing
 6 disposition has a comment field associated with
 7 it.
 8 Q. What would that be?
 9 A. What form of processing that the
 10 person being entered into the system would be
 11 undergoing.
 12 Q. For example, notice to appear or
 13 reinstate or removal?
 14 A. Correct.
 15 Q. Do you know any others?
 16 A. There's also one next to the lead
 17 source.
 18 Q. And what's the lead source?
 19 A. Lead source would be why -- where a
 20 lead would have come from to be placed into
 21 Enforce.
 22 Q. For example?
 23 A. Citizenship and Immigration Services
 24 provide us leads for egregious and nonegregious
 25 criminals that are not eligible for benefit.

1 J. Matuszewski
 2 form on which CAP officers are expected to
 3 record the notes of their interviews?
 4 A. No.
 5 Q. Is there a field in any of the
 6 Enforce applications in which officers can
 7 enter notes from their interviews?
 8 A. There's multiple comment fields in
 9 Enforce.
 10 Q. Are those comment fields --
 11 withdrawn.
 12 Why are there multiple comment
 13 fields?
 14 MS. BERMAN: Object to the form of
 15 that question. You can answer it, if
 16 you can.
 17 A. There's multiple comment fields so
 18 that it can be clarified getting on what the
 19 field -- the comment field is associated to.
 20 Q. So the comment fields are associated
 21 to other fields in Enforce?
 22 A. Correct.
 23 Q. Do you know what fields in Enforce
 24 have associated comment fields?
 25 A. I do not know all of them.

1 J. Matuszewski
 2 That would be inputted into a lead source, and
 3 the CIS referral number would be put into the
 4 comment.
 5 Q. Are state and local agencies also
 6 potential lead sources?
 7 A. Yes.
 8 Q. So going back to paragraph 25 of
 9 Exhibit 3, is 25 to 50 records average for a
 10 CAP encounter?
 11 A. For a full encounter, yes.
 12 Q. What's the most common type of CAP
 13 encounter?
 14 MS. BERMAN: Object to the form of
 15 the question. You can answer.
 16 A. The most common type would be, to
 17 CAP, would be the court. Somebody found in
 18 jail that's amenable to removal.
 19 Q. And on average, how many records
 20 would be produced for that type of encounter?
 21 A. Again, it would be on average from 25
 22 to 50 records. NCIC records would have to be
 23 pulled, CIS records would have to be pulled.
 24 The processing disposition, the processing
 25 paper work would have to be pulled. Your J&Cs,

1 J. Matuszewski
 2 judgments and complaints, would have to be
 3 pulled. Any minutes that would be relevant to
 4 the NTA if it was an NTA would have to be
 5 pulled.
 6 Q. So if I understand correctly, those
 7 25 to 50 documents are then placed in the A
 8 file; is that right?
 9 A. Correct.
 10 Q. Or the T file if the A file isn't at
 11 hand?
 12 A. Correct.
 13 Q. And those are paper files?
 14 A. That's right.
 15 Q. Is that information also entered into
 16 ICE's electronic databases?
 17 A. The information's entered into the
 18 electronic databases. The forms are not
 19 entered into the database.
 20 Q. So, for example, an NCIC printout
 21 isn't entered into Enforce, but the information
 22 about convictions would be entered into
 23 Enforce?
 24 A. The information -- the totality of
 25 the NCIC report would be entered into the 213.

1 J. Matuszewski
 2 the total number of CAP encounters?
 3 A. Yes.
 4 Q. And how is that?
 5 A. Through an -- through pulling the
 6 information from the Enforcement Integrated
 7 Database.
 8 MS. BERMAN: Again, do you want to
 9 restrict it to a period of time? Or
 10 currently? Did you say -- I'm sorry.
 11 MR. WOFSY: I did say currently.
 12 MS. BERMAN: I'm sorry.
 13 Q. So you pulled the data from the
 14 Enforce database? Is that what you said?
 15 A. The Enforcement Integrated Database.
 16 Q. The EID?
 17 A. Yes.
 18 Q. And in what form do you pull that
 19 data?
 20 A. Currently, we use the ICE Integrated
 21 Decision System to pull the information from
 22 the EID, which is the Enforcement Integrated
 23 Database.
 24 Q. We can call that IIDS?
 25 A. Correct.

1 J. Matuszewski
 2 Q. Okay. And when you say "the
 3 totality," you mean the information, not the
 4 printout itself?
 5 A. Correct.
 6 Q. And similarly, the information about
 7 prior criminal convictions -- withdrawn.
 8 You mentioned court records. That
 9 information would be electronically entered
 10 into Enforce?
 11 A. No. The part of the narrative would
 12 be describing the documents. The case numbers,
 13 the document numbers would be placed in
 14 Enforce.
 15 Q. Is the I213 narrative section entered
 16 into Enforce?
 17 A. Yes.
 18 Q. So how does ICE track the total
 19 number of CAP encounters?
 20 MS. BERMAN: Object to the form of
 21 the question.
 22 A. For what years are you speaking? For
 23 the entirety of the FOIA?
 24 Q. Currently, how does -- withdrawn.
 25 Currently, do you know how ICE tracks

1 J. Matuszewski
 2 Q. So when you pull the -- when you --
 3 currently, when you pull the total numbers of
 4 CAP encounters from IIDS, what form of document
 5 does that produce?
 6 MS. BERMAN: Object to the form of
 7 the question.
 8 A. It's not a document. It's an
 9 electronic file.
 10 Q. Okay. What kind of electronic file?
 11 MS. BERMAN: Object to the form of
 12 the question.
 13 A. The file would be similar to an Excel
 14 spreadsheet.
 15 Q. Is it -- do you know how it differs
 16 from an Excel spreadsheet?
 17 A. Yes.
 18 Q. And how is that?
 19 A. Well, an Excel spreadsheet is a --
 20 it's part of a program where a IIDS file is a
 21 Hyperion file, which is a little bit more
 22 than -- a little more than just an Excel file
 23 on steroids.
 24 Q. I didn't hear. What kind of file?
 25 A. An Excel file on steroids.

1 J. Matuszewski
 2 Q. No, what kind of file is an Excel
 3 file on steroids?
 4 A. Hyperion is a type of format in which
 5 a web service will use to pull information.
 6 Q. So Hyperion -- so I understand,
 7 Hyperion is a program like Excel?
 8 A. It's a service.
 9 Q. A service? And is it a proprietary
 10 service of ICE?
 11 A. No.
 12 Q. It's a commercial service?
 13 A. To my knowledge.
 14 Q. Do you personally pull cumulative CAP
 15 encounter data from IIDS?
 16 A. No.
 17 Q. Who does?
 18 A. The contract staff that is governed
 19 by the statistical tracking unit within LESA.
 20 Q. Okay. So if you want the cumulative
 21 CAP encounter data, do you submit a request to
 22 them?
 23 A. Correct.
 24 Q. And they pull the information from
 25 IIDS?

1 J. Matuszewski
 2 A. They pull the information from the
 3 EID through IIDS.
 4 Q. Okay. And then they submit to you an
 5 Hyperion file containing that data; is that
 6 right?
 7 A. Correct.
 8 Q. The data in EID regarding cumulative
 9 CAP encounters, is that audited by anyone?
 10 MS. BERMAN: Object to the form of
 11 the question.
 12 A. For what time periods are you
 13 speaking of?
 14 Q. Presently, is information about
 15 cumulative CAP encounters in EID audited by
 16 anyone, if you know?
 17 A. Clarify "audited."
 18 Q. Accuracy-checked.
 19 A. Yes, within my unit we do review the
 20 encounters to ensure that the proper things are
 21 done and that they're not duplicated.
 22 Q. How do you go about checking the data
 23 in that way?
 24 A. Mainly, we look at each individual
 25 record to determine whether or not the same

1 J. Matuszewski
 2 person's been put in twice.
 3 Q. So somebody looks at each CAP
 4 encounter?
 5 A. Someone looks at the CAP encountered
 6 report, not each encounter.
 7 Q. I think you lost me. So what is the
 8 person checking the data actually looking at?
 9 A. They are looking at the report itself
 10 to see if there's any duplications.
 11 Q. The Hyperion report?
 12 A. Yes.
 13 Q. And who do they check if there are
 14 duplications or not?
 15 A. They are looking for the same name,
 16 date of birth, and location for encounter at a
 17 similar time frame.
 18 Q. There must be some automated way of
 19 doing this.
 20 A. No.
 21 Q. You physically look at each
 22 encounter?
 23 A. Yes.
 24 Q. This must take a long time.
 25 A. It does.

1 J. Matuszewski
 2 Q. About how long?
 3 MS. BERMAN: Object to the form of
 4 the question.
 5 A. Depending on the field office, a day.
 6 Q. So these Hyperion spreadsheets -- can
 7 I call them Hyperion spreadsheets? Is that
 8 accurate?
 9 A. Sure.
 10 Q. Or Hyperion files.
 11 A. That's fine.
 12 Q. What would you call them?
 13 A. The extension on the file is called
 14 a -- is BQY, so we call them BQYs.
 15 Q. BQYs that you receive, are those
 16 stored electronically?
 17 A. Yes.
 18 Q. Are they all kept together?
 19 A. Clarify how you refer "kept
 20 together."
 21 Q. Is there a -- withdrawn.
 22 Is there, for example, a folder on
 23 the shared drive for the BQYs that you receive?
 24 A. There are multiple folders, depending
 25 on the field offices.

1 J. Matuszewski
 2 Q. So is each BQY for a particular field
 3 office kept in a folder with the other BQYs for
 4 that field office?
 5 A. That's dependent on the officer. I
 6 allow them to do what they feel is necessary to
 7 perform their job. Master BQYs would be in one
 8 location, however, within -- for CAP.
 9 Q. What's a master BQY?
 10 A. The original file that would have
 11 came from the statistical tracking unit.
 12 Q. So I understand what you mean by
 13 "master," does that mean for all field offices?
 14 A. Correct.
 15 Q. And those are all kept in the same
 16 folder?
 17 A. Yes.
 18 Q. What's that folder called?
 19 A. If I remember correctly, it's called
 20 BQY.
 21 Q. Good name.
 22 So to produce all of the master BQY
 23 files would involve copying essentially all the
 24 data from that folder; is that right?
 25 A. Yes.

1 J. Matuszewski
 2 Q. The BQY files that an individual
 3 officer maintains, are those just copies of the
 4 master BQY files?
 5 A. Yes.
 6 Q. Just so they have their own copy
 7 right at hand?
 8 A. Correct.
 9 Q. For convenience?
 10 A. Correct.
 11 Q. So before ICE created IIDS, ICE was
 12 able to assemble cumulative numbers of CAP
 13 encounters; right?
 14 A. Manually, yes.
 15 Q. Manually? Okay.
 16 Meaning someone actually had to add
 17 up all the numbers in CAP encounters?
 18 A. Each field office would provide the
 19 number of encounters and then headquarters
 20 would add them.
 21 Q. And what form would the field office
 22 provide the number of CAP encounters?
 23 A. An Excel spreadsheet.
 24 Q. And who would that be sent to?
 25 A. It would have been sent to the CAP HQ

1 J. Matuszewski
 2 mailbox.
 3 Q. How often?
 4 A. Varied from the time the CAP began
 5 from 2006 to roughly 2009 -- no, 2008. It went
 6 from -- generally be once a week, though.
 7 Q. And when those field office reports
 8 were added together, what form did the final
 9 numbers come in?
 10 A. In Excel spreadsheet.
 11 Q. Okay. And if I understand correctly
 12 from your declaration, there was no supporting
 13 detail in that Excel spreadsheet.
 14 A. That's correct.
 15 Q. So it was just the total numbers?
 16 A. That's correct.
 17 MS. BERMAN: Can we take a break
 18 for one second?
 19 (Recess taken.)
 20 BY MR. WOFSY:
 21 Q. Okay, before the break, I believe you
 22 just described -- we were talking about the
 23 period between 2006 and about 2008, and you had
 24 just described two different kinds of Excel
 25 spreadsheets, one that was sent from field

1 J. Matuszewski
 2 offices to headquarters and the other that was
 3 the cumulative numbers of CAP encounters that
 4 were manually added up at headquarters. Is
 5 that accurate?
 6 A. Same spreadsheet, just added.
 7 Q. So talking first about the cumulative
 8 spreadsheets, are copies of those still
 9 maintained electronically by CAP?
 10 A. No.
 11 Q. Why not?
 12 A. The statistical tracking at the time
 13 was part of the Executive Information Unit.
 14 That unit was given all the spreadsheets.
 15 Q. Executive Information Unit?
 16 A. Information Unit. Doesn't exist
 17 anymore.
 18 Q. Okay. And was the Executive
 19 Information Unit consolidated into another
 20 office or program?
 21 A. It is what we call today the
 22 Statistical Tracking Unit.
 23 Q. Do you know if the Statistical
 24 Tracking Unit still maintains copies of those
 25 cumulative spreadsheets?

1 J. Matuszewski
 2 A. I don't know.
 3 Q. What about the spreadsheets that were
 4 emailed from each field office? Are those
 5 maintained by CAP?
 6 A. No.
 7 Q. Do you know what office maintained
 8 those?
 9 A. Once they were received by CAP, they
 10 were tallied, and the tallies were sent over to
 11 the Executive Information Unit.
 12 Q. Do you know if copies were kept of
 13 the original spreadsheets that had been
 14 emailed?
 15 A. I don't have any knowledge of any of
 16 the copies being kept, no.
 17 Q. If there were copies, it would be the
 18 statistical unit that would have them?
 19 A. Somewhere.
 20 Q. Okay. Do you know what would be
 21 involved in a search for those documents?
 22 MS. BERMAN: Objection to form of
 23 the question. The Statistical Tracking
 24 Unit?
 25 MR. WOFSY: Yes.

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 2 information from EID; is that right?
 3 A. Enter information, not fully query.
 4 Q. They're limited in their ability to
 5 query information?
 6 A. Correct.
 7 Q. You can only submit certain kinds of
 8 queries and not others?
 9 A. For each module has different query
 10 functions.
 11 Q. Is IIDS an application similar to
 12 Enforce that enters and queries data, or does
 13 it maintain its own data?
 14 A. IIDS is a reporting tool that
 15 overlays on top of the EID in order to pull
 16 defined records from the EID to then provide to
 17 us for statistical analysis.
 18 Q. Okay. What about ACRIME? What is
 19 that?
 20 A. ACRIME?
 21 Q. Yeah.
 22 A. ACRIME is proprietary to the Law
 23 Enforcement Support Center. I can't really
 24 speak to that.
 25 Q. Does CAP have access to ACRIME?

1 J. Matuszewski
 2 A. I don't know what would be involved
 3 in searching for the records.
 4 Q. I'd like to talk about ICE's
 5 databases that might contain records responsive
 6 to Roman numeral V of the FOIA request,
 7 individual records, okay?
 8 A. Okay. Clarify for what years.
 9 Q. Certainly. I'd like to begin by
 10 talking about current databases or databases
 11 that contained contemporary files.
 12 A. Okay.
 13 Q. So we talked about a couple already.
 14 EID; right?
 15 A. Correct.
 16 Q. And IIDS, is that considered a
 17 separate database?
 18 A. It's considered a reporting tool.
 19 Q. Does IIDS draw its data -- withdrawn.
 20 If I understand correctly, the
 21 Enforce applications are not databases; is that
 22 right?
 23 A. That's correct.
 24 Q. They are applications that an officer
 25 can use to enter information into EID and query

1 J. Matuszewski
 2 A. No.
 3 Q. Do you know what kind of information
 4 is contained in ACRIME?
 5 A. Yes.
 6 Q. What kind of information is contained
 7 in ACRIME?
 8 A. It would be criminal records. It
 9 would be -- ACRIME is meant for the LESC in
 10 order to quicken their responses. Instead of
 11 looking at multiple databases at one time,
 12 ACRIME pulls from multiple databases.
 13 Q. Databases like NCIC?
 14 A. Correct.
 15 Q. What others?
 16 MS. BERMAN: Objection. If you
 17 know. Don't speculate.
 18 A. I know it pulls everything it pulls
 19 from NCIC and TECS.
 20 Q. What's TECS?
 21 A. TECS is a government website that ICE
 22 uses as a front face for both -- for NCIC, the
 23 national law enforcement tracking system, which
 24 is NLETS, and also it's ICE's case management
 25 and several other things TECS uses. It's a

1 J. Matuszewski
 2 CBP-owned database.
 3 Q. Do you know if data from ACRIME is
 4 integrated into EID?
 5 A. It is not.
 6 Q. Are you familiar with EID Data Mart?
 7 A. Yes.
 8 Q. And what is that?
 9 A. It's a predecessor to IIDS.
 10 Q. Is there data included in EID Data
 11 Mart that is not included in IIDS?
 12 A. Data Mart is no longer the functional
 13 system for pulling data out, and it doesn't
 14 maintain data.
 15 Q. It's a way of accessing data in EID?
 16 A. Correct.
 17 Q. And is it functional, or not any
 18 longer?
 19 A. It's functional only at a program
 20 level, not a program such a CAP, but programmer
 21 level, someone that would be conducting
 22 maintenance IT type situations on the EID.
 23 Q. So is EID Data Mart a method by which
 24 CAP could access individual records potentially
 25 responsive to this FOIA request?

1 J. Matuszewski
 2 use them.
 3 Q. Are there any applications or
 4 databases that we haven't discussed that
 5 might -- withdrawn.
 6 Are there any other databases we
 7 haven't discussed that might contain individual
 8 records produced as a result of CAP encounters?
 9 A. CAP encounters? No.
 10 Q. Are there other applications we
 11 haven't discussed which allow users to access
 12 records produced as a result of CAP encounters?
 13 A. To my knowledge, there are no other
 14 ways to access that have been approved.
 15 Q. What does that mean?
 16 A. Means that if you as an individual
 17 want to put something into your -- into an
 18 Excel spreadsheet, I don't know that you're
 19 doing that.
 20 Q. Okay. But just to make sure I
 21 understand correctly, the universe of currently
 22 functional applications to access individual
 23 records produced as a result of the CAP
 24 encounter are the Enforce suite of applications
 25 and IIDS; is that right?

1 J. Matuszewski
 2 A. No.
 3 MS. BERMAN: I'm sorry, what time?
 4 Now?
 5 MR. WOFSY: Now.
 6 A. Now? No.
 7 Q. What about EARM Data Mart?
 8 A. Similar to the EID Data Mart. Data
 9 Mart in itself is the overlay. When you talk
 10 about EID, EARM, EIBM or previously EADM, the
 11 Data Mart is the Data Mart. It's an overlay.
 12 Q. When you say the Data Mart is the
 13 Data Mart, what does that mean?
 14 A. Data Mart is a tool, a reporting
 15 tool. It's not a database.
 16 Q. Okay. And so in that way, it's a
 17 similar predecessor, as you said, to IIDS.
 18 A. Correct.
 19 Q. Sounds like those two programs are
 20 essentially retired.
 21 MS. BERMAN: What two?
 22 MR. WOFSY: EID Data Mart and EARM
 23 Data Mart.
 24 A. They're no longer operationally used.
 25 As I said before, the programmers and IT people

1 J. Matuszewski
 2 A. Operationally correct, yes.
 3 Q. Okay. So I want to talk more about
 4 these, but before we do, are there other
 5 electronic records of -- withdrawn.
 6 Apart from these databases and
 7 applications, are there other electronic
 8 records produced as a result of CAP encounters?
 9 MS. BERMAN: Can you repeat that?
 10 Q. Other than the databases and
 11 applications we've discussed, are there other
 12 electronic records produced as a result of CAP
 13 encounters?
 14 MS. BERMAN: Object to the form of
 15 the question.
 16 A. Clarify what you mean by "result of a
 17 CAP encounter."
 18 Q. Following a CAP encounter, as I
 19 understand it, certain information is inputted
 20 into one of the Enforce modules; right?
 21 A. Yes.
 22 Q. And that then populates fields within
 23 EID; is that right?
 24 A. Populates tables, yes.
 25 Q. What do you mean by "tables"?

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 2 A. Table would be -- an example would be
 3 the person table. The person table would
 4 contain fields, and that would be the person's
 5 name, date of birth, place of birth, country of
 6 citizenship.
 7 Q. What are the other tables in EID?
 8 A. I can't speak to all of them. I
 9 don't know all of them.
 10 Q. What are the others that you do know?
 11 A. You have person, you have the arrest,
 12 you have the detention, you have the removal,
 13 you have -- I can't go into the exact names. I
 14 just know what they do.
 15 MS. BERMAN: Can we take a short
 16 break?
 17 (Discussion held off the record.)
 18 BY MR. WOFSY:
 19 Q. Okay, we were talking about the
 20 tables that exist in EID. You mentioned person
 21 table, arrest, detention, removal. Are there
 22 other tables that you know of?
 23 A. There's multiple tables. Every table
 24 has some relationship to those tables.
 25 Q. What do you mean by that?

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 2 you're aware of is the subject ID. Subject ID
 3 is not in any field inside of Enforce. It's
 4 created automatically when somebody creates an
 5 encounter.
 6 Q. So that means you can't enter subject
 7 ID into any Enforce module?
 8 A. To create it? No.
 9 Q. Okay. It's created whenever you --
 10 A. Create the encounter.
 11 MS. BERMAN: I'm sorry, let him
 12 finish his question. There's no
 13 question.
 14 Q. It's created whenever you create any
 15 encounter?
 16 A. Correct.
 17 Q. And is it just associated with that
 18 encounter?
 19 A. To that person.
 20 Q. To that person.
 21 So later encounters with that same
 22 person have that same subject ID?
 23 A. No.
 24 Q. A new one will be created?
 25 A. Yes.

1 J. Matuszewski
 2 A. I mean that fields within the EID are
 3 diversified so that if you want to know
 4 something about removal, it will also go back
 5 to something that has to do with
 6 transportation. Or maybe you have to have a
 7 reference to the person itself, but it's not in
 8 the person table. It's in a person arrest
 9 table.
 10 There's multiple tables that are
 11 linked, and IIDS is one of the things that
 12 actually merges a lot of tables together to
 13 allow us to pull the data.
 14 Q. Okay. I just want to make sure I
 15 understand what we're talking about when we say
 16 a table. Is a table a set of fields?
 17 A. Yes.
 18 Q. So when you talk about the different
 19 tables, those are groupings of the fields that
 20 can be populated within EID?
 21 A. Fields that are populated within EID
 22 and also fields that are populated behind the
 23 scenes from EID.
 24 Q. What does that mean?
 25 A. It means that -- one example I'm sure

1 J. Matuszewski
 2 Q. And when you said that that's behind
 3 the scenes of EID, does that mean it's not a
 4 field within EID?
 5 A. It's not a field within the Enforce
 6 suites for an officer to input. It's part of
 7 the EID's automatic functions.
 8 Q. So it is a field in EID but is not an
 9 option for an officer to input?
 10 A. Correct.
 11 Q. Okay. Going back to the issue of
 12 other electronic records, I'd like to direct
 13 your attention to Exhibit 3, your declaration,
 14 paragraph 25. In the last sentence, you state
 15 that CAP-related records could include, among
 16 other things, electronic files, polls from a
 17 wide variety of databases, systems, websites,
 18 and computer programs.
 19 What does that describe other than
 20 the applications of databases that we've
 21 already discussed?
 22 A. Records would include, as it says,
 23 the hard copies, electronic files. You'd have
 24 to go to the national tracking system to pull
 25 the file. That's a requesting system to the

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national records service center to have the file transferred to you to see where the file is.

Also, emails, texts, other systems that we end up looking into for a related record that has to do with CAP. Doesn't necessarily have to do with the encounter, it just has to do with the record that relates to the CAP.

Q. So would an example of that be NCIC?

A. An example could be NCIC.

Q. Okay. I'm not sure I understood. The national file tracking system, is that tracking physical files, A files, or electronic files?

A. Well, it actually tracks the physical file but because the -- there is an effort to digitize all files, you could say it tracks digital files as well.

Q. There's an effort to digitize all files created by ICE?

A. All A files.

Q. All A files. When you say "to digitize all A files," are you referring to the

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process of entering that information in the Enforce modules, or something else?

A. No, I mean they're taking a hard copy file and scanning it. It does not go into Enforce or the EID.

Q. So that's an ongoing project at ICE to scan all A files?

A. It's not ICE, it's CIS, Citizenship Immigration Services.

Q. Okay. And where are the scanned -- withdrawn.

So USCIS maintains the scanned copies of A files?

A. USCIS are the owners of any A file.

Q. Are there other kinds of electronic records described in the last sentence of paragraph 25 of Exhibit 3 that we haven't talked about yet?

MS. BERMAN: I'm going to object to the form of the question.

A. I'm going to have to say at this time I believe we have talked about all the relevant things that CAP would do for an encounter.

Q. All right. So I'm trying to

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understand if there's a method to determine which individuals have been the object of a CAP encounter. If I understand correctly, it is possible to do that within IIDS since 2010.

A. Since 2010, correct.

Q. So we will come back and talk about that, but are there other methods to determine what individuals have been the object of a CAP encounter?

MS. BERMAN: I'm sorry, pre2010?

Or --

MR. WOFSY: Yes.

A. To clarify, you're asking prior to 2010 was there a way to determine a CAP encounter?

Q. Other than using IIDS, is there a method to determine what individuals were the object of a CAP encounter?

MS. BERMAN: What do you mean by "method"? Any method?

MR. WOFSY: Yes.

A. You can manually review every file. Each field office can independently review their suite of Enforce. And when I'm saying

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field office, you'd have to break it down into all individual suboffices as well. Those would be the only ways I could think of.

Q. Can you describe what you mean by a field office reviewing its suite of Enforce?

A. The application is meant to be proprietary to the office in which you're processing. So when you're logged into that office, that office can view itself. It can't view another office.

Q. Okay. And so how would a field office go about using its suite of Enforce to determine what individuals had been the object of a CAP encounter?

A. There are several predefined queries within Enforce that you can request a program code associated to it.

Q. Okay. I'm not sure I understood that. So what's a predefined query?

A. A query that's been already developed, and you put in simple markers for what you're looking for, then press enter.

Q. Okay. And so are you saying that there are predefined queries that a field

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2 office could use to determine what individuals
3 have been the object of a CAP encounter?

4 A. The result of a CAP encounter, not
5 the actual CAP encounter. So, as you said, the
6 object of a CAP encounter, you could have a
7 very loose translation that it was a CAP
8 encounter, but you can't validate that it's a
9 CAP encounter.

10 Q. And what would the loose translation
11 of a CAP encounter be?

12 A. The CAP officer arrests somebody.
13 Doesn't mean that he actually encountered the
14 person, but he arrested the person.

15 Q. I see. But -- so in other words, a
16 field office could use Enforce to generate a
17 list of individuals that a particular CAP
18 officer had arrested?

19 A. Yes.

20 Q. And that would be a rough cut at the
21 set of CAP encounters?

22 A. That would be very loose
23 interpretation of a CAP encounter based off one
24 individual.

25 Q. In what situation would an arrest by

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2 because CAP is the only entity that should be
3 in the jails.

4 Q. So in other words, a field office
5 could run a query for its detainees and filter
6 them by the jail to which the detainer was
7 sent?

8 A. There's no filter.

9 Q. Okay. Organize it by the jail to
10 which the detainer was sent?

11 A. They can manually take the list after
12 receiving it from Enforce and then separate for
13 each individual jails.

14 Q. And that would tell you that a given
15 jail received detainees regarding a set of
16 individuals. And again, that would be kind of
17 a rough cut at those were people who were the
18 objects of CAP encounters?

19 A. Again, it would be a loose
20 interpretation of the number of people that CAP
21 may have encountered. However, the detainees
22 could be multiple detainees. It could be an
23 additional detainer so that the detainer would
24 have been relogged, because it went to a
25 different facility, so therefore there was

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2 a CAP officer not be a CAP encounter?

3 A. A situation where the encounter was
4 actually created either through a 287G program,
5 delegated officer, Secure Communities
6 identification, or any other person that would
7 have identified the person prior to the
8 Criminal Alien Program officer actually
9 arresting the person.

10 Q. Are there other predefined queries
11 that a field office could use to identify the
12 set of individuals who were objects of CAP
13 encounters?

14 A. Yes, but I don't remember the names
15 of the list. The one that comes to mind is the
16 detainer.

17 Q. And how would a field office use the
18 detainer predefined query to determine a set of
19 individuals who were the objects of CAP
20 encounters?

21 A. They would take the query report, run
22 it for their office, and determine what jails
23 and how many people in those jails had a
24 detainer placed on them that day. That could
25 again be very loosely coordinated to CAP,

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2 still only one encounter so the number of
3 encounters can't equate to the number of
4 detainees.

5 Q. And that would capture detainees
6 issued as a result of the Secure Communities
7 hit?

8 A. It could contain that, yes.

9 Q. Which would not necessarily be an
10 individual who had been the object of a CAP
11 encounter?

12 A. Correct.

13 Q. Are there any other predefined
14 queries that a field office could use to
15 generate that set of individuals within the
16 object of CAP encounters?

17 A. The system contains the ability to
18 query through other ways, other predefined
19 queries; however, I don't remember the names of
20 the queries offhand. It's not something we use
21 operationally because it's too cumbersome to
22 actually do.

23 Q. Okay. So let's talk about EID in
24 some more detail. If I understand correctly,
25 ICE owns and operates EID.

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2 A. Yes.

3 Q. All right. And --

4 A. Oh, let me rephrase. ICE is one of
5 the business owners; however, the EID is a DHS
6 system, so CVP, OFO, ICE all have stake in that
7 system.

8 Q. LFO?

9 A. OFO, Office of Field Operations.

10 Q. And when you say they have a stake in
11 it, what does that mean?

12 A. Means they all have different ways of
13 getting to the EID. The border patrol uses E3.
14 OFO uses Sigma. We use Enforce. HSI uses
15 Eagle. And CIS I believe is on Sigma as well.

16 Q. So all these agencies are users of
17 EID?

18 A. Yes.

19 Q. But ICE is the owner of EID?

20 A. For certain parts. We have a
21 proprietary owner but, however, the owner is
22 part of a control management board. So if you
23 really were to dive into it, each entity has
24 its own owner.

25 Q. Okay. We've talked a little bit

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2 that's correct.

3 Q. In your declaration, you describe an
4 event-based record. What does that mean?

5 MS. BERMAN: Do you want to direct
6 him to where that is?

7 THE WITNESS: I was going to ask
8 that too.

9 MR. WOFSY: Exhibit 3, paragraph
10 12. Oh, I'm sorry. It's in the second
11 declaration.

12 (PX Exhibit No. 4 was marked for
13 identification.)

14 BY MR. WOFSY:

15 Q. Paragraph 12.

16 A. Can you repeat the question?

17 Q. Yes. You referred to something
18 called an event-based record. It just hoping
19 you could define that for us.

20 A. Enforce is created to reference
21 anything inputted based on an event. Event
22 could be the interview of subject in prison.
23 An event could be the smuggling of an
24 individual. That would be an event. Event
25 could also be within ERO's purposes a

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2 about how the database is organized. I want to
3 make sure I understand it. So there's a
4 variety of fields in EID; right?

5 A. Tables.

6 Q. And tables.

7 A. Correct.

8 Q. Okay.

9 MS. BERMAN: Fields and tables, or
10 just tables?

11 A. There's tables with fields within the
12 tables.

13 Q. So the fields are organized into
14 tables?

15 A. Correct.

16 Q. Okay. Apart from those fields and
17 tables, are there also documents or other kinds
18 of records included in EID?

19 A. There are no documents in EID.

20 Q. So there's no, like, scanned copies
21 of anything in EID?

22 A. Not to my knowledge.

23 Q. Okay. It's really just the fields as
24 organized into tables?

25 A. The fields are organized in tables,

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2 significant -- not a significant -- a number of
3 hits that were sent over from the LESC from
4 Secure Communities that they get inputted into
5 the system. That's the event.

6 Q. So when you describe an event-based
7 record, what you're saying is the -- it's in
8 the first instance associated with something
9 that happened rather than a person?

10 A. Correct.

11 Q. Okay. Now, still in paragraph 12,
12 you say that the system, EID, provides users
13 the capability to access a view of the data
14 focused on the individual subject.

15 MS. BERMAN: Can you actually read
16 the whole thing? You omitted part of
17 it.

18 Q. "The system provides users with the
19 capability to access a view of the data using
20 the Enforce applications that is focused on the
21 individual subject of the records."

22 So I want to make sure I understand
23 what that means. So the records are
24 event-based, meaning they're created in
25 response to something that happened. But EID

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 2 permits them to be grouped or consolidated
 3 based on the individual that they relate to?
 4 A. Yes.
 5 Q. Okay. All right.
 6 So I understand that there are
 7 different applications that could be used to
 8 query EID, Enforce, and IIDS among them;
 9 correct?
 10 A. Right.
 11 Q. Is EID searchable itself?
 12 A. EID itself would not be searchable
 13 without having an overlay such as a Data Mart
 14 or IIDS.
 15 Q. You need to have some other
 16 application that sends queries to EID, which
 17 then returns the data?
 18 A. Correct.
 19 Q. So I have a few clarifying questions
 20 about the Enforce modules, so let's start with
 21 the booking module. And this is discussed at
 22 Exhibit 4, paragraphs 14 to 18.
 23 If I understand correctly, the EABM
 24 contains -- is used for information that
 25 relates to arrest data; is that correct?

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 2 long as it -- but the limitation is it's based
 3 on user input to that dropdown field.
 4 Q. In other words, the user that first
 5 entered information into EABM would need to
 6 select the program out of the dropdown field?
 7 A. Correct.
 8 Q. And sometimes people do that and
 9 sometimes people don't?
 10 A. It is a unfortunate thing, but
 11 everyone does what they feel is necessary
 12 within the events that they feel correlate to
 13 the events. So if the person was found in a
 14 jail, they may put Criminal Alien Program. If
 15 the person seems to be -- feels they're working
 16 as part of the Criminal Alien Program, whether
 17 at-large or incarcerated, they might put
 18 Criminal Alien Program. If it's something they
 19 saw in a memo somewhere that said the Criminal
 20 Alien Program, and they just remembered it, and
 21 they happened to be picking up a sex offender,
 22 they could put the Criminal Alien Program. It
 23 doesn't necessarily mean it's the Criminal
 24 Alien Program.
 25 Q. Is that how all -- withdrawn.

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 2 A. EABM would include arrest data, but
 3 it is the event-based beginning.
 4 Q. Beginning?
 5 A. Yes.
 6 Q. When a person is first booked by ICE?
 7 A. It does not have to be booked.
 8 Q. What are the other beginnings?
 9 A. You could have anything from property
 10 that doesn't have anything to do with booking
 11 that is based in EABM. You could also have an
 12 investigation that doesn't have anything to do
 13 with booking based in EABM.
 14 Q. So where any of those processes is
 15 started, EABM is the application an officer
 16 would use?
 17 A. Correct.
 18 Q. In paragraph 16 of Exhibit 4 you
 19 describe selecting CAP-related options out of
 20 dropdown menus. Can you explain that process?
 21 A. Using the predefined queries that I
 22 talked about before, a Criminal Alien Program
 23 has one of the dropdowns, such as the program
 24 dropdown can be used to pull something
 25 associated to the Criminal Alien Program, as

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 2 For records in EID that are coded as
 3 Criminal Alien Program, is that process you
 4 just described how they get coded?
 5 A. Currently, or in the past?
 6 Q. Let's start with currently.
 7 A. Currently? No.
 8 Q. How are they coded now?
 9 A. Currently, they are coded as a
 10 Criminal Alien Program when pulling through EID
 11 based on the officer's log-in.
 12 Q. So if an officer is logged in as
 13 doing criminal alien functions, then it's coded
 14 as a Criminal Alien Program record?
 15 A. If the officer logs in as part of the
 16 Criminal Alien Program, then anything he does
 17 within that record at that time is coded as
 18 part of the Criminal Alien Program.
 19 Q. When did that start?
 20 A. 2010.
 21 Q. Okay. And prior to that, it was just
 22 manually what any given officer chose?
 23 A. Prior to that, there was policy and
 24 procedure to choose, to dictate what to choose;
 25 however, it's still dependent upon the officer

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 2 to put it.
 3 Q. The difference being that now, it's
 4 automatic?
 5 A. Correct.
 6 Q. Information entered through EABM,
 7 would that include the location where the event
 8 took place?
 9 A. Yes.
 10 Q. So, for example, whether it was a
 11 jail or out on the street?
 12 A. The -- yes.
 13 Q. And which jail?
 14 A. Yes.
 15 Q. Okay. So let's talk about -- let's
 16 turn to EARM, the removal module. This is
 17 discussed in Exhibit 4 at paragraphs 23 to 26.
 18 MS. BERMAN: If you want to, take a
 19 minute to review those paragraphs when
 20 he's formulating the question.
 21 Q. Paragraph 26 describes the various
 22 ways in which EARM is searchable; is that
 23 right?
 24 A. Yes.
 25 Q. What is an event number?

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 2 long would that take?
 3 A. That would depend on the health of
 4 the system at the time, so it could take
 5 anywhere from 30 seconds to 10 minutes.
 6 Q. Based on how many people are using
 7 it?
 8 A. Not how many people are using it,
 9 just what the connectivity is to the system.
 10 Q. Does EID track events in that
 11 individual's removal proceedings?
 12 A. The EID doesn't track anything.
 13 Q. Does EARM track events in an
 14 individual's removal proceedings?
 15 A. Multiple events can be linked to one
 16 EARM event within EARM.
 17 Q. Okay. But there is some method for
 18 coding events in removal proceedings in EARM?
 19 A. Clarify what you mean by "coding."
 20 Q. So let's do it by an example. If an
 21 individual is ordered removed by an immigration
 22 judge, is that information entered into EARM?
 23 A. Yes.
 24 Q. And is that entered by selecting an
 25 option from a dropdown menu?

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 2 A. An event number is the number
 3 assigned automatically by the system upon
 4 creation of the event in EABM.
 5 Q. So that's one of those fields you
 6 were describing, which an officer can't enter
 7 in Enforce, but which does exist in EID?
 8 A. Correct.
 9 Q. Other than the possible searches you
 10 list in paragraph 26, are there other possible
 11 queries for EARM?
 12 A. Not to my knowledge.
 13 Q. If one had a list of individuals, for
 14 example, by a number, could EARM be used to
 15 generate individual records for those people?
 16 A. One at a time, yes.
 17 Q. And how long would it take to do that
 18 for one person?
 19 A. If you're basing it on the alien
 20 number, it would vary depending on how many
 21 times the person was found in the database.
 22 Q. Because there would be separate EARM
 23 hits for each removal?
 24 A. Correct.
 25 Q. If a person only had one removal, how

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 2 A. Yes.
 3 Q. And I assume there are other options
 4 in that same menu for other events that could
 5 happen in a removal proceeding.
 6 A. No. It would be -- not other events
 7 that would happen, but other categories for the
 8 deportation.
 9 Q. Voluntary departure, for example?
 10 A. Correct.
 11 Q. What about if the person is granted
 12 relief from removal?
 13 A. That would be in there.
 14 Q. That would be?
 15 Is that broken down by the kind of
 16 relief?
 17 A. I don't know that.
 18 Q. Okay. So now let's talk about IIDS.
 19 IIDS -- if I understand correctly, IIDS, the
 20 purpose of it is to be able to generate certain
 21 kinds of reports. Specifically, statistical
 22 reports. Correct?
 23 A. Correct.
 24 Q. What kinds of statistical reports can
 25 IIDS generate?

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 2 A. IIDS is a reporting tool, so
 3 depending on what you want to create for a
 4 statistical report, you can develop it.
 5 Q. All right. So we talked before about
 6 Hyperion BQYs.
 7 A. Uh-huh, yes.
 8 Q. That's what -- is that -- withdrawn.
 9 Are BQYs generated by IIDS?
 10 A. Yes, as the result file.
 11 Q. Okay. And if you submit a query to
 12 IIDS, is the result always a BQY?
 13 A. Yes.
 14 Q. Okay. So that BQY is the form of
 15 input that IIDS generates?
 16 A. Correct.
 17 Q. And then you can take the information
 18 in the BQY and turn it into some other kind of
 19 report?
 20 A. You can put it in any format you want
 21 to report with.
 22 Q. Okay. I'd like to ask specifically
 23 about whether IIDS -- withdrawn.
 24 Are all the fields of EID accessible
 25 through IIDS?

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 2 terminology that it's a target located on a
 3 fugitive. They located a fugitive.
 4 Q. What's the difference in coding
 5 between CAP local, CAP state, CAP federal?
 6 A. Clarify that.
 7 Q. Why would you choose one of those
 8 rather than the other one? What does that
 9 mean?
 10 A. So that you know whether you're in a
 11 local, state or federal prison.
 12 Q. Lead type. Is that accessible
 13 through IIDS?
 14 A. Yes.
 15 Q. Program code?
 16 A. Yes.
 17 Q. And one of those would be CAP?
 18 A. Yes; however, it depends on -- I need
 19 you to clarify. What time period are you
 20 talking about for the program code?
 21 Q. We're talking about currently, post
 22 2010.
 23 A. Program code is available, but it's
 24 not the program code found in the EABM.
 25 Q. What is it?

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 2 A. No.
 3 Q. I'd like to ask specifically about
 4 whether specific fields are accessible through
 5 IIDS. You mentioned personally identifiable
 6 information. Is that accessible through IIDS?
 7 A. For things that I have dictated to be
 8 related to CAP, yes.
 9 Q. So name, A number, that sort of
 10 thing?
 11 A. Name, A number is in there, yes.
 12 Q. Arrest type?
 13 A. Yes.
 14 Q. And what is arrest type?
 15 A. Arrest type is a dropdown in EABM to
 16 dictate what kind of arrest it was.
 17 Q. And what about options for kinds of
 18 arrests?
 19 A. ERO options are locate, noncustodial
 20 arrest, CAP local, CAP federal, CAP state.
 21 Q. The first one you said I think was
 22 locate?
 23 A. Yes.
 24 Q. What does that mean?
 25 A. It's a fugitive operations

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 2 A. It's the program code associated with
 3 the officer's user profile.
 4 Q. It's the automatic generation based
 5 on how the officer is logged in?
 6 A. True.
 7 Q. Event number?
 8 A. Yes.
 9 Q. What about the date of the encounter?
 10 A. Yes.
 11 Q. Date of arrest by ICE?
 12 A. Date of arrest.
 13 Q. Date of transfer to an ICE facility?
 14 A. Can I clarify that you're speaking
 15 about what IIDS can pull?
 16 Q. Yes.
 17 A. Yes.
 18 Q. Type of encounter?
 19 A. Type of encounter is not a field
 20 pulled by IIDS.
 21 Q. And type of encounter, what are the
 22 options within that? What does that mean?
 23 A. The type of encounter is determined
 24 by the person looking at the report.
 25 Q. I don't think I understand. What

1 J. Matuszewski
 2 does that mean?
 3 A. If the lead type is CAP local, then
 4 it's a CAP encounter, so that would be the
 5 type. There's no type actually listed
 6 anywhere.
 7 Q. What about whether an NTA was issued?
 8 Is that accessible to IIDS?
 9 A. Yes.
 10 Q. Whether a detainer was launched?
 11 A. Yes.
 12 Q. The actual facility, what prison or
 13 jail it was, is that a field that's accessible
 14 by IIDS?
 15 A. For the detainer?
 16 Q. No, in general. So is there a field
 17 in EID which is the facility in which an
 18 individual who is the object of a CAP encounter
 19 was held?
 20 MS. BERMAN: Talking about EID now?
 21 MR. WOFSY: Yes.
 22 A. There's a field in the EID that is
 23 freeform text that will dictate what prison was
 24 associated to that encounter.
 25 Q. So you could put Montgomery County

1 J. Matuszewski
 2 Jail, for example?
 3 A. You could also put Montgomery County.
 4 Q. Is that field accessible with IIDS?
 5 A. Yes.
 6 Q. What about the location of the
 7 facility?
 8 A. The address?
 9 Q. City, state? Or is that the same
 10 field?
 11 A. It's not the same field. And city
 12 and state is not in -- is not one of the things
 13 pulled out of IIDS because city and state is
 14 not added to that field.
 15 Q. What about demographic information?
 16 Individual's sex?
 17 A. Yes.
 18 Q. Race?
 19 A. Yes.
 20 Q. Nationality?
 21 A. Yes.
 22 Q. Age?
 23 A. Yes.
 24 Q. Their residence?
 25 A. Foreign and local.

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 2 Q. Both?
 3 A. Yes.
 4 Q. What about criminal history
 5 information?
 6 A. Criminal history information is not
 7 maintained -- I'm sorry, not -- criminal
 8 history information based on NCIC codes only
 9 can be pulled.
 10 Q. Okay. And can you explain a little
 11 bit what the NCIC coding means?
 12 A. For crimes committed within the
 13 United States, there is an NCIC code that
 14 correlates to that. For example, a weapons
 15 charge is a weapons offense, and I believe the
 16 code is 1099.
 17 Q. So it's sort of a category of
 18 offense?
 19 A. Yes.
 20 Q. What about immigration?
 21 MS. BERMAN: Can we take a break
 22 for a moment?
 23 MR. WOFSY: Sure.
 24 (Discussion held off the record.)
 25 MS. BERMAN: We were discussing the

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 2 NCIC program codes, and it's my
 3 understanding that those are FBI program
 4 codes and so if you don't actually need
 5 to know the numbers, we'd prefer he not
 6 testify about that because we're not
 7 sure whether it's exempt under FOIA.
 8 MR. WOFSY: That's fine. We're
 9 trying to get an idea of what
 10 information in general.
 11 MR. WISHNIE: I will say it's my
 12 understanding they are publicly
 13 available. They are available on the
 14 web now. But, as Cody said, that's not
 15 the thrust of what we're after here. I
 16 don't think we're going to entrench on
 17 anything like that.
 18 MS. BERMAN: Thank you.
 19 BY MR. WOFSY:
 20 Q. We were talking about criminal
 21 history information. Does EID contain criminal
 22 history information other than those NCIC
 23 codes?
 24 A. You'd find the information within the
 25 narrative portions of a 213.

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 2 Q. Narrative portions?
 3 A. So not searchable.
 4 Q. Okay. Other than the narrative and
 5 the NCIC coding, are there any other fields in
 6 EID that contain criminal history information?
 7 A. Not to my knowledge.
 8 Q. The I213 narrative portion, is
 9 that -- can IIDS query that?
 10 A. No.
 11 Q. Okay. Does the criminal history
 12 information in EID distinguish between charges
 13 and convictions?
 14 A. Yes.
 15 Q. And how is that -- withdrawn.
 16 How is information about charges
 17 entered into EID?
 18 A. The NCIC code is considered pending.
 19 Q. So it just shows up as a pending
 20 code?
 21 A. Yes.
 22 Q. So for an individual who is the
 23 object of a CAP encounter in, say, a state
 24 prison, is there a field in EID which reflects
 25 the charge or conviction which is the basis for

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 2 that person's current incarceration?
 3 A. Yes.
 4 Q. And what field is that?
 5 A. It's found in the crime entry screen
 6 inside of EABM.
 7 Q. And is that a dropdown menu or is
 8 that a free text menu -- field?
 9 A. It's a dropdown.
 10 Q. So what are the categories that could
 11 be chosen there?
 12 A. All the NCIC codes available.
 13 Q. So in other words, an officer
 14 inputting data into EABM would sort of manually
 15 code the charge or conviction using the NCIC
 16 coding?
 17 A. Correct.
 18 Q. And just to clarify, so the -- other
 19 than the NCIC coding, the only other criminal
 20 history information is in the I213 narrative
 21 section?
 22 A. To my knowledge, that's correct.
 23 Q. And IIDS cannot query that?
 24 A. IIDS cannot query a narrative, no.
 25 Q. Is there a field in EID for the field

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 2 office or subfield office that the officer who,
 3 for example, does the interview is assigned to?
 4 A. Yes.
 5 Q. Okay. Is that something that IIDS
 6 can query?
 7 A. Yes.
 8 Q. What about immigration history prior
 9 to the current removal case, if there is one?
 10 Is that something that is reflected in EID
 11 fields?
 12 A. It's reflected in the fields as a yes
 13 or no. When you say yes, in the -- as you
 14 process, you have to input that information
 15 into the narrative.
 16 Q. So in other words, the question is,
 17 is there prior immigration history, and then
 18 you say either yes or no?
 19 A. Correct. It's on the 213.
 20 Q. So as to the yes or no portion, is
 21 that something IIDS can query?
 22 A. That, I do not know.
 23 Q. As to the narrative portion, is that
 24 something IIDS can query?
 25 A. No.

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 2 Q. As a general matter, is IIDS not
 3 capable of querying narrative sections,
 4 narrative fields in EID?
 5 A. That's correct, in -- generally,
 6 IIDS -- well, not generally. IIDS cannot query
 7 freeform text.
 8 Q. Okay. So what about current
 9 immigration proceedings? Are there fields
 10 reflecting information about that in EID?
 11 A. Yes.
 12 Q. And what are those fields, if you
 13 know?
 14 A. I don't know all the fields. I do
 15 know that in fields in the removal module, it
 16 will say when the proceedings are started, if
 17 there's a document pending, anything that has
 18 to do with the actual removal of the alien and
 19 the processing of that alien through removal
 20 proceedings.
 21 Q. When you say "a document," do you
 22 mean a travel document?
 23 A. Yes.
 24 Q. And are those fields -- withdrawn.
 25 Can IIDS query those fields?

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 2 A. It has the capability of querying
 3 some, but I'm not sure of all.
 4 Q. Is there a field in EID for who the
 5 interviewing officer is?
 6 A. Yes.
 7 Q. By name?
 8 A. Yes.
 9 Q. And also by some ID number?
 10 A. No.
 11 Q. Just name?
 12 A. Yes.
 13 Q. Is that something that EID can --
 14 withdrawn.
 15 Is that something IIDS can query?
 16 A. Yes.
 17 Q. We talked about the criminal charge
 18 or conviction that is the basis for an
 19 individual's current incarceration. Can we
 20 call that the current criminal case, just so we
 21 know what we're talking about?
 22 A. Okay.
 23 Q. Is there a field in EID for the
 24 arresting agency for the current criminal case?
 25 A. Not that I'm aware of.

1 J. Matuszewski
 2 Q. Directing your attention to
 3 Exhibit 4, your second declaration, paragraph
 4 30, last sentence, "The data points are
 5 preselected by ICE to meet agency requirements
 6 for data analysis."
 7 Is what you were just describing in
 8 terms of some fields being queryable by IIDS
 9 and others not? Is that what you're referring
 10 to as the data points being preselected?
 11 A. Yes.
 12 Q. Okay. Now, I understand that IIDS is
 13 capable of generating a detailed report. Is
 14 that right?
 15 A. Clarify what you mean by "detailed."
 16 Q. Directing your attention to
 17 Exhibit 4, paragraph 27, the last sentence. As
 18 part of the generation of statistical
 19 information, IIDS also has the ability to
 20 generate a, quote, detailed report.
 21 MS. BERMAN: Can you finish the
 22 sentence?
 23 MR. WOFSY: That contains a listing
 24 of the data underlying the statistical
 25 information.

1 J. Matuszewski
 2 Q. That's what I'm referring to by
 3 detailed report, is what you describe in
 4 paragraph 27.
 5 Can you describe a detailed report?
 6 What does that look like?
 7 A. When I mentioned detailed report, I'm
 8 referring to anything that would have more
 9 information than just a number.
 10 Q. Okay.
 11 A. So in these reports the IIDS would
 12 generate would include biographic information
 13 to include some of the fields that you were
 14 discussing, the officer, date of arrest, date,
 15 possible location or jail that we encountered
 16 the person in.
 17 Q. So in other words, a detailed report
 18 is a BQY?
 19 MS. BERMAN: Object to the form of
 20 the question.
 21 A. The detailed report that we receive
 22 from IIDS that I'm referring to would be the
 23 BQY.
 24 Q. Okay. And it -- just trying to get a
 25 picture of it. It has a number of columns for

1 J. Matuszewski
 2 the different fields that you've requested?
 3 A. Correct.
 4 Q. Okay. And is what's in each column a
 5 single number? Or is it the individual records
 6 on which that number is based?
 7 A. In each column is a defined field.
 8 In each row is an individual record.
 9 Q. Okay, okay. So the spreadsheet
 10 basically looks like columns for the different
 11 fields that you have requested, and then in
 12 each row, whether that field is populated, and
 13 with what for that particular record?
 14 A. Correct.
 15 Q. So directing your attention to
 16 Exhibit 4, paragraph 37 -- you state ICE has
 17 the ability to filter data in IIDS for fiscal
 18 year 2010 and beyond for CAP encounters. I
 19 just want to make sure I understand what that
 20 looks like.
 21 So you could query IIDS for the field
 22 that includes CAP encounters as an option?
 23 A. No.
 24 Q. No?
 25 What does that mean?

1 J. Matuszewski
 2 A. It means that --
 3 MS. BERMAN: I'm sorry, what does
 4 what mean? His statement?
 5 Q. Your statement in paragraph 37.
 6 A. It means that when I request a BQY
 7 that I can filter for the Criminal Alien
 8 Program based on an encounter.
 9 Q. I see.
 10 Remind me. The Criminal Alien
 11 Program, what field is that a possibility for
 12 populating?
 13 A. Currently, or previously?
 14 Q. Currently.
 15 A. There is no field. It's based on the
 16 officer's log-in.
 17 Q. Okay. So there's a field that is
 18 officer's log-in?
 19 A. No, it's based on the officer's
 20 profile. So when he logs in, his profile says
 21 Criminal Alien Program.
 22 Q. Okay. And that information is
 23 entered into a field in EID?
 24 A. That is the field in EID.
 25 Q. Okay. It's automatically populated?

1 J. Matuszewski
 2 You would filter that to include only
 3 CAP encounters?
 4 A. To include any CAP as a program.
 5 Q. And that would basically give you a
 6 list of individual records that were coded as
 7 CAP encounters?
 8 A. That was coded as a CAP officer
 9 encountering somebody, not listed as CAP
 10 encounters.
 11 Q. And then you could query various --
 12 withdrawn.
 13 You could query the information
 14 contained in various other fields along with
 15 that; is that right?
 16 A. Currently, yes.
 17 Q. So, for example, you could query CAP
 18 encounters along with the location of the
 19 encounter?
 20 A. If the location was entered, yes.
 21 Q. Or any of the other fields that we
 22 discussed which IIDS is capable of querying.
 23 A. Yes.
 24 Q. And that would generate essentially a
 25 spreadsheet that would have for a given record

1 J. Matuszewski
 2 A. Yes.
 3 Q. And so -- and what field is that in
 4 EID?
 5 A. I can't say what field it is. I
 6 know -- I believe it's on the officer dimension
 7 table.
 8 Q. So I'm just trying to get a sense of
 9 how this would work. And here's what I think I
 10 hear, is that you would query IIDS for all
 11 records and then filter it based on whether the
 12 officer dimension table is populated with CAP
 13 encounters.
 14 A. No.
 15 Q. Okay. What's wrong about that?
 16 A. A query is -- a query is done for
 17 encounters, and then we filter the program code
 18 for the officer at the time of him logging in
 19 to the CAP.
 20 Q. Okay. So out of the total data
 21 that's available in EID, you would filter based
 22 on only encounters?
 23 A. Yes.
 24 Q. And then you would sort that. You
 25 would then -- withdrawn.

1 J. Matuszewski
 2 that it was a CAP encounter or an encounter by
 3 a CAP officer as well as any of the other
 4 fields that you query along with that?
 5 A. Yes.
 6 Q. And to be clear, we're talking about
 7 records that are -- you could currently query?
 8 A. Correct, from 2010 to present.
 9 MR. WOFSY: I think that that is as
 10 good a stopping place as any, so why
 11 don't we break for lunch.
 12 (Recess taken.)
 13 BY MR. WOFSY:
 14 Q. Okay, so right before lunch, we were
 15 talking about events accessible through IIDS
 16 that are coded as encounters by a CAP officer;
 17 right?
 18 A. We were discussing events that were
 19 filtered by the program CAP that were
 20 encounters.
 21 Q. Okay. Do you know roughly how many
 22 such encounters there are in EID?
 23 A. No.
 24 Q. Direct --
 25 A. I can't tell you up to date, but I

1 J. Matuszewski
2 know if you were to ask me in general, it would
3 be millions.

4 Q. Millions?
5 Directing your attention to 3, I
6 believe, this is your first declaration,
7 paragraph 22, about four lines down you say,
8 for example, in fiscal year 2011, there were
9 701,473 CAP encounters.

10 Is that -- does that figure represent
11 the encounters we have been discussing that
12 would be filterable in IIDS as CAP encounters?

13 A. Yes.
14 Q. Okay. And fiscal year 2011, you'll
15 have to forgive me, when does that run from and
16 to?

17 A. October 1, 2012 -- I'm sorry, 2010,
18 to September 31, 2011.

19 Q. Okay. And so then since then there's
20 been a fiscal year 2012 and a fiscal year --
21 we're in fiscal year 2013?

22 A. Correct.

23 Q. Okay. Would you estimate that
24 roughly the same -- there would be roughly the
25 same number of CAP encounters for subsequent

1 J. Matuszewski
2 out how many of the people associated with
3 those records had been arrested?

4 MS. BERMAN: Object to the form of
5 the question.

6 A. Yes. We look at the number of
7 encounters and we determine on the basis of
8 those subject IDs how many have been arrested.

9 Q. So in order to produce a BQY, as we
10 have been discussing, that included all CAP
11 encounters post 2010, how long would that take?

12 MS. BERMAN: Object to the form of
13 the question.

14 A. What's the date range that you're
15 requesting?

16 Q. Well, as I understand it from your
17 second declaration, Exhibit 4, the data is --
18 you consider the data in IIDS as to what
19 encounters are CAP encounters reliable after
20 2010.

21 A. That's correct.

22 Q. Is that the beginning of 2010
23 forward?

24 A. From fiscal year 2010 beginning to go
25 forward, yes.

1 J. Matuszewski
2 fiscal years?

3 A. I can't guess to the difference
4 between the 2007 to 2012 to what's going to
5 happen in 2013.

6 Q. Okay. If they were roughly the same,
7 we'd be talking somewhere between 1.5 and
8 2 million CAP encounters since 2010?

9 MS. BERMAN: I'm going to object to
10 the form of the question, but go ahead.

11 A. If you were to take 700,000 and
12 multiply it by 3, then yeah, it would be 2.1.

13 Q. The remainder of that sentence, "of
14 which 221,122 resulted in arrests," how did you
15 determine that number?

16 A. As we had spoken about before, IIDS
17 would create a subject ID. The subject ID is
18 specific to a certain person, at a specific
19 time. So when you -- when CAP will request the
20 encounters, we also statistically request of
21 those encounters, which would be defined by a
22 person, and then the subject ID, how many of
23 them have been arrested.

24 Q. Okay. And so that's what you did.
25 You filtered by CAP encounters and then figured

1 J. Matuszewski
2 Q. So if you wanted to create a BQY of
3 all CAP encounters from fiscal year 2010 to
4 date, how long would the process of creating
5 that BQY take?

6 A. The BQY already exists. All -- the
7 only filter you would have to take off is the
8 fiscal year.

9 Q. Okay.

10 A. Or put on.

11 Q. That BQY already exists?

12 A. It's already requested that CAP will
13 make as -- how many CAP encounters it has for a
14 fiscal year. Your request from 2010 forward
15 would just have to add fiscal years to the
16 filter.

17 Q. And similarly, you could add other
18 fields to the filter?

19 A. That would be dependent on or whether
20 or not IIDS has that field available.

21 Q. So if you want to request a BQY
22 that's filtered for CAP encounters, fiscal year
23 2010 and forward, along with a set of other
24 fields that IIDS can pull, how long would it
25 take to produce that BQY?

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A. Again, it's relevant to know what fields you're going to request, because if certain fields aren't pulled or if certain fields belong to a different general report, such as removals, then it's not part of an encounter report. It's not part of the manner in which the reports are currently generated and would have to be recreated specifically for that.

Q. I'm going to need you to walk me through what that means.

A. So there are preexisting sets of data that are requested from IIDS?

A. CAP requests CAP encounters quite often, so that report is something that -- that the Statistical Tracking Unit will have on hand to run the report.

If it's something specific, to have fields added or referenced, a report would have to be created. Depending on what you're adding, taking away, or just overall requesting will determine the time frame in which the report takes to create and validate and then produce a result.

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Q. Okay. And so if the only things that are being requested are fields that IIDS can pull, does that tell you enough to know how long it would take to create that report?

A. No.

Q. Okay. What else would you need to know?

A. You'd have to know how it can be validated.

Q. And what does that mean?

A. When you create a report, you can -- statistically, a number has to be validated. So when we look at the reports, we also look at anything else that we could possibly find, whether it be asking a field office to run a query for a specific day, to match up against the report that we've pulled and then look at that report -- that date range specifically and then -- to see if the items would match. That would be validation.

Q. Okay. And in order to determine what kind of validation would be necessary, you'd need to know what fields would be requested?

A. Correct.

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Q. If I gave you a set of fields, would you be able to tell me roughly how long it would take to create that report?

A. If you gave me a set of fields, I could give you a rough estimate; however, because I'm not creating the report, I can't tell you how long it would take.

Q. Okay. So if you wanted to create a report that included the following fields, how long would it take? The fields are: There was a CAP encounter, or what kind of encounter it was, fiscal year, demographic information about the individual, criminal history information in the form of the NCIC coding, immigration history information, location of the facility. Say, that much information. How long would it take to create a report?

A. What's the demographics you're looking for?

Q. Sex, race, nationality, age.

A. Creation of the report would probably take about a day. Validation, two or three days after that.

Q. So you mentioned that there are

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reports that the statistical office already generates for CAP on a regular basis; right?

A. Correct.

Q. What -- how many different reports are there that they normally generate, regularly generate?

A. Five.

Q. Okay. And what are those reports?

A. Encounters, detainers, arrests, CD, charging documents issued, and removals.

Q. So for each of those, what fields are included in the report?

A. Event, responsible site, date, subject ID, name, officer name, A number, criminal offense level, and then each individual one has different ones. For example, detainer would have a location of the detainer, but an arrest won't have the location of the detainer.

Q. And all of those reports come in the form of BQYs?

A. Yes.

Q. And a BQY can be modified after the statistics office sends it to you; right?

1 J. Matuszewski
 2 A. Yes.
 3 Q. So, for example, you could delete an
 4 entire field out of a BQY?
 5 A. Yes.
 6 Q. If it included personally
 7 identifiable information, for example?
 8 A. Yes.
 9 Q. Okay. Does CAP keep copies of those
 10 standard reports on their shared drive?
 11 A. Yes.
 12 Q. Are they all kept together?
 13 A. The master files are kept together.
 14 Q. And are those the master files you
 15 were describing earlier?
 16 A. That's -- what I was describing was
 17 the BQY. Whether it be a master or a subset,
 18 it's still just a BQY.
 19 Q. I think you mentioned that those were
 20 kept in a folder called BQY, you thought.
 21 A. Yes.
 22 Q. Is that where all of these five types
 23 of reports would be kept, the master copies?
 24 A. Yes.
 25 Q. How often do they run the five

1 J. Matuszewski
 2 standard reports?
 3 A. Once a week.
 4 Q. Since when?
 5 A. 2010.
 6 Q. So I'd like to turn to the period
 7 from 2007 to 2010. As I understand it, there
 8 were data migration issues with IIDS during
 9 that period. Is that right?
 10 MS. BERMAN: Object to the form of
 11 the question. Go ahead.
 12 A. From my knowledge, no, because
 13 there's no data migration to IIDS.
 14 Q. Excuse me. I misspoke. Were there
 15 data migration issues from 2007 to 2010 to EID?
 16 MS. BERMAN: Object. You're
 17 reading from something. Do you want to
 18 point him to it? I mean --
 19 MR. WISHNIE: What's the basis of
 20 the objection?
 21 MS. BERMAN: That you seem to be
 22 reading from something and he might want
 23 to -- since he has the declaration in
 24 front of him, you should show him the
 25 portion that you're reading from.

1 J. Matuszewski
 2 A. What reference are you reflecting the
 3 data migration to the EID?
 4 Q. Exhibit 4, paragraph 35. This is
 5 your second declaration.
 6 MS. BERMAN: You have it in front
 7 of you. Okay.
 8 Q. From fiscal year 2007 to fiscal year
 9 2010, were there data migration issues to EID?
 10 A. To my knowledge, yes, the DACS -- the
 11 DACS information that was part of central
 12 ingest system as it was migrated to the EID did
 13 have issues.
 14 Q. What is your understanding of what
 15 those issues were?
 16 A. A loss of information, mislabeling of
 17 information.
 18 Q. Relevant to tracking which encounters
 19 or CAP encounters, was there data that was
 20 lost?
 21 A. We found through our statistical
 22 analysis that there was some data lost to
 23 specifically CAP, but it hasn't been delved
 24 into to see how much was lost.
 25 Q. Okay. Directing your attention to

1 J. Matuszewski
 2 paragraph 36, from fiscal year 2010 until
 3 present, data quality as it relates to CAP has
 4 improved greatly within EID and IIDS and ICE
 5 considers fiscal year 2010 and newer data to be
 6 reliable.
 7 Can you explain what is -- what ICE
 8 considers unreliable about the data prior to
 9 2010?
 10 A. As stated, from 2010, for the record,
 11 it became an automatic process that we could
 12 identify what and who was inputting into the
 13 system.
 14 Prior to that, it was a standard
 15 manual version that, through all the policies
 16 and procedures that we did put out to tell
 17 people specifically at CAP what it was they
 18 were supposed to do, we had an 80 to 98 percent
 19 error rate in order to identify a specific CAP
 20 arrest, encounter, detainer.
 21 Q. And how is that error rate
 22 determined?
 23 A. It's based on the policies and
 24 procedures that we put out to what they were --
 25 what the officers were supposed to put into the

1 J. Matuszewski
 2 fields in order to determine CAP, whether it be
 3 the lead type, program type, event type,
 4 whatever was it was they were supposed to put
 5 in. If they had something wrong, if, for
 6 example, the program, instead of saying CAP,
 7 they put in Detention and Deportation Program
 8 but yet the lead type said CAP, we'd have to go
 9 back and physically -- I'm sorry, manually
 10 check to see if it was actually CAP or somebody
 11 on a detained docket.

12 Q. And so the error rate you cited, was
 13 there a study conducted to determine how
 14 accurate that data was?

15 A. For approximately a year, Criminal
 16 Alien Program would quarterly go in and look at
 17 the BQYs, filter out for all the fields that
 18 were supposed to be inputted correctly, and
 19 highlight the errors and send back to the field
 20 offices what their issues were and how to fix
 21 them.

22 Q. Is there somewhere where that error
 23 rate is documented?

24 A. It was never written as a formal
 25 documentation. It was sent specifically to the

1 J. Matuszewski
 2 this earlier, you were talking about
 3 before 2010. I don't know if you still
 4 are.

5 MR. WOFSY: Yes, I'm not anymore.
 6 I'm talking in general.

7 BY MR. WOFSY:

8 Q. You had described these methods of
 9 searching -- of field offices searching, for
 10 example, by detainer, and I'm trying to
 11 understand what the relationship between the
 12 result of that search is with the result of a
 13 search through IIDS.

14 A. IIDS is more detailed, as we
 15 discussed. It will have more associated to it,
 16 whereas the predefined queries weren't
 17 developed by ICE, they were developed from the
 18 original Enforce program developers. And it
 19 would be basic, very basic information meant
 20 for daily routine field operations to know how
 21 many detainees were placed and who might happen
 22 to be in a detention facility at that time.

23 Q. Okay.

24 A. And detention facility, I do not mean
 25 a law enforcement detention facility, I mean an

1 J. Matuszewski
 2 field offices from within the program as just a
 3 statistical review on a day-to-day basis.

4 Q. I want to loop back to something we
 5 were talking about before. You were
 6 describing -- you described a couple methods by
 7 which a field office could generate a list of
 8 individuals who had had CAP encounters,
 9 although you emphasized that that was not going
 10 to be necessarily an accurate list. Is that a
 11 fair statement of what you had said before?

12 A. The predefined queries, as we talked
 13 about before, do not have a CAP encounter
 14 predefined query. It has other queries, such
 15 as detainees and arrests, that can be loosely
 16 associated to a CAP encounter but does not
 17 necessarily mean it's a CAP encounter.

18 Q. So if you ran one of those queries,
 19 say, the detainees query, is that going to
 20 capture any information that you couldn't get
 21 through an IIDS query?

22 MS. BERMAN: Do you want to cabin
 23 that with a time frame? Because I
 24 thought the previous testimony you
 25 asked -- when you questioned him about

1 J. Matuszewski
 2 ICE detention facility.

3 Q. Okay. I'd like to direct your
 4 attention to Exhibit 1. It's the FOIA request.
 5 Page 5, request portion Roman numeral V-ii up
 6 at the top. This portion of the request sought
 7 all judicial and administrative complaints
 8 alleging unlawful or otherwise actionable
 9 conduct related to CAP and its predecessors as
 10 well as the dispositions of any and all such
 11 complaints.

12 Did you or anyone at ICE conduct a
 13 search for documents responsive to that portion
 14 of the request?

15 A. Yes.

16 Q. And how was that search conducted?

17 A. It was entered into our shared drives
 18 to whether or not there was any type of
 19 complaint or act of misconduct that CAP would
 20 have had within the shared drive. That was my
 21 program. I can't speak to whether Policy or
 22 the Office of Principal Legal Advisor had
 23 anything in their own drives.

24 Q. Do you know if the Office of
 25 Principal Legal Advisor conducted a search?

1 J. Matuszewski
 2 A. I cannot say whether they did or not.
 3 Q. Do you know if the Policy Office
 4 conducted a search?
 5 A. I can't say whether they did or not
 6 either.
 7 Q. Did the search that you conducted
 8 yield any responsive documents?
 9 A. To my knowledge, no.
 10 Q. What offices within ICE are most
 11 likely to have responsive documents?
 12 Withdrawn.
 13 What offices within ICE are most
 14 likely to have responsive records?
 15 MS. BERMAN: Object to the form of
 16 the question.
 17 A. Homeland Security Investigations.
 18 Q. Do you know if Homeland Security
 19 Investigations conducted a search for documents
 20 responsive to this portion of the request?
 21 A. I do not know.
 22 Q. Why do you think that Homeland
 23 Security Investigations is most likely to have
 24 responsive records?
 25 MS. BERMAN: I don't think he said

1 J. Matuszewski
 2 "most likely."
 3 MR. WOFSY: Withdrawn.
 4 Q. Why do you think Homeland Security
 5 Investigations is likely to have responsive
 6 records?
 7 A. Homeland Security Investigations is
 8 the entity responsible for any type of
 9 misconduct or complaints against a program or
 10 agency within ICE. The Office of Professional
 11 Responsibility is the office within HSI that is
 12 ultimately responsible for conducting those
 13 investigations.
 14 Q. Do you know how HSI would conduct a
 15 search for documents responsive to this portion
 16 of the request?
 17 A. I do not.
 18 Q. I'd like to turn now to another
 19 portion of the request. Directing your
 20 attention to Exhibit 1, page 2, Roman
 21 numeral I, policies and procedures, in your --
 22 and directing your attention to Exhibit 3, your
 23 first declaration, paragraph 38, you describe
 24 an office you refer to as the EIRU/Policy; is
 25 that right?

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 2 A. Yes.
 3 Q. Can you explain what that office's
 4 functions are?
 5 A. It's a unit --
 6 Q. Okay.
 7 A. -- within the Office of Enforcement
 8 and Removal Operations. They're responsible to
 9 maintain that -- the collection of ERO policy
 10 and procedure.
 11 Q. Are they responsible for maintaining
 12 all current policies?
 13 A. Yes.
 14 Q. Are they responsible for maintaining
 15 past ERO policies?
 16 A. I don't know their mission. I know
 17 they have been working to consolidate all past
 18 policies.
 19 Q. What do you mean by "consolidate"?
 20 A. Finding them and putting them
 21 together into one spot.
 22 Q. And what -- do you know what spot
 23 that is?
 24 A. In -- they have been putting that in
 25 the ERO Resource Library, as I stated, which is

1 J. Matuszewski
 2 in -- on the Internet.
 3 Q. In your declaration, again, paragraph
 4 38 of Exhibit 3, you state that search
 5 conducted by the staff of EIRU/Policy produced
 6 19 policies handbooks or manuals that have some
 7 nexus with CAP. Do you know how that search
 8 was conducted?
 9 A. I do not. The EIRU/Policy people
 10 would have conducted the search.
 11 Q. Do you know who specifically
 12 conducted that search?
 13 A. No.
 14 Q. Do you know what those 19 memos are?
 15 A. We're reviewing documents submitted
 16 to the FOIA. I can tell you in general what
 17 they are, but I cannot list them by name.
 18 Q. What are they in general?
 19 A. The policies and procedures, such as
 20 what to input into CAP -- I'm sorry, input into
 21 the EID/Enforce to decide what is CAP.
 22 Strategic goals. I believe that there was a
 23 few in transition from HSI to -- sorry, OI to
 24 DRO. Also, some prosecution policies and to
 25 include some TECS and CCATS, also some other

1 J. Matuszewski
 2 issues that had to do with CAP arrests and
 3 other detainee arrest issues.
 4 Q. Were those 19 memos, manuals, etc.,
 5 produced to the plaintiffs?
 6 A. To my knowledge, yes.
 7 Q. So the sum of the documents that
 8 were -- withdrawn.
 9 Just to understand, at least some of
 10 the documents that were produced to the
 11 plaintiffs were the 19 policies and handbooks,
 12 etc., that were yielded by this search?
 13 A. To my knowledge.
 14 Q. Was that the entirety of the
 15 documents that were produced to the plaintiffs?
 16 MS. BERMAN: Object to the form of
 17 the question.
 18 A. It's my understanding no. There are
 19 several documents that go beyond the policies
 20 and procedures documents.
 21 Q. Are there other current policies
 22 governing the activities of CAP?
 23 A. There are current policies that have
 24 been developed to govern procedures within CAP,
 25 but it's not specific to CAP.

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 2 A. Prior to 2007, the policies would
 3 become jumbled in some parts where somebody
 4 might not know that there is a policy until
 5 later on, and then it's their mission to
 6 consolidate anything that's current to anything
 7 that's current, supersede if needed to be
 8 superseded.
 9 Q. So they're in the process of
 10 consolidating policies governing CAP, including
 11 prior to 2007?
 12 A. In the process of consolidating all
 13 ERO policy.
 14 Q. What would be involved in searching
 15 for CAP policies provider to 2007 that they
 16 have consolidated?
 17 MS. BERMAN: I'm sorry, for that
 18 office, you mean?
 19 MR. WOFSY: Yes.
 20 MS. BERMAN: Right.
 21 A. CAP policies prior to 2007 would not
 22 exist.
 23 Q. And why is that?
 24 A. CAP did not exist until 2006.
 25 Q. Okay.

1 J. Matuszewski
 2 Q. In other words, they are general
 3 policies for ERO?
 4 A. Correct.
 5 Q. And that, of course, governs CAP
 6 because CAP is part of ERO?
 7 A. Correct.
 8 Q. But current policies that
 9 specifically govern CAP, it's just those 19?
 10 A. Without reviewing all 19 to ensure
 11 that all 19 are the only things that govern
 12 CAP, beyond procedure directives from myself or
 13 previous unit chiefs, I would say, yeah, I
 14 can't say.
 15 Q. So EIRU/Policy, they maintain
 16 policies since 2007; is that right?
 17 A. Their mission, from my understanding,
 18 is to maintain all of policies that were part
 19 of ERO from the inception of DRO.
 20 Q. Do they maintain all of the CAP
 21 policies since 2007?
 22 A. That would fall into all of ERO
 23 policies, yes.
 24 Q. Prior to 2007, are they the office
 25 that maintains policies?

1 J. Matuszewski
 2 A. Late 2006.
 3 Q. So prior to that, it would be IRP
 4 policies, ACAP policies?
 5 A. Correct.
 6 Q. What office would maintain IRP/IRP
 7 policies prior to 2007?
 8 A. IRP policies, which would be
 9 superseded by any CAP policy, would be
 10 maintained through ERO's policy department, are
 11 the unit we were discussing.
 12 Q. Okay. Do you know how the
 13 EIRU/Policy unit maintains IRP policies from
 14 2007 and before?
 15 A. No.
 16 Q. Do you know what would be involved in
 17 a search for those policies?
 18 MS. BERMAN: Object to the form of
 19 the question.
 20 A. No, I do not know what would be
 21 involved.
 22 Q. What office would maintain ACAP
 23 policies from prior to 2007?
 24 A. Homeland Security Investigations.
 25 Q. Okay. Do you know how those policies

1 J. Matuszewski
 2 are maintained?
 3 A. No.
 4 Q. Do you know what would be involved in
 5 a search of those policies?
 6 A. No.
 7 Q. Are there physical copies of policies
 8 and procedures maintained by ERO?
 9 A. Yes.
 10 Q. Okay. Where?
 11 A. The unit or program for which the
 12 policy is written, we generally maintain that
 13 written policy.
 14 Q. Does the Criminal Alien Program
 15 maintain written copies of policies governing
 16 its activities?
 17 A. The maintenance of the policies for
 18 the Criminal Alien Program are done
 19 electronically because the written -- the hard
 20 copy, which would be the written form,
 21 generally becomes obsolete and lost.
 22 Q. Returning to the ACAP policies prior
 23 to 2007, and directing your attention to
 24 Exhibit 3, your first declaration, paragraph
 25 38, the last sentence, the volume of work

1 J. Matuszewski
 2 involved in a manual search of all legacy INS
 3 service-wide records that pertain to IHP, IRP,
 4 and ACAP from 1986 to 2007 would be extensive.
 5 Can you -- withdrawn.
 6 What is that assessment based on?
 7 A. It's based on legacy INS entities
 8 that now became -- that became DHS entities,
 9 which then changed organizations again, and
 10 finding who was the responsible unit at the
 11 time for each of those changes, plus if there
 12 was internal changes within that.
 13 Q. So if I understand correctly, the --
 14 what makes that -- the work required for that
 15 search extensive is identifying what office
 16 maintains the records?
 17 MS. BERMAN: Object to the form of
 18 the question.
 19 A. The extensive nature of search --
 20 searching for these records would come from,
 21 one, defining what office they belonged to at
 22 the time; two, defining what program or unit it
 23 belonged to at the time; three, defining who's
 24 in charge of that at the time. And then from
 25 1986 to 1988, no records would probably be

1 J. Matuszewski
 2 found in either one, but we'd still do the
 3 search.
 4 Q. And if the search was limited to only
 5 after 1988, would that affect how extensive the
 6 work involved would be?
 7 A. No.
 8 Q. I'd like to turn to field office
 9 policies.
 10 Do field offices have their own
 11 policies independent from service-wide
 12 policies?
 13 A. Field offices can have policy that go
 14 above and beyond what the national policy is.
 15 Q. Okay. And in what form are those
 16 field office policies kept and distributed?
 17 A. That's dictated by the field office
 18 director. I can't answer that.
 19 Q. Do suboffices also have policies?
 20 A. A suboffice is part of the field
 21 office, so the field office would dictate to
 22 the suboffice what to do.
 23 Q. But a suboffice would not have its
 24 own policy independent of the field office?
 25 A. No.

1 J. Matuszewski
 2 Q. Okay. Do you know what would be
 3 involved in searching a single field office for
 4 its field office-specific policies governing
 5 CAP operations?
 6 A. No, I do not.
 7 Q. You at one point were a deportation
 8 officer; right?
 9 A. Correct.
 10 Q. And I believe you were in Phoenix; is
 11 that right?
 12 A. Correct.
 13 Q. So you're familiar with the Phoenix
 14 field office's recordkeeping at the time you
 15 were there.
 16 A. I'm familiar with the Florence
 17 Service Processing Center's recordkeeping while
 18 I was there.
 19 Q. How would a search of that Service
 20 Processing Center's records be conducted at the
 21 time to locate field office policies governing
 22 the operations of CAP?
 23 A. At the time, from 2006, CAP didn't
 24 exist yet. When CAP did exist, by 2007, we
 25 still did not have anything in the Florence

1 J. Matuszewski
 2 service center from our field office director.
 3 And then by 2008, there was very little policy
 4 to -- given to us, so I would say the searches
 5 were -- would be unproductive.

6 Q. Do the field offices have their own
 7 shared drives?

8 A. Yes.

9 Q. And are they generally structured in
 10 a similar way as the headquarters shared drive
 11 by program?

12 A. I can't answer that.

13 Q. Was the shared drive in Phoenix
 14 structured in a similar way, with folders by
 15 program?

16 A. The Phoenix shared drive was limited,
 17 so each individual suboffice, the one I was in
 18 was Florence, had its own drive. So the
 19 Florence shared drive was separate from the
 20 Phoenix shared drive.

21 Q. And was the Florence shared drive
 22 organized into folders by program?

23 A. Generally.

24 Q. So after 2007, there would have been
 25 a CAP folder on the Florence shared drive, for

1 J. Matuszewski
 2 example?

3 A. I don't remember one.

4 Q. You don't remember --

5 A. A CAP folder on the Florence shared
 6 drive --

7 Q. There was --

8 A. -- after 2007.

9 Q. What is the process by which a field
 10 office can create its own policy on a subject?

11 A. A field office can't create its own
 12 policy. Policy is created by headquarters.
 13 Field office, how, can dictate, depending on
 14 their local needs, what they need to add to
 15 that policy.

16 Q. Okay. And what's the process for
 17 dictating what they need to add to a policy on
 18 a given subject?

19 A. The field office director makes that
 20 decision.

21 Q. Is that something that is sent to
 22 headquarters for approval?

23 A. No.

24 Q. Something that's just decided and
 25 distributed to the field office?

1 J. Matuszewski
 2 A. It's the field office director's
 3 discretion whether or not to add to a policy.

4 Q. Okay. And if the field officer --
 5 withdrawn -- the field office director decides
 6 to add to a particular policy, he or she would
 7 then record that in a memorandum?

8 A. Again, up to the field office
 9 director. Could either be a memorandum or a
 10 distribution to the field offices through
 11 email.

12 Q. So if the field office director does
 13 decide to issue such a memorandum or email, is
 14 that something that is submitted to
 15 headquarters?

16 MS. BERMAN: Excuse me. Are you
 17 finished with your question?

18 MR. WOFY: Yes.

19 MS. BERMAN: Are we talking about
 20 CAP-related field office policies, or
 21 all of them? Because I don't know that
 22 he's really the person to testify about
 23 all field office policies.

24 MR. WOFY: Well, I assume that's
 25 not an instruction not to answer.

1 J. Matuszewski
 2 MS. BERMAN: No. It's a question.

3 MR. WOFY: What I'm asking about
 4 is, in general, in order to understand
 5 what kinds of records even exist and how
 6 they're created and maintained. So
 7 certainly, CAP records would be a subset
 8 of those.

9 MS. BERMAN: Okay. Well, maybe you
 10 can restrict your questions to the
 11 subset that your FOIA relates to, I
 12 mean, unless you are asking for all
 13 records of the agency.

14 MR. WOFY: Certainly not.

15 THE WITNESS: Repeat your question,
 16 please.

17 MR. WOFY: However, the witness
 18 has certain experience as both a
 19 headquarters official and also as a
 20 line-level official. Much of the
 21 line-level experience came before the
 22 CAP program existed, so he can speak to
 23 ICE's practices in creating field office
 24 level policy even though --

25 MS. BERMAN: But you haven't asked

1 J. Matuszewski
2 for those. The FOIA request doesn't ask
3 for all field office policies.

4 MR. WOFSY: Related to CAP.

5 MS. BERMAN: Right. If you could
6 restrict the questions related to field
7 office policies related to CAP, I think
8 it would be more appropriate under the
9 FOIA request.

10 MR. WOFSY: I understand. I think
11 we are entitled to ask about general
12 practices in creating documents to
13 understand what kinds of CAP documents
14 do exist, or could exist.

15 MS. BERMAN: And those general
16 practices would apply to CAP-related
17 documents. I think we've given you a
18 lot of leeway today. And if you insist
19 on your right to ask about all field
20 office policies, I think I would
21 instruct him not to answer that.

22 MR. WOFSY: On what basis?

23 MS. BERMAN: On the basis I just
24 stated. Your FOIA request does not seek
25 all -- each and every field office

1 J. Matuszewski
2 policy. It's just those related to CAP,
3 which is already broad in and of itself.

4 Why don't you try to restrict it to
5 CAP-related policies and see how that
6 goes?

7 MR. WOFSY: We're going to move on
8 without conceding anything.

9 MS. BERMAN: Okay.

10 BY MR. WOFSY:

11 Q. Okay, with regard to CAP policies --
12 withdrawn.

13 With regard to CAP clarifications or
14 additions to policy created by field office
15 directors, is that something that is submitted
16 in any form to headquarters?

17 A. I can't answer to the time period in
18 which I was a deportation officer because I
19 would not have had the visibility to see what
20 the field office director was doing; however,
21 in the current state I'm in, I can tell you
22 that they don't.

23 Q. They don't.

24 So does CAP headquarters know what
25 clarifications or additions to CAP policy are

1 J. Matuszewski
2 being followed by the various field offices?

3 A. When it impacts the current policy
4 that we have in place either significantly or
5 as I would like to call the best practice,
6 something that we should have thought of when
7 we first put out policy, we do. If it's
8 something that's internal, just for that field
9 office, then no, we do not.

10 Q. In the cases where you do, how do you
11 come to learn about those additions to policy?

12 A. Through our communications just with
13 the field office. That's what the 10 officers
14 is to meant for, to reach out as point of
15 contact to headquarters that they learn about
16 their field office, learn about on an almost
17 intimate level where they understand where
18 problems might arise, where equipment might be
19 needed.

20 Q. Okay. Are records of those best
21 practices maintained by headquarters?

22 A. No.

23 Q. The 10 officials you described, their
24 communications with the field offices regarding
25 this and other subjects, are those by email?

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2 A. Email, phone, in-person
3 communications.

4 Q. For phone communications, are logs
5 kept of those calls?

6 A. No.

7 Q. For in-person communications, are
8 records kept of those meetings?

9 A. No.

10 Q. I want to ask you about some of the
11 particular CAP projects and initiatives and the
12 policies and procedures governing them. So the
13 Violent Criminal Alien section, are there
14 specific policies and procedures creating,
15 describing, or governing that section?

16 A. There's policies and procedures
17 governing the way to statistically input
18 information that is derived from working in
19 that section.

20 Q. Is there anything else?

21 A. No.

22 Q. There's no -- withdrawn.

23 There's no document describing the
24 establishment of the VCAS?

25 A. There are documents describing how --

1 J. Matuszewski
 2 what VCAS is, but not specifically how to do it
 3 in the field offices.
 4 Q. Let's talk nationally about VCAS.
 5 What policies and procedures exist describing,
 6 governing, or creating that program?
 7 A. There's a memorandum that explain to
 8 the officers or the field office directors that
 9 statistically, anything done for prosecutions
 10 must be done in TECS and VCAS and how then to
 11 input that data. Training does exist on -- on
 12 the maintenance of files.
 13 Q. Okay. Is there anything else?
 14 A. No. Everything else is
 15 communications between officers and field
 16 offices after they have initiated working with
 17 the United States Attorney's Office.
 18 Q. Now, the policies you described for
 19 VCAS, who maintains those?
 20 A. That would be the policy unit inside
 21 of ERO electronically. I do not know where the
 22 hard copies are.
 23 Q. Were those policies included in the
 24 19 policies identified by that unit?
 25 A. To my knowledge, they are.

1 J. Matuszewski
 2 Q. Okay. What statistical documents
 3 exist describing the activities of LEAR?
 4 A. As part of CAP as a subset. So any
 5 documentation that would describe a CAP
 6 encounter or a CAP arrest or CAP activity could
 7 potentially have LEAR associated to it, if
 8 asked. And it has before.
 9 Q. What about Rapid REPAT? Are there
 10 policies and procedures creating, describing,
 11 or governing that program?
 12 A. There are; however, they're not --
 13 they are, for all intents and purposes, a work
 14 in progress, because it deals with legislation
 15 and legal issues.
 16 Q. Okay. So the policies and procedures
 17 are a work in progress?
 18 A. Yes.
 19 Q. They're drafts?
 20 A. Yes.
 21 Q. And where are those maintained?
 22 A. Currently kept governs that because
 23 it's the one leading the initiative to work
 24 with the Office of Principal Legal Advisor.
 25 Q. So the draft policies and procedures

1 J. Matuszewski
 2 Q. Okay. What about LEAR? Are there
 3 policies and procedures creating, describing,
 4 or governing LEAR's operations?
 5 A. LEAR, because it's a pilot, and
 6 it's -- has been considered a pilot project, as
 7 I stated before, HSI governs the law
 8 enforcement area response unit. ERO's one unit
 9 inside of Phoenix only has procedure assigned
 10 to it and how to statistically track itself
 11 within the EID.
 12 Q. Why was LEAR created as a pilot
 13 program within ERO?
 14 A. The field office director requested
 15 it based on the necessity within the field
 16 office, the gravity of the situation when it
 17 came to illegal immigration within the Arizona
 18 corridor, and the need for HSI to have
 19 assistance.
 20 Q. Are there documents describing the
 21 activities of LEAR and statistics regarding
 22 the -- withdrawn.
 23 Are there documents describing the
 24 activities of LEAR?
 25 A. Other than statistical documents, no.

1 J. Matuszewski
 2 are kept in a single location on CAP's shared
 3 drive?
 4 A. Copies are kept on the shared drive;
 5 however, the officer assigned to do the work
 6 also has copies.
 7 Q. The officer assigned to do the
 8 policies and procedures drafting work?
 9 A. The officer assigned to work with the
 10 Office of Principal Legal Advisor on anything
 11 that has to do with Rapid REPAT.
 12 Q. Are officers in the field engaged in
 13 Rapid REPAT activities currently following the
 14 draft policy and procedures?
 15 A. Officers in the field only have very
 16 limited access to know what is a Rapid REPAT
 17 and what is not. The only time they would know
 18 anything that has to do with Rapid REPAT is if
 19 the state facility releases somebody early
 20 based on the fact there was an order of
 21 deportation.
 22 Q. So are the officers in the field
 23 engaged in these activities following any
 24 policies and procedures?
 25 A. No.

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Q. What about the Deport Center? Are there policies and procedures creating, governing, and describing the Deport Center?

A. There are procedural requirements for the Deport Center that require -- that dictate how it is that they are supposed to enter statistical information into the EID. Beyond that, there's no policy governing the Deport Center.

Q. So when was the Deport Center created?

A. 2006, I believe.

Q. So in 2006 when the decision was made to create something called the Deport Center, was that decision and what the Deport Center would be described in any document?

MS. BERMAN: I'm just going to interject. It's obviously to the best of your knowledge. It's not -- you don't have access to every document that's ever been written.

A. I do know that there are -- there were papers in the development and design of what the Deport Center was supposed to do;

J. Matuszewski

however, I have not been privy to those.

Q. Do you know what office maintains copies of those papers?

A. At that time, it would have -- at that time, it would have been someone within DRO. The development of the Deport Center was at executive level so I can't speak to who actually has it.

Q. Do you know what form those papers were in?

MS. BERMAN: Object to the form of the question. He said he wasn't aware of them.

A. Electronic, somewhere.

Q. So do you know whether officers working in the deport center are following any policies and procedures now?

MS. BERMAN: Object to the form of the question.

A. The officers working in the Deport Center following the processing procedures as dictated by the Criminal Alien Program and how to determine what is coming from the Deport Center.

J. Matuszewski

Q. Is that the coding policy that you were describing before, how to enter the data into EID?

A. Yes.

Q. Other than that, are they following any policies and procedures, as far as you know?

MS. BERMAN: Object to the form of the question. Again, we're getting far afield here. You asked a lot of questions about the existence of the policies and procedures, and that's all fair game. But how does whether officers are following those policies and procedures have any bearing on your FOIA request?

MR. WOFY: Are you instructing not to answer?

MS. BERMAN: I'm asking you a question. Are you instructing yourself not to answer my question?

MR. WOFY: I don't believe I have to answer your question, but --

MS. BERMAN: I'm looking at you to

J. Matuszewski

see if you are going to answer it, though. So are you not answering it? If you are not going to answer it, then I would instruct him not to answer the question on the grounds I just stated.

MR. WOFY: First of all, for the record, we maintain our position it is not a proper instruction on essentially relevance grounds. There is no court order here limiting the scope of this deposition in any way.

MS. BERMAN: This isn't a discovery deposition. We're not under the civil -- the rules of discovery here. This is a deposition for a limited purpose related to the FOIA request and FOIA litigation. If your questions have nothing to do with the FOIA request, then I can absolutely instruct him not to answer.

If you want to call the judge and ask about this, go right ahead. I mean, under those -- under that rationale, you can ask anything in the world, you know.

1 J. Matuszewski
 2 I mean, that can't be the guideline.
 3 MR. WISHNIE: First of all, we are
 4 under the Federal Rules of Civil
 5 Procedure.
 6 MS. BERMAN: Yes. Not the discover
 7 rules. I said the discovery rules.
 8 MR. WISHNIE: I didn't interrupt
 9 you. Let me state my position. No
 10 limitation has been imposed by the Court
 11 on this deposition, that we're aware of.
 12 And in our view, we are under the
 13 Federal Rules of Civil Procedure,
 14 including the discovery rules, and
 15 there's no exemption for that in this
 16 case.
 17 More to the point, though, the
 18 Deport Center, I think you know, is part
 19 of CAP. So we're asking about it in
 20 part of CAP.
 21 The witness testified it was
 22 established in approximately 2006 and
 23 that there are no written policies and
 24 procedures other than the single data
 25 entry policy he's described.

1 J. Matuszewski
 2 So, you know, it's -- I think if
 3 your position is it's completely
 4 unlimited, you know, we would seriously
 5 disagree with that.
 6 MR. WISHNIE: My position is we're
 7 limited by the Rules of Civil Procedure.
 8 We have not exceeded those. But this
 9 one seems like an easy point to me,
 10 because we are inquiring about policies
 11 and procedures of a unit or a subunit of
 12 CAP. So I think it's hard to sit here
 13 and complain that we're exceeding the
 14 bounds here.
 15 MS. BERMAN: But -- so this is my
 16 disagreement. You have asked lots of
 17 questions about those policies and
 18 procedures, and he's answered those
 19 questions. Now you're going into a
 20 more -- an area that's not related to
 21 those records when you're saying, what
 22 are people in the field doing? Are they
 23 following the policies and procedures?
 24 That's not related to the records.
 25 MR. WISHNIE: The question --

1 J. Matuszewski
 2 I think plaintiffs are entitled to
 3 inquire as to whether a unit that's been
 4 functioning for six years without,
 5 apparently, policies and procedures is,
 6 in fact, operating subject to policies
 7 and procedures.
 8 So I think we're allowed to explore
 9 a little bit the witness's statement
 10 there are no such policies and
 11 procedures for a six-year-old unit. I
 12 think that's the question that was
 13 posed.
 14 MS. BERMAN: We can have the
 15 testimony read back, but that was not my
 16 recollection of what the testimony was.
 17 You have been exploring it for some time
 18 now.
 19 And there are limitations put on
 20 this deposition by what reasons you guys
 21 asked for it. I mean, you said in your
 22 own papers this was a limited -- this
 23 was going to be limited. And it's gone
 24 way beyond the specific purpose that you
 25 said you were going to take it.

1 J. Matuszewski
 2 MS. BERMAN: Where are you going to
 3 find them?
 4 MR. WISHNIE: I'm confident the
 5 question was not what are they doing. I
 6 think the question was, well, are they
 7 acting pursuant to policies, procedures,
 8 or other written documents? And it may
 9 be that there's something not called a
 10 policy and procedure, if that's being
 11 used in any technical sense, but
 12 something called a guidance or manual or
 13 something like that. We can't guess all
 14 the terms.
 15 But given the testimony that
 16 there's no specific policies and
 17 procedures, the question then was, are
 18 people following something, then? And
 19 if the answer is not other than I've
 20 stated, then we're done, and we move on.
 21 MS. PERKINS: Then you can rephrase
 22 the question then and move on.
 23 MS. BERMAN: Rephrase the question,
 24 because that's not how I understood it.
 25 MR. WISHNIE: I think the question

1 J. Matuszewski
 2 was phrased fine. I hope at this point
 3 the witness understands the question.
 4 If not, we can rephrase it.
 5 MS. BERMAN: So we're clear, as I
 6 understand, you're saying the question
 7 has to do with the other kinds of things
 8 people might be following out in the
 9 field such as guidance or other things
 10 that you don't know the names of. So we
 11 can take it from there.
 12 (The reporter read from the record.)
 13 MS. BERMAN: Do you need that
 14 refreshed?
 15 MR. WISHNIE: That was the
 16 previously described data entry policy.
 17 A. The Deport Center, as part of the
 18 Criminal Alien Program, falls underneath the
 19 same mission. They're just limited in the
 20 scope to federal jurisdiction. So therefore,
 21 any policies and procedures that CAP has,
 22 Deport is to follow.
 23 However, their statistical tracking
 24 differs from routine CAP officers out in the
 25 field is that they notate that it's from the

1 J. Matuszewski
 2 Deport Center.
 3 BY MR. WOFSY:
 4 Q. Okay. Let's move on to training
 5 materials. Directing your attention to
 6 Exhibit 3, your first declaration, paragraph
 7 40, describe the Federal Law Enforcement
 8 Training Center. Can you explain what that is?
 9 A. No, I --
 10 Q. You have it.
 11 A. There's 40 right here.
 12 MS. BERMAN: Why don't you read the
 13 whole paragraph?
 14 A. You'd like to know what the Federal
 15 Law Enforcement Training Center is?
 16 Q. Yes.
 17 A. It's a Federal Law Enforcement
 18 training center. There are two locations.
 19 Actually, three locations. One is in Brunswick
 20 Georgia; Artesia, New Mexico; and one in
 21 Charleston, South Carolina.
 22 Q. And do you call it something for
 23 short?
 24 A. FLETC.
 25 Q. FLETC? Do you know how FLETC's

1 J. Matuszewski
 2 training records are maintained?
 3 A. No.
 4 Q. Do you know if FLETC -- withdrawn.
 5 FLETC conducted a search for records
 6 responsive to this FOIA request?
 7 A. I know that they did.
 8 Q. Okay. Do you know how that search
 9 was conducted?
 10 A. No.
 11 Q. Five lines down, still in paragraph
 12 40 of Exhibit 3, you state that a thorough
 13 search of all FLETC training materials related
 14 to the CAP from 2007 to the present would take
 15 at least several weeks.
 16 How is that determination made of how
 17 long it would take?
 18 A. I know that FLETC training materials,
 19 although -- although I do not know how they
 20 search through the training materials, I do
 21 know they have both hard and soft copies, soft
 22 being electronic copies of training materials.
 23 Depending on the time and dateline, depending
 24 on how they're maintaining, it would be a rough
 25 estimate of several weeks to ensure that

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 2 everything was looked at.
 3 Q. If a search was limited to only
 4 electronic materials, would that change your
 5 assessment of how long it would take?
 6 A. I would have to defer back to the
 7 academy itself. I don't know how their drives
 8 are organized or what it is that they -- if
 9 there's an entity that specifically holds it,
 10 if they have to task that entity. I don't
 11 know.
 12 Q. Okay. Can you explain how training
 13 records were maintained prior to 2007?
 14 A. No, because I wasn't part of the
 15 training division.
 16 Q. Still in paragraph 40 of Exhibit 3,
 17 you state that historically, the ICE Office of
 18 Training and Development has declined to
 19 respond to requests for materials that
 20 originated before 2007 as it cannot attest to
 21 the quality of the materials or whether the
 22 contents of the materials were actually ever
 23 presented. What is that statement based on?
 24 A. It's based on knowledge that the
 25 Office of Training Development as it stands

1 J. Matuszewski
 2 today does not want to associate or bring -- or
 3 hold the -- hold ICE accountable based on
 4 something that they can't validate.
 5 Q. But the records are accessible?
 6 A. To my knowledge, they would be
 7 accessible.
 8 Q. Okay. And is there any -- withdrawn.
 9 Do you know what searches of those
 10 records are possible?
 11 A. No.
 12 Q. Are there training materials
 13 governing CAP operations other than those that
 14 would be maintained by FLETC or ODT?
 15 A. You mean OTD?
 16 Q. Yes.
 17 A. To my knowledge, there's nothing
 18 specific to CAP that would be available other
 19 than what OTD has. However -- yeah, nothing
 20 specific to CAP, yeah.
 21 Q. You may have answered this, but I
 22 just want to make sure I'm clear. So does the
 23 CAP program itself maintain any training
 24 materials?
 25 A. The Criminal Alien Program is

1 J. Matuszewski
 2 extensive. A specific CAP function at its core
 3 is to be in the jail and processing somebody in
 4 the jail. CAP is also responsible for the
 5 prosecutions within ERO. Prosecutions are not
 6 specific to CAP. It's an ERO function.
 7 However, CAP does provide training in how to
 8 enter those statistical parts into either CCATS
 9 or TECS, which is evident in one of the
 10 policies that I know that you have as part of
 11 the -- part of the FOIA.
 12 Q. The first thing that you said
 13 regarding identification of individuals in
 14 prisons and jails -- I don't think I quite
 15 understood your answer. Does CAP, the program,
 16 maintain training records regarding those
 17 activities?
 18 A. There's no training for that. That
 19 would be a field office director's prerogative
 20 to have a new person sit with a journeyman
 21 person to understand the process after they
 22 came out of the academy. There's no specific
 23 training for CAP.
 24 Q. Are there national policies and
 25 procedures governing those activities, for

1 J. Matuszewski
 2 example, how to conduct an interview in a jail?
 3 A. Not specific to CAP.
 4 Q. Are there national policies and
 5 procedures governing things like -- withdrawn.
 6 Are there national policies and
 7 procedures governing whether a CAP agent needs
 8 to be wearing a uniform or identify his or
 9 herself?
 10 A. No. There's a specific uniform
 11 policy, but it's not specific to CAP.
 12 Q. The uniform policy is ICE-wide?
 13 A. I'm sorry. ERO-wide.
 14 Q. ERO-wide. Okay, okay.
 15 I'd like to direct -- here, I'll take
 16 Exhibit 3 back. I'd like to direct your
 17 attention to Exhibit 1, page 2, Roman
 18 numeral I, number 1, letter A, Reports. Did
 19 you or anyone in ICE conduct a search for
 20 reports related to CAP?
 21 A. Yes.
 22 Q. And how did you conduct that search?
 23 A. Looking through the ERO shared drives
 24 specific to CAP reports.
 25 Q. When you say "specific to CAP

1 J. Matuszewski
 2 reports," do you mean that there is a folder
 3 for CAP reports?
 4 A. No. It means that by putting in the
 5 word "report" into the shared drive, you come
 6 up with reports for the entire ERO. So we had
 7 to limit that search to just parts of the
 8 Criminal Alien Program.
 9 Q. Okay. And how did you limit the
 10 search to parts of the Criminal Alien Program?
 11 A. By typing in "Criminal Alien Program"
 12 and then "report."
 13 Q. Did that search yield any documents?
 14 A. To my knowledge, it did yield some
 15 documents that referenced the criminal alien
 16 manual report.
 17 Q. What's the criminal alien manual
 18 report?
 19 A. Criminal Alien's manual report is the
 20 Excel spreadsheet that we spoke about earlier
 21 that statistically mark the encounters,
 22 detainees out in the field offices, and then
 23 which was compiled within headquarters and lies
 24 within the statistical tracking group.
 25 Q. Other than that kind of manual

1 J. Matuszewski
 2 report, are there likely other reports related
 3 to CAP?
 4 MS. BERMAN: Object to the form of
 5 the question.
 6 A. CAP reporting from 2007 until 2009
 7 weren't necessarily CAP reports. It was just
 8 CAP reporting.
 9 Q. Directing your attention to
 10 Exhibit 3, paragraph 10, the last sentence on
 11 page 4, you state ICE OCR provides briefings
 12 and reports to Congress on various ICE
 13 programs. Does that include reports to
 14 Congress regarding CAP?
 15 A. Yes.
 16 Q. And what office maintains those
 17 reports?
 18 A. The reports that have already been
 19 provided to Congress?
 20 Q. Yes.
 21 A. I don't know who would maintain the
 22 reports.
 23 Q. Do you know if anyone in ICE
 24 conducted a search for those reports?
 25 A. To my knowledge, OCR would have been

1 J. Matuszewski
 2 responsive records, records responsive to that
 3 request?
 4 A. As it relates to the FOIA, no. But
 5 as to my declaration, if I had spoken about
 6 legal opinions, yes.
 7 MS. BERMAN: Take a look. Feel
 8 free to take a look.
 9 MR. WOFSY: Yeah.
 10 BY MR. WOFSY:
 11 Q. I don't believe you did, but please
 12 take your time.
 13 A. No, I did not reference any legal
 14 opinions.
 15 Q. Are there likely records responsive
 16 to that subrequest?
 17 A. In what context?
 18 Q. Are there likely --
 19 A. To policy and procedures, to --
 20 Q. Legal opinions regarding development,
 21 implementation, and operation of CAP.
 22 A. It is my opinion there would be,
 23 because there would have to be a Congressional
 24 reprogramming of budget issues so therefore,
 25 there has to be -- there has to be a legal

1 J. Matuszewski
 2 part of the -- part of the process for the FOIA
 3 to conduct a search; however, I do not know who
 4 would have conducted the search, when they
 5 conducted the search, or how they conducted the
 6 search.
 7 MS. BERMAN: Take a short break?
 8 (Recess taken.)
 9 MS. BERMAN: The witness would like
 10 to clarify some of his previous answers
 11 about searches.
 12 MR. WOFSY: Okay.
 13 THE WITNESS: The searches that I
 14 have been referencing as you've been
 15 asking questions about searches to the
 16 FOIA have been the searches for support
 17 of my declarations, not the extensive
 18 searches that the FOIA would request.
 19 BY MR. WOFSY:
 20 Q. Okay. Directing your attention to
 21 Exhibit 1, the FOIA request, page 1 -- excuse
 22 me, page 2, request Roman I, number 1C, Legal
 23 Opinions Related to Development,
 24 Implementation, and Operation of CAP. Did you
 25 or anyone at ICE conduct a search for

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 2 opinion at least into the -- in regards to the
 3 transfer of ACAP and IRP into one program.
 4 Q. And would those records be maintained
 5 by the Office of Principal Legal Advisor?
 6 A. Yes.
 7 Q. Are you aware of any other legal
 8 opinions maintained by OPLA regarding CAP?
 9 A. Specific to CAP, no.
 10 Q. Directing your attention to
 11 Exhibit 1, page three, request Roman I, number
 12 2, letter A, it's requesting records on the
 13 specific topic of the creation, implementation,
 14 monitoring, or auditing of the incidence of
 15 racial profiling or policies to prevent it
 16 instituted by ICE, INS, or local law
 17 enforcement agencies in the course of the
 18 implementation and operation of CAP and its
 19 predecessors.
 20 Are there likely records responsive
 21 to this subrequest?
 22 A. I do not know.
 23 Q. If there are records responsive to
 24 the subrequest, what office likely has --
 25 likely maintains there?

1 J. Matuszewski
 2 A. HSI.
 3 Q. Do you know if HSI conducted a search
 4 in response?
 5 A. I do not.
 6 Q. Do you know how HSI would go about
 7 searching for records responsive?
 8 A. I do not.
 9 Q. Okay. I'd like to shift gears a
 10 little bit. Let's talk about communications.
 11 So I'll direct your attention to Exhibit 1 of
 12 the FOIA request, page 3, Roman numeral II,
 13 Communications.
 14 We've talked about at least one kind
 15 of communications record that exists. That's
 16 emails. I want to get a sense of what other
 17 potentially responsible forms of communications
 18 ICE may have.
 19 Does ICE have -- does ICE likely have
 20 letters responsive to Roman numeral II of the
 21 FOIA request?
 22 A. Yes.
 23 Q. Does CAP specifically have letters
 24 responsive to Roman numeral II?
 25 MS. BERMAN: I'm sorry, what do you

1 J. Matuszewski
 2 mean by CAP?
 3 MR. WOFSY: I mean the Criminal
 4 Alien Program itself.
 5 A. Are you talking headquarters?
 6 Q. Yes.
 7 A. No.
 8 Q. Okay. What offices of ICE likely
 9 have letters responsive to Roman numeral II?
 10 A. Each individual field office.
 11 Q. Okay. And -- withdrawn.
 12 With regards to emails, how does ERO
 13 store its emails?
 14 A. I do not know.
 15 Q. Okay. Do you know how your emails
 16 are stored?
 17 A. No.
 18 Q. Do you know if there is any central
 19 storage mechanism, for example, a server?
 20 A. There is a storage mechanism.
 21 Q. Okay. And do you know what that is?
 22 A. No.
 23 Q. Who -- withdrawn.
 24 What office of ICE maintains that
 25 central storage mechanism?

1 J. Matuszewski
 2 A. The Office of the Chief Information
 3 Officer.
 4 Q. What methods are available for
 5 searching ERO's email?
 6 A. I do not know.
 7 Q. To your knowledge, are there any
 8 software programs that would permit searches of
 9 that email?
 10 A. I do not know that one.
 11 Q. Directing your attention to
 12 Exhibit 3, your first declaration, paragraph
 13 35, the last sentence states that an estimated
 14 two-hour search of each current employee's
 15 email and paper files would result in an effort
 16 of over 15,000 hours. Could those employees
 17 search only their electronic emails and not
 18 their paper files?
 19 MS. BERMAN: Object to the form of
 20 the question.
 21 A. An employee has the ability to search
 22 their entire email, but it's dependent upon the
 23 employee's diligence in keeping records on what
 24 they can search.
 25 Q. Okay. Directing your attention to

1 J. Matuszewski
 2 paragraph 36 of Exhibit 3, fourth line down, a
 3 word search of the word "CAP" within ICE OCR
 4 call log, a log of the ICE intranet that lists
 5 the incoming calls from Congress or outgoing
 6 calls to Congress and describes how the calls
 7 were resolved, produced only five potentially
 8 responsive documents.
 9 Do you know how that search was
 10 conducted?
 11 A. I do not.
 12 Q. Do you know who conducted that
 13 search?
 14 A. I do not.
 15 Q. How did you come to have the
 16 information included in the declaration on this
 17 point?
 18 A. Assigned to a staff officer,
 19 requested that they ask for the information and
 20 how to get the information. I do not know who
 21 they called or talked to, I just got the
 22 information back.
 23 Q. Do you know what those responsive
 24 records are?
 25 A. Offhand, I don't recall.

1 J. Matuszewski
 2 Q. Do you know if you reviewed them?
 3 A. I reviewed all the documentation that
 4 was -- it's responsive to my declaration, I
 5 just can't recall which documents that would
 6 have been the five that they're speaking of.
 7 Q. Do you know if those five documents
 8 were produced to plaintiffs?
 9 A. I would -- I would say so. Like I
 10 said, without knowing which ones that they
 11 were, I can't say that they're actually there.
 12 But I know that the documents would have been
 13 included in the -- in the submission.
 14 Q. A few lines down, you state, however,
 15 a search of the word "CAP" in SharePoint, an
 16 internal system used to track employee work
 17 product, produced approximately 64,000
 18 documents. Can you explain a little bit more
 19 what SharePoint is?
 20 A. SharePoint is a subset -- no, that's
 21 not the right word either. SharePoint is a
 22 more -- SharePoint is an official way for us to
 23 document policy and procedure and follow that
 24 policy and procedure through its evolution from
 25 creation to signature from upper management.

1 J. Matuszewski
 2 policy," it will try to search "CAP and
 3 policy," not "CAP" and "policy." It would
 4 search for the phrase "CAP and policy."
 5 Q. Okay. Directing your attention back
 6 to Exhibit 1, the FOIA request, page 3, Roman
 7 numeral II, number 1, letter A, Communications
 8 with, Among Other Things, Congress, Members of
 9 Congress, Staff and The White House. Are there
 10 likely responsive records in the possession of
 11 ICE?
 12 A. Yes.
 13 Q. And what office or offices would
 14 maintain those records?
 15 A. The Office of Congressional Relations
 16 would have to deal with anything with Congress,
 17 members of Congress, or their staff. The White
 18 House would be at a director's level.
 19 Q. When you say "at a director's level,"
 20 what does that mean?
 21 A. It's my understanding it would be
 22 Mr. Morton.
 23 Q. Mr. Morton's communications with the
 24 White House?
 25 A. Yes.

1 J. Matuszewski
 2 Q. So I understand what that means, are
 3 you talking about it's a way to track
 4 essentially drafts of policies and procedures?
 5 A. Yes, to its completion of signature.
 6 Q. Okay. And does ICE OCR own
 7 SharePoint or manage SharePoint?
 8 A. No.
 9 Q. Do the 64,000 documents described in
 10 paragraph 36 only relate to ICE OCR?
 11 A. No. The 64,000 would have "CAP" in
 12 it from somewhere at some point. Not
 13 necessarily specific to CAP, it just mentions
 14 CAP.
 15 Q. Do you know who conducted that
 16 search?
 17 A. No.
 18 Q. Could SharePoint be searched for more
 19 specific terms, like "CAP" and "policy"?
 20 MS. BERMAN: Object to the form of
 21 the question. If you know.
 22 A. My use of SharePoint is very
 23 specific. It is a very specific repository
 24 where the words that are put in are the words
 25 that you get out. So if you say "CAP and

1 J. Matuszewski
 2 Q. Did you or anyone at ICE conduct a
 3 search for documents responsive to that
 4 subrequest?
 5 A. To that communication? No, because
 6 it is not in my declaration as to the White
 7 House. We dealt with Congress and we didn't go
 8 farther than that.
 9 Q. How would ICE conduct a search for
 10 records responsive to that subrequest beyond
 11 the five documents you referred to from the
 12 call log?
 13 A. I can't say how they'd actually
 14 respond to a request going to the White House.
 15 My understanding, it would turn into a national
 16 security or upper-level decision so I wouldn't
 17 know how they would conduct that.
 18 Q. Directing your attention to
 19 Exhibit 1, page 3, Roman II, number 1, letter
 20 B, Communications with State and Local
 21 Authorities. Are there likely records
 22 responsive to that subrequest?
 23 A. Yes.
 24 Q. And what office or offices would
 25 maintain those records?

1 J. Matuszewski
 2 A. The field office.
 3 Q. Okay. Do you know what would be
 4 involved in a field office conducting a search
 5 for records responsive to that subrequest?
 6 A. No. And that was dependent on the
 7 field office.
 8 Q. Okay. When you were a CAP officer,
 9 where were you stationed?
 10 A. Florence Service Center, Phoenix.
 11 Q. So as -- during your time as a CAP
 12 officer in Florence, did you encounter
 13 communications with state and local authorities
 14 that would be potentially responsive to that
 15 subrequest?
 16 A. They would not be specific to CAP.
 17 Q. Based on your experience with the
 18 Florence system for maintaining records, do you
 19 know how -- withdrawn.
 20 Based on your experience as a CAP
 21 officer in Florence, how would you have gone
 22 about conducting a search for records
 23 responsive to that subrequest?
 24 A. I was never a CAP officer in
 25 Florence. I was a deportation officer.

1 J. Matuszewski
 2 Q. Where were you a CAP officer?
 3 A. I was never a CAP officer until I
 4 came to headquarters, and I was a staff officer
 5 within CAP.
 6 Q. Excuse me for misunderstanding.
 7 Based -- withdrawn.
 8 Directing your attention to
 9 Exhibit 1, page 3, Roman II, number 1, letter
 10 C, Communication with Members of the Press,
 11 Nongovernmental Organizations and Members of
 12 the Public, does ICE likely have records
 13 responsive to that subrequest?
 14 A. Yes.
 15 Q. And what office or offices likely
 16 maintain those records?
 17 A. The Office of Public Affairs.
 18 Q. Do you know if the Office of Public
 19 Affairs conducted a search in response to that
 20 subrequest?
 21 A. As I did -- I put in my declaration,
 22 I do not know.
 23 Q. Do you know how those records are
 24 maintained by the Office of Public Affairs?
 25 A. No.

1 J. Matuszewski
 2 Q. Do you know what would be involved in
 3 conducting a search responsive to that
 4 subrequest?
 5 A. No.
 6 Q. Directing your attention to
 7 Exhibit 1, page 3, Roman III, Program
 8 Organization, specifically Roman III, number 1,
 9 letter A, Organizational Charts, do records
 10 responsive to that subrequest likely exist?
 11 A. Yes.
 12 Q. And would those be maintained by CAP?
 13 CAP headquarters?
 14 A. Some are maintained by CAP
 15 headquarters, others are maintained within the
 16 field office.
 17 Q. With regards to the records
 18 maintained in the field office, would those be
 19 records specific to the organization of that
 20 field office?
 21 A. Yes.
 22 Q. Okay. And does each field office
 23 have that kind of organizational chart?
 24 A. Generally.
 25 Q. So with regards to the responsive

1 J. Matuszewski
 2 records that CAP headquarters likely has, how
 3 could you conduct a search for those records?
 4 A. In CAP headquarters, or in the field?
 5 Q. In CAP headquarters.
 6 A. By researching inside our shared
 7 drive within the Criminal Alien Division's
 8 folder within the Criminal Alien Program's
 9 folder any organizational chart.
 10 Q. Was such a search conducted in this
 11 matter?
 12 A. I have conducted one, but I do not
 13 believe it was part of my declaration if it
 14 were not supplied to you.
 15 Q. Do you -- withdrawn.
 16 Do you know if that search yielded
 17 responsive records?
 18 A. It does.
 19 Q. Do you know how many responsive
 20 records?
 21 A. Two.
 22 Q. With regards to the organizational
 23 charts of the field offices, for any particular
 24 field office, what would be involved in
 25 searching for records responsive to that

1 J. Matuszewski
 2 subrequest?
 3 A. It would be dependent upon the field
 4 office.
 5 Q. Okay. Other than LEAR, which we've
 6 talked about, does CAP maintain other
 7 telephonic call-in centers?
 8 A. CAP does not maintain any telephonic
 9 call-in center.
 10 Q. Okay. LESC is maintained by another
 11 division of ICE; is that correct?
 12 A. The LESC as of approximately two
 13 years ago was part of HSI.
 14 Q. Directing your attention to
 15 Exhibit 1, page 4, that's Roman III, number 5,
 16 Agreements, Training Terms, Briefing, Guidance
 17 Rules and Other Records Related to Negotiation
 18 or Cooperation with State and Local Law
 19 Enforcement Officials Under CAP and its
 20 Predecessors.
 21 Does ICE likely have records
 22 responsive to that subrequest?
 23 A. Yes.
 24 Q. And what office or offices likely
 25 maintains those records?

1 J. Matuszewski
 2 A. Not to my knowledge.
 3 Q. Directing your attention to
 4 Exhibit 3, your first declaration, paragraph
 5 12, states the OPP, among other things, provide
 6 statistical analysis and modeling. Does it
 7 provide statistical analysis and modeling
 8 regarding CAP and CAP operations?
 9 A. The office would supply it upon
 10 request, but there's no request for
 11 specifically CAP.
 12 Q. Okay. So as far as you know, there
 13 would not be records responsive to Roman
 14 numeral IV, number 1, that have been produced
 15 by the OPP?
 16 A. Not to my knowledge.
 17 Q. Okay. Directing your attention to
 18 Exhibit 1, Roman IV, number 2, Statistical Data
 19 Regarding the Volume, Distribution, Type, and
 20 Result of Contact Between Local -- I'm sorry,
 21 Between Local Law Enforcement Officials and ICE
 22 Including but not Limited to Communications
 23 Directed to the Law Enforcement Support Center,
 24 are you -- withdrawn.
 25 Are there likely responsive records

1 J. Matuszewski
 2 A. Office of Public Affairs.
 3 Q. CAP likely does not have records
 4 responsive to that request?
 5 A. No.
 6 Q. CAP headquarters?
 7 A. No.
 8 Q. Do you know if the Office of Public
 9 Affairs conducted a search in response to that
 10 subrequest?
 11 A. I'm uncertain, as I did not speak to
 12 the Office of Public Affairs for my
 13 declaration.
 14 Q. We have talked some about the kinds
 15 of statistical reports that are regularly
 16 created regarding CAP. But I want to direct
 17 your attention to Exhibit 1, page 4, Roman IV,
 18 number 1.
 19 MS. BERMAN: Can you say that
 20 again?
 21 MR. WOFSY: Yes. Roman IV, number
 22 1, Statistical Data and Analysis.
 23 Q. Other than the documents that we've
 24 discussed, are there likely other records
 25 responsive to that subrequest?

1 J. Matuszewski
 2 in the possession of ICE?
 3 A. Yes.
 4 Q. What office or offices are likely to
 5 have such records?
 6 A. The -- to my knowledge, the only --
 7 the office would be the Law Enforcement Support
 8 Analysis Division within ERO.
 9 Q. Do you know if they conducted a
 10 search in response to this FOIA request?
 11 A. I do not, because it wasn't in my
 12 declaration.
 13 Q. Do you know how they could go about
 14 conducting such a search?
 15 A. No.
 16 Q. Do you know -- withdrawn.
 17 Can you describe the type of
 18 documents that might be responsive to that
 19 request?
 20 A. For statistical data recording the
 21 volume distribution type and result of the
 22 contact between law enforcement officials and
 23 ICE, no, I do not.
 24 Q. Directing your attention to
 25 Exhibit 1, Roman IV, number 3, Statistical and

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 2 Other Records Detailing Total ICE and IMS
 3 Expenditures in Both Personnel, Time, and
 4 Financial Resources Involved in Developing and
 5 Implementing CAP and its Predecessor, does ICE
 6 likely have records responsive to that
 7 subrequest?
 8 A. To my knowledge, no. Not detailing
 9 the total ICE or IS expenditures --
 10 MS. BERMAN: Involved in
 11 developing.
 12 A. -- involved in developing CAP, right.
 13 Q. Are there more generally records
 14 regarding CAP's budget and expenditures?
 15 A. Yes.
 16 Q. And what office or offices in ICE are
 17 likely to maintain such records?
 18 A. The chief financial officer for ICE.
 19 The office of budget and management within DHS.
 20 Q. Directing your attending to
 21 Exhibit 1, Roman IV, number 4, All Records
 22 Detailing or Referencing the Relationship
 23 Between CAP and its Predecessors and the State
 24 Criminal Alien Assistance Program. Are there
 25 likely records responsive to that subrequest?

1 J. Matuszewski
 2 A. No.
 3 Q. Why is that?
 4 A. ICE doesn't -- does not govern SCAP.
 5 Q. Who governs SCAP?
 6 A. Department of Justice.
 7 Q. Is it right in assuming there's
 8 essentially no connection between SCAP and CAP?
 9 A. There is no connection between --
 10 operationally, there's no connection between
 11 SCAP and CAP. ICE is responsible to ensure
 12 that the lists, or the -- not the lists. That
 13 the information that the Department of Justice
 14 has from local sheriffs, county directors and
 15 others that are requesting SCAP funds are
 16 somehow vetted to ensure that they're actually
 17 illegal aliens.
 18 Q. Okay. So ICE has responsibility for
 19 sort of checking of the lists that are
 20 submitted along with SCAP requests?
 21 A. Check the complete list provided by
 22 the Department of Justice, yes.
 23 MR. WOFSY: Let's take a break for
 24 a couple of minutes.
 25 (Discussion held off the record.)

1 J. Matuszewski
 2 BY MR. WOFSY:
 3 Q. I want to loop back to something we
 4 were talking about before. So if I understood
 5 you correctly, the I213 narrative field in EID
 6 is not something that IIDS can query.
 7 A. Correct.
 8 Q. Similarly, the criminal history
 9 narrative field in the EID is not something
 10 IIDS can query?
 11 A. The criminal history is part of the
 12 narrative field of the I213.
 13 Q. So that's one field?
 14 A. Yes.
 15 Q. And if I also understood you
 16 correctly, essentially, the only way to access
 17 the I213 narrative field would be to use one of
 18 the Enforce modules and query a specific
 19 person?
 20 A. Yes. By accessing a specific person
 21 within Enforce, you can print the form out and
 22 see the field.
 23 Q. So if you generated a list, as we
 24 discussed before, of all of the CAP encounters
 25 after 2010, that list could contain personally

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 2 identifiable information like an A number; is
 3 that right?
 4 A. Yes.
 5 Q. And it would be possible to take a
 6 random sample of that list, say, 1 percent?
 7 A. Well, based on the number that you
 8 were using of 700,000 FY '10, '11, you're
 9 talking 2 point -- almost 2 million records, so
 10 1 percent would be 200,000.
 11 Q. Right. Say you did generate those
 12 200,000 records. You could take the A number
 13 for each and query it in Enforce to access the
 14 I213 narrative section?
 15 A. You could take the A number to query
 16 the person in Enforce; however, that A number
 17 results in multiple encounters beyond what was
 18 already produced in the encounter report that
 19 we're referencing.
 20 Q. Okay. Would -- is there a better
 21 field that IIDS can query that would better be
 22 able to access the I213 narrative section in
 23 Enforce?
 24 A. The subject ID.
 25 Q. So the subject ID number is unique to

1 J. Matuszewski
 2 that encounter in person?
 3 A. Correct.
 4 Q. Okay. So if you generated a list of
 5 all of the CAP encounters and included subject
 6 ID, you could take a sample of that, plug it
 7 into Enforce, and generate a random sample of
 8 I213 sections?
 9 A. You could query the subject ID to
 10 obtain the person's record to print out the 213
 11 to then review the 213.
 12 Q. Okay. And I think you said earlier
 13 that how long it would take to do any one
 14 particular query would depend on I think you
 15 said the health of the Enforce system?
 16 A. That's correct.
 17 Q. And you gave me a range somewhere
 18 between 30 seconds and 10 minutes, I believe.
 19 A. Well, that would be to query the
 20 record, not to review the 213.
 21 Q. Do you have an estimate of how long
 22 it would take to query the record, review the
 23 I213, redact personally identifiable
 24 information for a single individual?
 25 A. 30 minutes to an hour.

1 J. Matuszewski
 2 Q. Is there any other way to generate a
 3 set of I213 narrative sections connected to a
 4 sample of CAP encounters?
 5 A. To my knowledge, no.
 6 Q. I'm sorry to have been so confused
 7 about the positions that you've held, but I
 8 think I understand now. So when you were first
 9 a CAP officer, you were in headquarters; is
 10 that right?
 11 A. I was a staff officer assigned to the
 12 Criminal Alien Program.
 13 Q. And is that the same position as the
 14 10 individuals that you oversee in headquarters
 15 now?
 16 A. Yes. They're all staff officers.
 17 Q. Okay.
 18 A. Let me correct you. I don't oversee
 19 them. I oversee the two section chiefs. My
 20 section chiefs oversee them.
 21 Q. Okay. Thank you. And in your role
 22 as staff officer for CAP, were you responsible
 23 for CAP operations in a certain part of the
 24 country?
 25 A. I was responsible as a program

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 2 manager, so oversight in the West Coast.
 3 Q. The West Coast? Okay.
 4 So do each of the 10 staff officers,
 5 are each of the 10 staff officers responsible
 6 for program oversight for a different part of
 7 the country?
 8 A. Yes.
 9 Q. Sort of divided up?
 10 A. It's broken down by field office.
 11 Q. In your role as a staff officer, you
 12 communicated with the field offices in the West
 13 Coast?
 14 A. Yes.
 15 Q. For a particular field office, was
 16 there one individual who was your liaison in
 17 that office, or did you communicate with
 18 multiple individuals?
 19 A. Each field officer designates one
 20 person.
 21 Q. Designates a person? Is that called
 22 a CAP liaison, something like that?
 23 A. CAP point of contact.
 24 Q. Is that still the system through
 25 which the staff officers oversee CAP

1 J. Matuszewski
 2 operations?
 3 A. Yes.
 4 Q. So with regards to field office
 5 communications -- withdrawn.
 6 With regards to field office editions
 7 to service-wide policies regarding CAP that we
 8 talked about before, would it be possible to
 9 search the emails of those 10 service officers
 10 for communications and documents related to
 11 field office editions to policy?
 12 A. The staff officers would have
 13 communications with their points of contact in
 14 the field for anything that might concern the
 15 field office, and it is possible that there is
 16 a best practice or a communication about those
 17 practices in the field office.
 18 Q. Do you know what would be involved in
 19 conducting a search of the email records of
 20 those 10 staff officers?
 21 A. No.
 22 Q. Are there any records of policies and
 23 procedures related to arrest quotas for CAP?
 24 A. There's no policy and procedures for
 25 arrest quotas. There are Government

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 2 Performance and Records Act measures. There
 3 are Fiscal Year Strategic Homeland -- Security
 4 Homeland -- I'm sorry, I lost the acronym, but
 5 FYHSA measures developed by Congress, and then
 6 there's high performance priority goal measures
 7 that are developed by the White House.

8 Q. Okay. Let's go through those one by
 9 one. What is the Government Performance and
 10 Record Act record?

11 A. It's a Congressional act that demands
 12 that every government entity have a standard of
 13 performance.

14 Q. Okay. And are there -- withdrawn.

15 If I understand you correctly, then,
 16 there are records responsive to that
 17 Congressional mandate regarding CAP in
 18 particular?

19 A. Yes.

20 Q. And what is the measure of
 21 performance?

22 A. What year are you going to reference?

23 Q. Currently.

24 A. Currently? Number of encounters that
 25 become charging documents.

1 J. Matuszewski
 2 gone up or gone down in the last two years?
 3 A. As mentioned earlier, we have a
 4 standardized report telling us whether or not
 5 CAP -- what CAP -- what level CAP removals are
 6 at. CAP, however, does not remove anybody.
 7 CAP is a -- is the entity that identifies the
 8 processes for removal. When I speak of CAP
 9 removals, it's because somebody has been
 10 removed and their encounter was based on the
 11 Criminal Alien Program. There are records
 12 pertinent to that number.

13 Q. Are there records related to this
 14 kind of quota with respect to particular field
 15 offices?

16 A. That, I'm not sure about. That would
 17 be a field operations -- that would be
 18 propriety to the field operations -- sorry.
 19 What's it called now? Field operations unit
 20 within the Enforcement Removal Operations,
 21 Office of Enforcement Removal Operations.

22 Q. Are there policies and procedures
 23 regarding the connection between -- withdrawn.

24 Are there records regarding the
 25 connection between those quota mandates and the

1 J. Matuszewski
 2 Q. What is FYHSA?
 3 A. Again, I can't remember the entire
 4 acronym. It's Fiscal Years Homeland Security
 5 Act, or something. Again, this is an internal
 6 goal -- measures that are meant for each first
 7 calendar year, what goals that we need to
 8 achieve. The two assigned to CAP are for
 9 removal of criminal aliens.

10 Q. And what about the high performance
 11 priority goal measures?

12 A. Those are within -- that's the White
 13 House and that would have to do with the.

14 For CAP, it's the number of Level 1
 15 criminal aliens that are removed.

16 Q. With regard to the -- is it FYHSA? I
 17 understand that --

18 A. FYHSA.

19 Q. We don't know the acronym, but with
 20 regard to the FYHSA standard, has that been
 21 affected by the agency's prosecutorial
 22 discretion policies?

23 A. To my knowledge, no.

24 Q. Have levels of -- are there documents
 25 reflecting whether levels of CAP removals have

1 J. Matuszewski
 2 evaluation of individual officers?
 3 A. No.
 4 Q. Are there policies and procedures
 5 regarding the use of any CAP statistics in
 6 evaluation of individual officers?

7 A. No.

8 Q. How does CAP -- withdrawn.

9 How does ICE define the term
 10 "criminal alien" as used in the name of the
 11 program, Criminal Alien Program? What does
 12 that mean?

13 A. It means any alien which would be
 14 considered a foreign-born national that has
 15 been convicted of a crime within the
 16 United States or outside that the -- or outside
 17 the United States that is deemed by the
 18 United States courts as being a crime.

19 Q. Okay. So it's any alien convicted of
 20 any crime, essentially?

21 A. Correct.

22 Q. Has that always been, to your
 23 knowledge, the definition used by ICE?

24 A. It's been an official definition now
 25 for three years.

1 J. Matuszewski
 2 Q. What was it before that?
 3 A. Undetermined.
 4 Q. Does CAP identify individuals as
 5 removal noncitizens who have not been convicted
 6 of a crime?
 7 A. Yes.
 8 Q. Individuals who have been -- are in
 9 prisons or jails but have charges pending?
 10 A. Yes.
 11 Q. Okay. Are those individuals
 12 considered criminal aliens under ICE's
 13 definition?
 14 A. At the time of encounter, if the
 15 person is still pending a crime, they're not
 16 considered a criminal alien.
 17 Q. Is that distinction reflected in
 18 records of statistics of criminal alien
 19 removals, or CAP removals?
 20 A. Yes.
 21 Q. And how?
 22 A. Whether or not the person has
 23 conviction in their criminal history.
 24 Q. So if a person is identified by CAP
 25 but never convicted of a crime, are they

1 J. Matuszewski
 2 included in those statistics of CAP removals?
 3 A. If they're removed.
 4 Q. Does -- withdrawn.
 5 (PX Exhibit No. 5 was marked for
 6 identification.)
 7 BY MR. WOFSY:
 8 Q. This is a document produced in --
 9 among the documents produced in this FOIA
 10 matter. It appears to be a chart of CAP
 11 removal process. It appears to be undated, but
 12 would you please review this and let me know if
 13 it still reflects the current CAP removal
 14 process?
 15 A. It's a generalized overview of the
 16 CAP removal -- CAP overall process. It does
 17 not include the current prosecutorial or --
 18 prosecutorial discretion memorandums. My
 19 determination is that would be done at the time
 20 that the officer either serves or places a
 21 detainer. It also does not include the HSI
 22 secretary's memorandum of providing relief to
 23 those that are in school between the ages of 16
 24 and 25.
 25 Q. Does this process vary in any way for

1 J. Matuszewski
 2 someone who has been convicted of a crime or
 3 has not at the time they are identified by CAP?
 4 A. As a standard process? No.
 5 Q. Uh-huh.
 6 A. However, I stated before, if you put
 7 prosecutorial discretion and any other policy
 8 and procedures, that would be implemented in
 9 different parts of it.
 10 Q. Okay. So that would be taken into
 11 consideration in determination of whether to
 12 exercise prosecutorial discretion?
 13 A. In certain parts of that, yes.
 14 Q. And that I think you said generally
 15 is at the point of whether a detainer will be
 16 placed or not?
 17 A. Correct.
 18 Q. I'd like to direct your attention
 19 to -- just a moment. Exhibit 3. Do you still
 20 have that? It's your first declaration.
 21 A. Yes.
 22 Q. Paragraph 17, first sentence. In
 23 1988, legacy INS created a control over both
 24 the Alien Criminal Apprehension Program and the
 25 Institutional Removal Program, previously

1 J. Matuszewski
 2 referred to as the Institutional Hearing
 3 Program, in response to the passage of the 1986
 4 Immigration Reform and Control Act. The law
 5 required the Attorney General, quote, in the
 6 case of an alien who is convicted of an offense
 7 which makes the alien subject to deportation,
 8 to begin any deportation proceeding as
 9 expeditiously as possible after the date of the
 10 conviction.
 11 Is that quoted statutory language
 12 describing somebody who has been convicted of a
 13 deportable offense?
 14 A. Could you repeat the question one
 15 more time?
 16 Q. Yes. Does the statutory language
 17 quoted in paragraph 17 describe a person who
 18 has been convicted of a deportable offense?
 19 MS. BERMAN: I'm going to object to
 20 the form of the question. Are you
 21 asking for a legal opinion about that?
 22 I'm not sure he's really qualified to
 23 answer that.
 24 MR. WOFSY: I'm not asking for a
 25 legal opinion, but I am asking for your

1 J. Matuszewski
 2 understanding of the language quoted in
 3 the declaration.
 4 MS. BERMAN: His opinion about the
 5 statutory language?
 6 MR. WOFY: Yeah.
 7 MS. BERMAN: If you know. If you
 8 can answer, you can answer.
 9 A. In the case of an alien that's
 10 convicted of an offense which makes aliens
 11 subject to deportation does not necessarily
 12 mean it's a deportable offense. If you are a
 13 legal permanent resident, you have to have
 14 certain things, being convicted of certain
 15 things to make it lead to deportable offense.
 16 Alien use -- then we can begin the proceedings.
 17 In general, it would be a deportable offense
 18 that creates the proceedings to begin.
 19 Q. Was that the definition of "criminal
 20 alien" that was used by ACAP and IRP?
 21 A. I can't -- I don't know that.
 22 Q. Directing your attention to
 23 Exhibit 3, paragraph 21, states the ERO through
 24 the CAP currently writes 100 percent screening
 25 to all sentenced inmates in Bureau of Prison

1 J. Matuszewski
 2 Q. Okay. We talked about this before,
 3 but I want to be clear on it. So currently,
 4 how does the CAP obtain biographic information
 5 about the individuals that it screens?
 6 A. It can obtain biographic information
 7 through an immigration alien query done by
 8 local law enforcement agency, which creates an
 9 immigration alien response from the Law
 10 Enforcement Support Center. It can obtain
 11 information from the local or state entities
 12 through communication and collaboration,
 13 whether it be with their local database, which
 14 would be usually a website. I'll use the idea
 15 of Pinal County, which is a public website.
 16 They provide that website to them. BOP has an
 17 inmate locator that will notate the inmates
 18 they've located, and then just phone calls from
 19 local police departments.
 20 Q. Directing your attention to paragraph
 21 18, last sentence, however, mandatory reporting
 22 at federal correctional institutions to DHS of
 23 foreign-born inmates continues today.
 24 Do you know -- withdrawn.
 25 Are there records establishing the

1 J. Matuszewski
 2 facilities in all state correctional
 3 institutions.
 4 Can you describe what "100 percent
 5 screening" means?
 6 A. It means that the Criminal Alien
 7 Program has knowledge of all self-proclaimed
 8 foreign-born nationals that are found within
 9 BOP facilities and safe facilities.
 10 Q. So the 100 percent is all individuals
 11 who proclaim themselves to be foreign-born?
 12 A. Yes.
 13 Q. Okay. It doesn't mean that you --
 14 that the CAP reviews records for 100 percent of
 15 inmates to see if they are foreign born?
 16 A. That's correct.
 17 Q. And do you run fingerprints --
 18 withdrawn.
 19 Does the CAP run fingerprints for all
 20 prisoners in BOP and state prisons?
 21 A. The Criminal Alien Program does not
 22 run fingerprints within the federal and state
 23 facilities unless it's at the time of
 24 identification. We do an interview and start
 25 processing.

1 J. Matuszewski
 2 mandatory nature of that obligation?
 3 A. There are no records standing -- that
 4 makes it mandatory for the correctional
 5 institutions to provide -- to provide it. It's
 6 an agreement between employees that the Bureau
 7 of Prisons will supply us with a list.
 8 Q. Between employees?
 9 A. Unit chief to a unit chief.
 10 Q. Okay. So the unit chief of the
 11 Bureau of Prisons agrees to supply that
 12 information to the unit chief of a CAP?
 13 A. That's how it works.
 14 Q. Is that agreement reflected in any
 15 document?
 16 A. No.
 17 Q. When was that agreement reached?
 18 A. There's been several forms of the
 19 agreement. One was access to the system
 20 sentry, which is owned and operated by BOP, and
 21 the other one was approximately two or three
 22 years ago that a list would be mailed to the
 23 Criminal Alien Program.
 24 Q. Is that agreement memorialized in
 25 exchange of any email or correspondence?

1 J. Matuszewski
 2 A. Not to my knowledge.
 3 Q. As to state prisons and jails, are
 4 they under any mandatory requirement to provide
 5 biographic information about their inmates to
 6 the CAP?
 7 A. No.
 8 Q. What is the nature of their
 9 cooperation with the CAP?
 10 A. Voluntary.
 11 Q. Does -- is a record kept in EID
 12 distinguishing identifications that are made by
 13 the CAP from identifications that are made by
 14 SCOM?
 15 A. SCOM?
 16 Q. Excuse me. Secured Communities.
 17 A. Yes.
 18 Q. And is that a field in EID?
 19 A. It's a field within Enforce, so I
 20 believe it's a field in EID.
 21 Q. And what field is that?
 22 A. This should be the lead type.
 23 Q. You may have already described this,
 24 but I want to make sure we've covered it.
 25 Directing your attention to paragraph 16 of

1 J. Matuszewski
 2 Exhibit 3, page 5, you say the CAP prioritizes
 3 the detention and arrest of criminal aliens by
 4 using a risk-based approach. Is that a
 5 reference to the risk-based database that you
 6 described?
 7 MS. BERMAN: If you want to read
 8 the whole paragraph, feel.
 9 MR. WOFSY: Certainly.
 10 A. The Criminal Alien Program uses a
 11 risk-based approach in order to place its
 12 resources. When it comes to detention and
 13 arrest of the criminal aliens, it's risk based
 14 to ensure that its resources are used properly.
 15 Q. So if I understand that, are you
 16 saying there are sort of two different
 17 risk-based analyses, one for how to place CAP's
 18 resources and the other for how to deal with
 19 individuals?
 20 A. Correct.
 21 Q. And paragraph 16 is referring to the
 22 second kind of risk-based --
 23 A. To deal with the individuals, yes.
 24 Q. When was that the risk-based approach
 25 introduced?

1 J. Matuszewski
 2 MS. BERMAN: Which one?
 3 Q. When was the risk-based approach as
 4 to individuals introduced?
 5 A. CAP's identification and location of
 6 the criminal alien or aliens based on risk
 7 started when HSI and DRO combined their IRP and
 8 ACAP programs together due to limited
 9 resources. The risk-based was literally risk
 10 based. It was something that was not, to my
 11 knowledge, memorialized to what would have to
 12 be done, but based on each individual field
 13 office and the number of people that they were
 14 provided to perform Criminal Alien Program
 15 duties to determine what levels they were able
 16 to accomplish.
 17 Q. And was this risk-based system as to
 18 individuals reflected in policies, procedures,
 19 memoranda?
 20 A. Today or in the past?
 21 Q. Today.
 22 A. Yes.
 23 Q. What office or offices within ICE
 24 would have possession of those policies,
 25 procedures and memoranda?

1 J. Matuszewski
 2 A. The Office of ICE/Policy.
 3 Q. Who -- today, who undertakes this
 4 risk-based analysis as to an individual?
 5 A. A ICE officer or special agent.
 6 Q. Is there oversight of the process?
 7 A. There's statistical oversight of the
 8 process within ERO based on levels of -- based
 9 on criminal offense levels that statistical
 10 tracking unit would provide an analysis.
 11 Q. And are those statistical analyses
 12 different from the documents we've already
 13 discussed?
 14 A. No. Still comes from IIDS, still
 15 comes in similar forms, as we have discussed.
 16 Q. Okay. And that's on a weekly basis?
 17 A. No. The weekly basis is standardized
 18 format, how many charging documents were
 19 issued, how many encounters were done.
 20 Statistical analysis of criminal offense
 21 levels, removals, are done upon request.
 22 Q. And how often are those requested?
 23 A. I can't say. It all depends on the
 24 request.
 25 Q. Approximately how many times a year?

1 J. Matuszewski
 2 A. I don't know.
 3 Q. Are the responses to those requests
 4 maintained in a single folder on the shared
 5 drive?
 6 A. I don't know. That would be part of
 7 the statistical tracking unit and our taskings
 8 division.
 9 Q. Are there worksheets or other forms
 10 that are used for the risk-based analysis as to
 11 an individual?
 12 A. Worksheets? Currently no.
 13 Q. In the past, there were?
 14 A. Yes.
 15 Q. And are copies of those worksheets
 16 maintained by an office or offices within ICE?
 17 A. I do not know.
 18 Q. Approximately when did ICE
 19 discontinue use of those worksheets or forms?
 20 A. I don't know an exact date. It's
 21 part of a computer program called the risk
 22 assessment.
 23 Q. Discontinuing it is part of a
 24 computer program?
 25 A. Discontinuing it, they -- it was --

1 J. Matuszewski
 2 MR. WOFSY: Okay. I think we're
 3 coming to the end, but if we could just
 4 have a few moments to confer with my
 5 colleagues.
 6 MS. BERMAN: Sure.
 7 (Discussion held off the record.)
 8 MR. WOFSY: So the plaintiffs have
 9 nothing further at this time.
 10 EXAMINATION
 11 BY MS. BERMAN:
 12 Q. I want to ask you a few follow-up
 13 questions. You testified earlier, I believe it
 14 was this morning, about the manual reports that
 15 were completed of CAP information. I just want
 16 to clarify. Were those -- do those reports
 17 contain just statistics?
 18 A. Yes.
 19 Q. So is there -- there would be no
 20 information about individuals in those reports,
 21 then; is that right?
 22 A. That's correct.
 23 Q. And you also testified this morning
 24 about the effort at the agency to digitize all
 25 A files. And I believe you said that was an

1 J. Matuszewski
 2 the creation of the risk assessment --
 3 Q. Program?
 4 A. Uh-huh.
 5 Q. Okay. Is there a procedure for
 6 dealing with an individual who is determined to
 7 be a low risk using this risk assessment?
 8 A. Define "procedure."
 9 Q. Well, is there a standard action or
 10 actions that are taken when an individual is
 11 determined to be a low risk?
 12 A. No. Everybody -- every person that
 13 conducts any part of the Criminal Alien Program
 14 takes it upon them to determine whether or not
 15 the person's illegally in the country or
 16 subject to removal. Criminal offense, though,
 17 has nothing to do with it at the time. What
 18 becomes the criminal offense level or, as you
 19 said, the low risk, comes to whether or not
 20 you're going to detain the person.
 21 Q. Not whether you're going to enter the
 22 identification information into the Enforce
 23 modules?
 24 A. All foreign-born nationals are
 25 entered into the Enforce system upon encounter.

1 J. Matuszewski
 2 ongoing effort. Do you know sort of where
 3 about in the process that effort is?
 4 A. No. I know it's still ongoing.
 5 Q. Do you have any sense of how long
 6 it's going to take to finish that?
 7 A. I have no idea how long it's going to
 8 take. I know it's not close to being finished.
 9 Q. And any A files that are already
 10 digitized, are those, to your knowledge,
 11 word-searchable?
 12 A. No.
 13 Q. And do you have access to those files
 14 from your computer, the digitized one?
 15 A. No. A request has to be made to CIS
 16 to obtain just the digitized file.
 17 Q. You also testified about predefined
 18 queries from Enforce that could be done by each
 19 field office through its suite of Enforce, and
 20 you mentioned that that was very cumbersome to
 21 actually do this. Can you just explain a
 22 little bit what you meant by that?
 23 A. Each field office and suboffice has
 24 its own code in Enforce that when they log in
 25 that that's where they are. That's the site

1 J. Matuszewski
2 that they're sitting in. That's the
3 reporting -- that's where the reporting will
4 come from.

5 The reports are such that it becomes
6 cumbersome because you can only do maybe one or
7 two days at a time. If you try to do a lengthy
8 search or try to expand upon the dates, it will
9 actually freeze the system and you cannot
10 process and run a query at the same time.

11 So if the system freezes 20 to 30
12 minutes later, you have to try to log back in
13 so it would completely shut down and impact a
14 current day with an ERO.

15 Q. Within the field, not just one --

16 A. Within the field office, yes.

17 Q. And you also testified this afternoon
18 about a search you conducted for organizational
19 charts of CAP and you said you found two
20 responsive records.

21 Was that search done before or after
22 the FOIA request in this case was received?

23 A. It was actually after.

24 Q. Okay. And those organizational
25 charts of CAP that you testified about, are

1 J. Matuszewski
2 there any other organizational charts related
3 to CAP, not necessarily of CAP, that you're
4 aware of?

5 A. Yeah, the two I spoke of were
6 specifically of CAP headquarters, my unit.
7 There are other organizational charts related
8 to CAP as it is -- as it refers to DRO or ERO.

9 Q. And there's a lot of testimony about
10 various queries that you could do of EID
11 through either the Enforce or IIDS overlays.
12 Is the information that you would get out of
13 EID through any of these queries dependent in
14 any way on the quality of the input of
15 information in EID?

16 A. Yes. Enforce, which is going to
17 supply the information to both EID and any
18 query that's done within Enforce, has specific
19 mandatory fields and some that aren't mandatory
20 fields. Although you can pull a relatively
21 large number of fields through IIDS, as I
22 talked about before, not all of them will have
23 information in them because the officer is not
24 mandated to input that information.

25 MS. BERMAN: That's it for us.

1 J. Matuszewski
2 MR. WISHNIE: I'm sorry, I think we
3 may have one or two things just on the
4 things you just asked. Let us have a
5 minute.

6 MS. BERMAN: Sure.

7
8 (Discussion held off the record.)

9
10 EXAMINATION
11 BY MR. WOFSY:

12 Q. Some brief redirect.

13 So you testified on cross-examination
14 that some of the fields in EID are mandatory
15 and some are not?

16 A. Some of the fields in Enforce are
17 mandatory and not in others.

18 Q. Do you know which fields are
19 mandatory and which are not?

20 A. Offhand, no.

21 Q. Okay.

22 A. Generally, biographic information is
23 mandatory; other information is not.

24 Q. Are there any exceptions to those
25 general rules that you can think of?

1 J. Matuszewski
2 A. No.
3 MR. WOFSY: Nothing further.
4 MS. BERMAN: Nothing further here.
5 (Deposition adjourned at 4:42 p.m.)

6
7
8 _____
9 JAMISON MATUSZEWSKI
10 SUBSCRIBED AND SWORN TO BEFORE ME
11 THIS _____ DAY OF _____, 2013.

12 _____
13 (Notary Public)
14 My Commission expires: _____
15
16
17
18
19
20
21
22
23
24
25

1 J. Matuszewski
 2 C E R T I F I C A T E
 3 D I S T R I C T O F C O L U M B I A :
 4
 5 I, MARY ANN PAYONK, CRR-RDR, CBC, CCP,
 6 CLR, shorthand reporter, do hereby certify:
 7 That the witness whose deposition is
 8 hereinbefore set forth was duly sworn, and that
 9 such deposition is a true record of the
 10 testimony given by such witness.
 11 I further certify that I am not related
 12 to any of the parties to this action by blood
 13 or marriage, and that I am in no way interested
 14 in the outcome of this matter.
 15 IN WITNESS WHEREOF, I have hereunto set
 16 my hand this 8th day of February, 2013.
 17
 18 _____
 19 MARY ANN PAYONK, CRR-RDR, CBC, CCP, CLR
 20 Shorthand Reporter
 21
 22
 23
 24
 25

1 J. Matuszewski
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1 J. Matuszewski
 2 NAME OF CASE: American Immigration Council vs.
 3 Department of Homeland Security
 4 WITNESS: JAMISON MATUSZEWSKI
 5 DATE OF DEPOSITION: February 1, 2013
 6 1. To clarify the record.
 7 2. To conform to the facts.
 8 3. To correct transcription error.
 9
 10 Page _____ Line _____ Reason _____
 11 From _____ to _____
 12 Page _____ Line _____ Reason _____
 13 From _____ to _____
 14 Page _____ Line _____ Reason _____
 15 From _____ to _____
 16 Page _____ Line _____ Reason _____
 17 From _____ to _____
 18
 19 _____
 20 JAMISON MATUSZEWSKI
 21 SUBSCRIBED AND SWORN TO BEFORE ME
 22 THIS _____ DAY OF _____, 2013.
 23
 24 _____
 25 (Notary Public)
 My Commission expires: _____

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