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9 Attorneys for the United States

10
 11 **IN THE UNITED STATES DISTRICT COURT FOR THE**
DISTRICT OF ARIZONA

13
 14 United States,

15 Plaintiff;

16 v.

17 Town of Colorado City, Arizona, *et al.*,

18 Defendants.
 19

No. 3:12cv8123-HRH

**JOINT STATUS REPORT
 CONCERNING ALTERED POLICE
 REPORTS**

21 On November 26, 2014, this Court ordered: “Counsel for the Town of Colorado
 22 City and plaintiff’s counsel shall confer and, on or before January 5, 2015, provide the
 23 court with an updated status report concerning the altered police reports.” Order at 4, ECF
 24 No. 537. Pursuant to that Order, Colorado City and the United States provide the
 25 following status report:

26 On December 1, 2015, Colorado City informed the United States that it was
 27 awaiting a price quotation from In-Synch Systems to write a new program and to complete
 28 the requested electronic search of the database of police reports that the Colorado City

1 Marshal's Office had provided to In-Synch Systems. *See* Correspondence from Jeffrey
2 C. Matura, counsel for Colorado City, to Matthew Donnelly, U.S. Dep't of Justice (Dec. 1,
3 2014) (Ex. 1). On December 15, 2014, the United States asked Colorado City to provide
4 an update on its "efforts to identify deleted or altered police reports." *See* Correspondence
5 from Jessica Crockett, U.S. Dep't of Justice, to Jeffrey C. Matura, counsel for Colorado
6 City (Dec. 15, 2014) (Ex. 2). Colorado City responded the same day and said that it was
7 "still waiting to receive a quote from Kirk Farra at In-Synch Systems to complete the
8 requested work." *See* Correspondence from Jeffrey C. Matura, counsel for Colorado City,
9 to Jessica Crockett, U.S. Dep't of Justice (Dec. 15, 2014) (Ex. 3). On December 27, 2014,
10 Colorado City provided another update to the United States regarding its discussions with
11 In-Synch Systems, explained potential issues related to cost and scope that In-Synch
12 Systems had identified with the requested search, and asked to discuss with the United
13 States "a reasonable way to limit the scope of [In-Synch Systems'] search." *See*
14 Correspondence from Jeffrey C. Matura to the United States (Dec. 27, 2014 to Dec. 31,
15 2014) (Ex. 4). The United States responded on December 29, 2014 and stated that it will
16 not agree to limit the search "in any way that creates a risk that the search will not capture
17 the full universe of potentially altered reports," but offered to have personnel from the
18 Civil Rights Division Litigation Support Section participate in a conversation with
19 Colorado City and In-Synch Systems in an effort better to understand any proposed
20 limitations on the search. *See* Correspondence from Sean Keveney, U.S. Dep't of Justice,
21 to Jeffrey C. Matura, counsel for Colorado City (Dec. 29, 2014) (Ex. 5). That
22 conversation is scheduled to take place on Tuesday, January 6, 2015, after which the
23 Parties expect to be in a position to report to the Court: (1) that they have reached an
24 agreement on the cost, nature, and scope of In-Synch Systems' search; (2) that the Parties
25 have agreed upon an alternative arrangement; or (3) that the Parties are at an impasse
26 regarding the cost, nature, or scope of the electronic search for altered or deleted police
27 reports.
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Respectfully submitted,

FOR THE UNITED STATES:

STEVEN H. ROSENBAUM
Chief
Housing and Civil Enforcement Section

JONATHAN M. SMITH
Chief
Special Litigation Section

R. TAMAR HAGLER
CHRISTY E. LOPEZ
Deputy Chiefs
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/s/ Sean R. Keveney
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FOR COLORADO CITY:

/s/ Jeffrey C. Matura with permission
Jeffrey C. Matura
Asha Sebastian
Graif Barrett & Matura, P.C.
1850 North Central Avenue, Suite 500
Phoenix, Arizona 85004
*Attorneys for Defendant Town of
Colorado City*

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CERTIFICATE OF SERVICE

I certify that on January 5, 2015, I caused a copy of the foregoing *Joint Status Report Concerning Altered Police Reports* to be sent via the Court's ECF system to the following:

Jeffrey C. Matura
Asha Sebastian
Graif Barrett & Matura, P.C.
1850 North Central Avenue, Suite 500
Phoenix, Arizona 85004
Attorneys for Defendant Town of Colorado City

R. Blake Hamilton
Ashley M. Gregson
Durham Jones & Pinegar, P.C.
111 East Broadway, Suite 900
Salt Lake City, Utah 84111
Attorneys for Defendants City of Hildale, Twin City Water Authority, and Twin City Power

/s/ Sean R. Keveney
SEAN R. KEVENEY
Attorney for the United Sta

Joint Status Report Concerning Altered Police Reports: Exhibits 1-5

Exhibit 1

Keveney, Sean R (CRT)

From: Jeff Matura [JMatura@gbmlawpc.com]
Sent: Monday, December 01, 2014 5:49 PM
To: Donnelly, Matthew (CRT); Blake Hamilton (bhamilton@djplaw.com)
Cc: Crockett, Jessica (CRT); Keveney, Sean R (CRT)
Subject: RE: SJ/Depos

Matt:

I hope you had a good Thanksgiving holiday. I spoke to Blake, and here are the defendants' thoughts on the issues you raise:

1. We are agreeable to a deadline of December 22 for dispositive motions. We still read the Court's scheduling order differently, but are willing to agree on this date. Let me know how you want to address this issue with the Court. I assume a joint motion and proposed order is easiest.
2. Regarding the continued depositions of Officer Cooke and Vergel Steed, the defendants have decided to file an interlocutory appeal to the Ninth Circuit on Judge Holland's recent orders. The deadline to file the notice of appeal is late December. Therefore, until the appellate process is complete, we should hold off on scheduling these depositions.
3. Regarding the police reports, my last communication with In-Synch Systems was via e-mail on November 24. That e-mail was attached as an exhibit to Colorado City's reply, and it stated that In-Synch Systems hopes to have a quote within a week or so to complete the requested work. I don't have any further update as of now, but when I do hear more, I'll let you know.

If you want to discuss any of these issues, please give me a call.

Thanks.

Jeffrey C. Matura
Graif Barrett & Matura, P.C.
1850 North Central Avenue, Suite 500
Phoenix, Arizona 85004
Direct: 602-792-5721
Fax: 602-792-5710
E-Mail: jmatura@gbmlawpc.com

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From: Donnelly, Matthew (CRT) [<mailto:Matthew.Donnelly@usdoj.gov>]
Sent: Monday, December 01, 2014 2:56 PM
To: Jeff Matura; Blake Hamilton (bhamilton@djplaw.com)
Cc: Crockett, Jessica (CRT); Keveney, Sean R (CRT)
Subject: SJ/Depos

Hey Jeff – Defendants asked for an extension of the December 15 Summary Judgment deadline. Reminder that I’m still waiting to hear on our offer of a 1 week filing date extension (to Monday, December 22). I’m also waiting to hear when Defendants can attend the redepos of Officer Cooke and Mr. Steed in St. George; as I indicated previously I think we can take them both in one (long) day, but we should take them ASAP.

Just a reminder, I understand Blake was at conference when we spoke and last week had a holiday. But we should get this nailed down pretty early this week.

Also – at some point soon we need to have the meet/confer regarding the police reports.

THX

Exhibit 2

Keveney, Sean R (CRT)

From: Crockett, Jessica (CRT)
Sent: Monday, December 15, 2014 10:53 AM
To: Jeff Matura; 'Hamilton, R. Blake'
Cc: Keveney, Sean R (CRT); Donnelly, Matthew (CRT)
Subject: Colorado City

Jeff,

Is there an update regarding Colorado City's efforts to identify deleted or altered police reports? We understand that you are in communication with In-Synch Systems and have asked it to provide software that will enable Colorado City to comply with the Court's orders on this issue. We expect that the software program Colorado City receives to be able to do the following: (1) identify all altered or deleted reports; (2) show the precise alterations or deletions so that the United States can attempt to recreate the original reports; and (3) show who made the alterations and when. We also request that Colorado City's production of this information be in native format. Please let us know by the end of this week the status of this issue.

Thanks,

Jessica

Jessica Clarke Crockett
Trial Attorney
United States Department of Justice
Civil Rights Division
Housing & Civil Enforcement Section
Phone: (202) 305-4013
Fax: (202) 514-1116

United States Mail Address
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530

Federal Express & Hand-Delivery Address
1800 G Street, N.W.
Suite 7002, CRT/HCE
Washington, D.C. 20006

Exhibit 3

Keveney, Sean R (CRT)

From: Jeff Matura [JMatura@gbmlawpc.com]
Sent: Monday, December 15, 2014 2:42 PM
To: Crockett, Jessica (CRT); 'Hamilton, R. Blake'
Cc: Keveney, Sean R (CRT); Donnelly, Matthew (CRT)
Subject: RE: Colorado City

Jessica:

To follow-up on our call today, and in response to your below e-mail, I am still waiting to receive a quote from Kirk Farra at In-Synch Systems to complete the requested work. I sent him a follow-up e-mail today. I also let him know about the Court's January 5, 2015 deadline to submit a status update. When I hear back from Kirk, I'll let you know.

Thanks.

Jeffrey C. Matura

Graif Barrett & Matura, P.C.
1850 North Central Avenue, Suite 500
Phoenix, Arizona 85004
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From: Crockett, Jessica (CRT) [<mailto:Jessica.Crockett@usdoj.gov>]
Sent: Monday, December 15, 2014 8:53 AM
To: Jeff Matura; 'Hamilton, R. Blake'
Cc: Keveney, Sean R (CRT); Donnelly, Matthew (CRT)
Subject: Colorado City

Jeff,

Is there an update regarding Colorado City's efforts to identify deleted or altered police reports? We understand that you are in communication with In-Synch Systems and have asked it to provide software that will enable Colorado City to comply with the Court's orders on this issue. We expect that the software program Colorado City receives to be able to do the following: (1) identify all altered or deleted reports; (2) show the precise alterations or deletions so that the United States can attempt to recreate the original reports; and (3) show who made the alterations and when. We also request that Colorado City's production of this information be in native format. Please let us know by the end of this week the status of this issue.

Thanks,

Jessica

Jessica Clarke Crockett

Trial Attorney

United States Department of Justice

Civil Rights Division

Housing & Civil Enforcement Section

Phone: (202) 305-4013

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950 Pennsylvania Ave., N.W.

Washington, D.C. 20530

Federal Express & Hand-Delivery Address

1800 G Street, N.W.

Suite 7002, CRT/HCE

Washington, D.C. 20006

Exhibit 4

Keveney, Sean R (CRT)

From: Jeff Matura [JMatura@gbmlawpc.com]
Sent: Saturday, December 27, 2014 6:44 PM
To: Crockett, Jessica (CRT); Donnelly, Matthew (CRT); Keveney, Sean R (CRT)
Cc: Blake Hamilton (bhamilton@djplaw.com)
Subject: Colorado City adv. United States / In-Synch Systems Update

Follow Up Flag: Follow up
Flag Status: Flagged

All:

I spoke to Kirk Farra at In-Synch Systems last week and want to provide you with an update. Mr. Farra relayed the following information regarding the work we have asked him to complete:

1. Neither Colorado City nor In-Synch Systems has the ability to search the Marshal's Department's database to obtain the information requested. In-Synch Systems must therefore write a new program to search the database and run a report.
2. We asked In-Synch Systems to run a report to show "every change made to every call and case report from the Colorado City Marshal's Department from January 1, 2010 to June 30, 2013" and to show on this report "each change made, who made the change, and the time of the change."
3. According to Mr. Farra, to write the new program, run the search, and then check the search results for quality control would cost "at least \$70,000" because the search request is not something the database is intended to run, is not a normal search request that In-Synch Systems receives from its customers, and would require significant employee time to complete.
4. According to Mr. Farra, the search parameters are too broad. He estimates that the search would result in a report that includes "millions" of pages.

Based upon these issues, Mr. Farra asked me to limit the scope of the search. He suggested limiting the timeframe of the search or limiting the search to a specific officer(s), incident(s), or report(s). I would like to set-up a time to talk to you about these issues and see if we can agree upon a reasonable way to limit the scope of the search.

I am out of the office on Monday and Tuesday, but back on Wednesday. Let me know if you are free then. If not, I am also free on Friday or the following Monday, which the day the update to the Court is due.

Thanks.

Jeffrey C. Matura
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Exhibit 5

Keveney, Sean R (CRT)

From: Keveney, Sean R (CRT)
Sent: Monday, December 29, 2014 11:35 AM
To: Jeff Matura; Crockett, Jessica (CRT); Donnelly, Matthew (CRT); Hayes, Chris (CRT)
Cc: Blake Hamilton (bhamilton@djplaw.com)
Subject: RE: Colorado City adv. United States / In-Synch Systems Update

Mr. Matura,

The United States will not agree that the scope of In-Synch Systems' search should be limited in any way that creates a risk that the search will not capture the full universe of potentially altered reports. In fact, we do not agree that any search should be limited to the period January 1, 2010, to June 30, 2013. As you know, at least one report was altered as late as December 2013. The United States continues to be unable to identify what reports were altered, how they were altered or deleted, which officers or city employees were responsible for the alterations, or the nature of the alterations. Limiting the scope of In-Synch's search therefore poses a significant risk that the search will not fully capture all alterations or deletions, leaving the United States in the same position it has been in since this issue first arose. Given (1) that alterations or deletions were occurring until at least December of 2013, and (2) that this problem is one created by the CCMO's misconduct, the United States should not be required to bear that risk.

We are happy to participate in a call with Mr. Farra so that the United States can better understand what In-Synch is proposing and how the search would be run. We would also like to have the United States' litigation support personnel participate in that conversation. Finally, we wish to ensure that the search produces manageable results. Given that this problem was of Colorado City's making, the United States should not be put in a position to have to review "millions" of pages to identify material alterations or deletions. The United States can be available for a call on Friday, January 2, 2014.

Regards,

Sean Keveney

From: Jeff Matura [<mailto:JMatura@gbmlawpc.com>]
Sent: Saturday, December 27, 2014 6:44 PM
To: Crockett, Jessica (CRT); Donnelly, Matthew (CRT); Keveney, Sean R (CRT)
Cc: Blake Hamilton (bhamilton@djplaw.com)
Subject: Colorado City adv. United States / In-Synch Systems Update

All:

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I am out of the office on Monday and Tuesday, but back on Wednesday. Let me know if you are free then. If not, I am also free on Friday or the following Monday, which the day the update to the Court is due.

Thanks.

Jeffrey C. Matura

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