

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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IN RE: SEALED CASE )  
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) Misc. Nos. 12-196, 12-197 (RCL)  
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**MEMORANDUM AND ORDER**

Before the Court are motions [1] filed by the petitioners [redacted] and [redacted] for return of property pursuant to Fed. R. Crim. P. 41(g). The petitioners seek the return of materials seized by the government on [redacted] from [redacted] and from [redacted] during execution of two search warrants issued by Magistrate Judge Alan Kay in Mag. Nos. [redacted] respectively, on [redacted]. The petitioners filed two motions: the first, Misc. No. 12-196, applies to property seized from [redacted], and the second, Misc. No. 12-197, applies to property seized from [redacted]. The parties have filed identical memoranda in both cases, and the Court will issue one order disposing of both motions. Upon consideration of the motions, the government's responses, the petitioners' replies thereto, the entire record herein, and the applicable law, the Court will deny the motions.

**I. BACKGROUND**

[redacted] The government in connection with an investigation of potential violations of various [redacted] and other criminal laws secured warrants for the search of [redacted] and [redacted] and executed those warrants on [redacted]. Included in the items seized by the government are more than 60 boxes of physical documents and electronic copies of about 23 million pages of documents and records on various electronic media.

The parties agree that some of the seized documents, copies, and records may contain information protected by the attorney-client privilege, as well as other privileges.<sup>1</sup> During the meet and confer process, *see* Local Civ. R. 7(m), the parties agreed to various procedures relating to those documents. For example, the government will provide the petitioners with copies of seized physical documents, and the parties will submit privilege disputes to the Court. For electronic records, the parties agreed that a government “filter team” comprised of Assistant United States Attorneys and other lawyers or agents unconnected to the investigation will first run investigative search terms intended to exclude records outside the scope of the warrant, and then run privilege search terms intended to signal potentially privileged documents;<sup>2</sup> the filter team will provide those subsets of records to the petitioners, and the parties will submit privilege disputes to the Court. The government has agreed that following this process it will return the seized privileged physical documents and electronic media to the petitioners and will purge any copies of privileged information. The government has yet to review the seized materials and represents that it has continued to so refrain during the pendency of this motion.

The principal dispute between the parties is the propriety of the involvement of the government filter team in the privilege review. The government envisions the filter team reading the documents flagged through electronic searches (both of the electronic records and the scanned versions of physical documents) as potentially privileged and conducting a substantive review of those documents. The petitioners would do their own substantive privilege review of the subset of documents viewed by the filter team, and if desired of the entirety of the seized documents. At that point, the parties would submit any privilege disputes to the Court for

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<sup>1</sup> For the sake of simplicity, the Court will refer in this memorandum and order specifically to “the attorney-client privilege.” The same analysis applies to other privileges the petitioners may eventually assert.

<sup>2</sup> The government will also run the set of privilege search terms against scanned copies of the seized physical documents.

resolution. The petitioners object to this procedure and argue that they alone can conduct a substantive privilege review. According to the petitioners, they should be afforded the sole opportunity to create a privilege log, both of physical documents and of the subset of electronic records flagged as potentially privileged, which upon objection from the government they would then submit to the Court for review. In addition, while the petitioners agree with the government's proposal to run investigative search terms against electronic records in an attempt to exclude files not within the scope of the warrant, the petitioners posit that the government must either employ third parties to review the subset of files returned for the presence of files still outside the scope of the warrant or waive reliance on the plain view doctrine. The petitioners therefore filed the instant motions under Fed. R. Crim. P. 41(g).

## **II. DISCUSSION**

Federal Rule of Criminal Procedure 41(g) provides that “[a] person aggrieved by an unlawful search or seizure of property or by the deprivation of property may move for the property’s return.” The 1989 Advisory Committee Notes to Rule 41(e), the precursor rule to 41(g), explain the rule’s effect:

[The rule] provides that an aggrieved person may seek return of property that has been unlawfully seized, and a person whose property has been lawfully seized may seek return of property when aggrieved by the government’s continued possession of it.

No standard is set forth in the rule to govern the determination of whether property should be returned to a person aggrieved either by an unlawful seizure or by deprivation of the property. . . . If the United States has a need for the property in an investigation or prosecution, its retention of the property generally is reasonable. But, if the United States’ legitimate interests can be satisfied even if the property is returned, continued retention of the property would become unreasonable.

. . .

In many instances documents and records that are relevant to ongoing or contemplated investigations and prosecutions may be returned to their owner as long as the government preserves a copy for future use. In some circumstances, however, equitable considerations might justify an order requiring the government to return or destroy all copies of records that it has seized.

A motion under Rule 41(g) falls within a court's equitable jurisdiction, which the Court must exercise "with great restraint and caution." *De Almeida v. United States*, 459 F.3d 377, 382 (2d Cir. 2006). Four factors are generally relevant to the resolution of a Rule 41(g) motion: (1) whether the government has displayed a callous disregard for the movant's constitutional rights; (2) whether the movant has an individual interest in and need for the property at issue; (3) whether the movant faces irreparable injury in the absence of the property; and (4) whether the movant has an adequate remedy at law. *See Ramsden v. United States*, 2 F.3d 322, 325 (9th Cir. 1993) (adopting *Richey v. Smith*, 515 F.2d 1239 (5th Cir. 1975)); *see also Gmach Shefa Chaim v. United States*, 692 F. Supp. 2d 461, 469 (D.N.J. 2010) (adopting *Ramsden* and collecting cases applying same or similar factors).<sup>3</sup>

Turning first to irreparable injury,<sup>4</sup> courts rarely find such injury in the pre-indictment context where the seized property at issue includes documents and records "if the government either makes copies available or retains copies and returns the originals." *Mikra United, Inc. v. Cuomo*, Civ. No. 06-14292, 2007 U.S. Dist. LEXIS 87385, \*23 (S.D.N.Y. Nov. 27, 2007) (quoting *In re Search Warrant Executed February 1, 1995*, Mag. No. 18-65, 1995 U.S. Dist. LEXIS 9475, \*2 (S.D.N.Y. July 7, 1995)). Here, the government represents that following imaging of the seized media devices it has returned or will return all of those devices. Gov't

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<sup>3</sup> The adoption by courts of this test is in tension with the plain language of the Advisory Committee Notes, which contemplate return of property whenever "the United States' legitimate interests can be satisfied," and not when the factors listed above are met. But while advisory committee notes are generally worthy "of weight," *see Torres v. Oakland Scavenger Co.*, 487 U.S. 312, 316 (1998), *superseded on other grounds by Fed R. App. P. 3(c)* (1993), they are not dispositive, and the Court elects to follow the wide swath of case law applying the above four-factor test (or variants thereof) to Rule 41(g) motions.

<sup>4</sup> As a threshold matter, the petitioners argue that a showing of irreparable injury is not required because in *United States v. Wilson*, 540 F.2d 1100 (D.C. Cir. 1976), the D.C. Circuit ordered the return of \$2,550 to the defendant without discussing irreparable injury. That case involved the government's retention of funds seized from the defendant even after the defendant's conviction. The D.C. Circuit held that the government was required to institute forfeiture proceedings in order to maintain custody of the funds. *Wilson*, 540 F.2d at 1104. That case has no bearing on the situation posed here, where the government possesses information relevant to an ongoing investigation prior to the return of an indictment.

Opp. at 4 & n.1. And while the government retains the physical records seized, it has provided scanned copies to the petitioners and has returned documents for which the petitioners have demonstrated a need for the originals (*e.g.*, checks written to vendors). *Id.* at 6. Because the government has either returned the original seized property or made available copies to the petitioners, the petitioners have little argument to make that irreparable injury will ensue, and the Court doubts that any will. *See Heebe v. United States*, 2011 U.S. Dist. LEXIS 71284, \*16-\*20 (E.D. La. July 1, 2011) (finding irreparable injury in context of Rule 41(g) motion based on attorney-client privilege objection to use of filter team, where government failed to give movants access to seized evidence); *In re 544 Westheimer Rd. Suite 1570*, Misc. No. 06-238, 2006 U.S. Dist. LEXIS 48850, \*8-\*12 (S.D. Tex. July 6, 2006) (permitting use of filter team to survey potentially privileged documents); *but see infra* n.5.

Both parties agree that the “callous disregard” prong does not apply outside the context of a motion to suppress, *see Mr. Lucky Messenger Serv., Inc. v. United States*, 587 F.2d 15, 17 (7th Cir. 1978), and in any event, the Court cannot see how the government’s conduct could constitute callous disregard for the petitioners’ constitutional rights. The government represents that it has yet to begin the process of sorting through potentially privileged seized documents and records. Further, the petitioners do not contest the validity of the warrant, or the execution thereof, but only the propriety of the government’s proposal to screen out documents not within the scope of the warrant. *Cf. Ramsden*, 2 F.3d at 325 (finding callous disregard where government seized property without a warrant); *Mr. Lucky Messenger Serv.*, 587 F.2d at 17 (surmising potential for callous disregard where government withheld seized property for over seventeen months without charging movant). And while the government does not discuss the other two factors—the petitioners’ interest in the property and the availability of an adequate

remedy at law—and the petitioners only briefly address them, *see* Pet. Reply at 5 n.4, the Court assumes that both factors weigh in the petitioners’ favor but nevertheless finds that the petitioners have not met the standard required for a return of property.

The petitioners primarily argue that the government’s suggested approach would violate the attorney-client privilege and would therefore be unlawful.<sup>5</sup> The petitioners first posit that the government’s procedures are foreclosed by the D.C. Circuit’s decision in *United States v. Rayburn House Office Building*. In that case, the Department of Justice while executing a warrant seized a variety of documents from the congressional office of Congressman William J. Jefferson. 497 F.3d 654, 656 (D.C. Cir. 2007). The government recognized the potential that some information seized might fall within the privilege afforded by the Speech or Debate Clause, U.S. Const., art. I, § 6, cl. 1, and the government intended to use a filter team:

[T]he procedures called for the FBI agents conducting the search to have no substantive role in the investigation . . . . The FBI agents were to review and seize paper documents responsive to the warrant, copy all electronic files on the hard drives or other electronic media in the Congressman’s office, and then turn over the files for review by a filter team . . . [which] would determine: (1) whether any of the seized documents were not responsive to the search warrant . . . and (2) whether any of the seized documents were subject to the Speech or Debate Clause privilege or other privilege. Materials determined to be privileged or not responsive would be returned without dissemination to the prosecution team. Materials determined by the filter team not to be privileged would be turned over to the prosecution team, with copies to the Congressman’s attorney within ten business days of the search. Materials determined by the filter team to be potentially privileged would, absent the Congressman’s consent to Executive use of a potentially

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<sup>5</sup> It is not perfectly clear how this argument fits into the framework for adjudicating Rule 41(g) motions. While the petitioners contest the applicability of an irreparable injury requirement, they argue in the alternative that a breach of the attorney-client privilege constitutes irreparable injury. Courts engaging in the irreparable injury analysis generally look to the injury faced by the movant because of the deprivation of property in and of itself, not to the potential use the government may make of that property. This explains why, in cases such as *Mikra United*, courts decline to find irreparable injury when the government makes originals or copies of documents available to the owner, because the owner is no longer deprived of its use of that property.

Nonetheless, assuming without deciding that some violations of the attorney-client privilege could constitute irreparable injury, *cf. United States v. Rayburn House Office Building*, 497 F.3d 654, 664 n.7 (noting in context of Rule 41(g) Speech and Debate Clause privilege challenge to government filter team the traditional requirement that movant under Fed. R. Crim. P. show irreparable injury), or would otherwise factor into the Rule 41(g) analysis, the Court still determines that the government’s procedures do not infringe the privilege to an extent sufficient to warrant the petitioners’ requested relief.

privileged document, be submitted to the district court for review, with a log and copy of such documents provided to the Congressman's attorney within 20 business days of the search. The filter team would make similar determinations with respect to the data on the copied computer hard drives, following an initial electronic screening by the FBI's Computer Analysis and Response Team.

*Id.* at 656-57 (quotations and citations omitted). The procedures outlined above are, while not as protective as the ones proposed in the instant case, in many ways similar.

Jefferson filed a motion under Rule 41(g), arguing that the government's intended procedures violated the Speech or Debate Clause; the President then directed that the Department of Justice make no use of the seized documents. Following litigation regarding the motion in this Court and on appeal to the D.C. Circuit, the Court of Appeals held that the district court needed to conduct the initial privilege review and return privileged documents to the Congressman. The D.C. Circuit stated that "[t]he special procedures outlined in the warrant affidavit would not have avoided the violation of the Speech or Debate Clause because they denied the Congressman any opportunity to identify and assert the privilege with respect to legislative materials before their compelled disclosure to Executive agents" by way of the filter team. *Id.* at 662. This situation, the petitioners argue, is repeated here. The government's proposed method for screening documents to which the attorney-client privilege attaches grants the filter team an initial opportunity to review documents before the petitioners could litigate the privilege issue. Accordingly, the petitioners contend that the government's suggestions fall within *Rayburn's* prohibition.

The Court is not willing to read *Rayburn* so broadly.<sup>6</sup> First, it appears that the government in *Rayburn* did not provide the Congressman the opportunity to make independent

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<sup>6</sup> Although certainly bound by *Rayburn's* proscriptions, and although this may sound like sour grapes, the Court cannot help but express some criticism of the rule laid down in that case. As the Ninth Circuit discussed at length in *United States v. Renzi*, the Executive Branch has a "legitimate interest[]" in its ability "to adequately investigate and prosecute corrupt legislators for non-protected activity." 651 F.3d 1012, 1036 (9th Cir. 2011). Quoting *United*

privilege determinations and submit disputes to the Court prior to turning over documents determined by the government to be unprivileged to the investigators. In this case, however, the government does not intend to turn documents over to the investigative team until the petitioners have the opportunity to conduct their review. The government's proposal in this case will thus avoid the specific problem in *Rayburn* of investigative access to documents alleged by the petitioners to be privileged prior to a judicial resolution of the issue.

Moreover, *Rayburn*, as the government argues, is *sui generis*. The case involved an assertion of a Congressman's rights under the Speech or Debate Clause, a proscription constituting a cornerstone of the Constitution's separation of powers between the Legislative and Executive branches. *See, e.g., Gravel v. United States*, 408 U.S. 606, 616 (1972) ("The Speech or Debate Clause was designed to assure a co-equal branch of the government wide freedom of speech, debate, and deliberation without intimidation or threats from the Executive Branch."). As the D.C. Circuit recognized, "[a]lthough the Supreme Court [has] distinguished between the receipt of privileged information by an agent of the Executive and by the prosecution team in the context of a civil rights claim based on a Sixth Amendment violation, the nature of the considerations presented by a violation of the Speech or Debate Clause is different." *Rayburn*, 497 F.3d at 662. Precisely because the Constitution necessitates the insulation of legislative activities from Executive purview was the D.C. Circuit required to ensure that *no* member of the Executive, even members unaffiliated with the investigation of Jefferson, could see the privileged materials. Here, however, the privilege at issue does not rise to the level of a

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*States v. Brewster*, 408 U.S. 501 (1972), and citing *United States v. Helstoski*, 442 U.S. 477 (1979), the Ninth Circuit reasoned that the D.C. Circuit's ruling "precluding review of any documentary 'legislative act' evidence" would "only harm legislative independence," because bribery and other acts of corruption by Congressmen serve to undermine the legitimacy of the Legislative Branch. *Id.* The Court feels no need to add to the Ninth Circuit's cogent analysis. Needless to say, the Court is loath to apply *Rayburn* beyond the exceptional circumstances posed in that case.

structural constitutional prerequisite. The attorney-client privilege is not equivalent to the Speech or Debate Clause such that any disclosure of privileged materials to any Executive Branch official is of constitutional import. *Rayburn* of its own force does not foreclose the use of a government filter team to screen materials falling within the attorney-client privilege or other privileges from agents involved in the investigation of the petitioners.

The petitioners note that a number of courts have declined to permit government filter team review of potentially privileged documents. Pet. Mot. at 12. There are indeed many such cases, but a similar number of cases bless such procedures. See Gov't Opp. at 12-13.<sup>7</sup> Courts generally find the use of a filter team most proper when the government is already in physical control of potentially privileged documents, when the lawfulness of the warrant is not questioned, and when an extensive number of documents have been seized; courts further consider the ensuing "appearance of fairness." *United States v. Jackson*, Crim. No. 07-35, 2007 U.S. Dist. LEXIS 80120, \*16-\*18 (D.D.C. Oct. 30, 2007) (listing factors and collecting cases). Those factors appear met here. The government has possession of the physical documents and electronic records it intends to examine, and the amount of documents to be screened is massive. Although the petitioners are challenging the appropriateness of the government's planned protocol for screening out documents not within the scope of the warrant, the petitioners are not otherwise attacking the validity of the warrant or of its execution. And the Court is unaware of

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<sup>7</sup> Many of the cases involving filter teams, also known as taint teams, arise not in the context of a motion for return of property, but in the context of motions to suppress or other procedural devices and, when the attorney-client privilege is involved, regarding alleged violations of the Sixth Amendment. See, e.g., *United States v. Taylor*, 764 F. Supp. 2d 230 (D. Me. 2011) (denying motion to suppress and approving use of filter team). The government does not argue that a motion for return of property is an inappropriate vehicle to adjudicate these privilege issues, an argument which could be foreclosed by *Rayburn*, and the Court assumes without deciding that Rule 41(g) grants district courts authority to dictate appropriate procedures.

Surely post-indictment motions risk the improper handling of privileged materials during the investigatory phase, such as is alleged would be the case here if the government follows its proposed procedures. However, the Court notes that such motions are generally the appropriate method to adjudicate claims that evidence has been seized unlawfully, and such motions do not risk undue delay to government investigations that may resolve themselves in a subject's favor.

any circumstances in this case that would give rise to any special appearance of impropriety through use of a filter team.

The petitioners provide three further arguments why the use of a filter team is invalid. First, they argue, filter team review is in and of itself a violation of the attorney-client privilege because the filter team is comprised of members of the petitioners' adversary, the government. Second, the petitioners stress that the filter team will be biased against determining documents to be potentially privileged. Third, the petitioners argue that there are no exigent circumstances requiring filter team review. Of these, the first objection is most salient. The government's viewing of potentially privileged documents will have at least some chilling effect, if only marginal, on "full and frank communications between attorneys and their clients." *Upjohn Co. v. United States*, 449 U.S. 383, 389 (1981). But the Court has no reason to doubt the good faith of the government or its willingness to abide by the procedures it has suggested. Those procedures will ensure that the investigation team has no access to potentially privileged documents, and that the petitioners will face no prejudice as a result of the filter team review. Indeed, the government has every incentive to abide by its procedures, because any leaks between the filter team and the investigation team—or, if an indictment issues, the prosecution team—may lead to a violation of the petitioners' Sixth Amendment rights and will compromise the prosecution's ability to secure a conviction.<sup>8</sup> *Cf., e.g., United States v. Neill*, 952 F. Supp. 834, 841 (D.D.C. 1997) (noting in the context of filter team review that "if the government demonstrates that . . . no privileged information . . . has been revealed to the prosecutors and used to the defendants' detriment, there is no constitutional violation"). Whatever chilling effect may ensue, it is not so substantial as to render the use of a filter team illegitimate.

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<sup>8</sup> Because at that point suppression would be the appropriate remedy. *Cf. supra* n.6.

The petitioners' other two objections are less well founded. The petitioners are concerned that a filter team has less incentive than the petitioners themselves to label documents as potentially privileged. While true, this proves irrelevant. The envisioned review entails the government running privilege terms against the subset of responsive documents to create a list of potentially privileged documents. The petitioners will have the opportunity to conduct an independent review of those results and of all the seized documents; it can then flag documents it believes to be privileged, whether or not within the government's resulting subset of potentially privileged documents. Gov't Opp. at 16. If there are disputes regarding whether specific documents are privileged, the petitioners can submit those disputes to the Court. Further, the government will share the privilege filter terms it uses with the petitioners, and has even asked the petitioners for suggested terms. The participation of the petitioners in the process vitiates any concerns of bias. *Cf. In re Grand Jury Subpoenas*, 454 F.3d 511, 515 (6th Cir. 2006) (rejecting use of filter team where the government would send documents determined not to be privileged directly to grand jury without affording investigation subjects opportunity for review).

Further, the petitioners' argument that no exigent circumstances are present is meritless. In this context, the term "exigent circumstances" refers to situations where the government has possession over the documents at issue. *See id.* at 522-23 (finding that where the government has physical control over documents, "the use of the [filter] team to sift the wheat from the chaff constitutes an action respectful of, rather than injurious to, the protection of privilege"). Accordingly, the Court determines that the use of a filter team by the government to identify potentially privileged documents is appropriate, and the petitioners' allegation that the government must allow the petitioners to conduct an initial privilege review is unwarranted.<sup>9</sup>

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<sup>9</sup> One final note on the privilege issue: The government and the public have a strong "interest in the fair and expeditious administration of the criminal laws." *United States v. Dionisio*, 410 U.S. 1, 17 (1973). The petitioners

Finally, the petitioners contest the government's plan to screen documents that are outside the scope of the search warrant. The petitioners concede that the government can properly run investigatory search terms against the electronic records to identify a subset of potentially relevant documents. However, the petitioners note that some of the documents in those results will invariably be outside the scope of the warrant. Accordingly, they conclude, the government must either use a screening mechanism in which a third party (such as another filter team) reviews that subset to weed out improperly returned results, or must waive reliance on the plain view doctrine. In so doing, they cite to *United States v. Comprehensive Drug Testing, Inc.* In that case, an en banc panel of the Ninth Circuit upheld the district court's decision to grant a Rule 41(g) motion for a return of electronic records. Although the government received a warrant to seize drug testing records regarding *ten* Major League Baseball players' potential use of steroids, the government instead seized *hundreds* of records. The Court upheld the district court because it was not "clear error" for the lower court to have determined that the government showed a callous disregard for the rights of the hundreds of players not named in the warrant, and because the government "circumvent[ed] or willfully disregard[ed] limitations in the search warrant" by an order of magnitude. 621 F.3d 1162, 1174 (9th Cir. 2010) (en banc). Here, while the seized records may include materials not covered by the scope of the warrant, it cannot be said that the government's execution of the search warrant rises to a similar level of bad faith.

Rather, the decision of the Tenth Circuit in *United States v. Burgess* provides the relevant analytical framework. In that case, police officers executed a warrant authorizing, *inter alia*, a search of computer records related to the delivery of controlled substances, and the officers

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will likely file a notice of appeal of this Court's decision. It is not clear that the Court of Appeals would have jurisdiction over such an appeal. *See Rayburn*, 497 F.3d at 658 (entertaining appeal despite issuance of indictment because "[n]either party suggests that the return of the indictment divests this court of jurisdiction or renders this appeal moot or urges that the court not proceed to decide this appeal"). The Court stresses that appellate litigation risks further delay and renders the government's role in investigating the legitimacy of [redacted] more difficult.

seized a hard drive and other electronic media. During the process of copying the hard drive, an officer “previewed” the files by displaying multiple reduced-size images on one page and discovered an image depicting child sexual exploitation. The officer requested a new warrant to search the hard drive for further images of child pornography, and the search turned up hundreds of thousands of relevant documents. The defendant argued that the officer’s “preview” of image files violated the Fourth Amendment, and the Tenth Circuit disagreed. While recognizing the propriety of structuring a search of electronic media through keyword searches for files “most likely to contain the objects of the search,” the Court concluded that “in the end, there may be no practical substitute for actually looking in many (perhaps all) folders and sometimes the documents contained within those folders, and that is true regardless of whether the search is of computer files or physical files.” 576 F.3d 1078, 1094 (10th Cir. 2009); *see also United States v. Richards*, 659 F.3d 527, 538-39 (6th Cir. 2011) (following and quoting *Burgess*).

The government’s suggested course of conduct in this case falls square within the sort of search envisioned in *Burgess*. The government proposes to filter the seized documents through use of investigatory keyword searches in order to determine a subset of potentially relevant documents. The government does not intend to examine further documents outside that subset (although it reserves the right to refine its investigatory terms as the investigation progresses); rather, it simply asserts that it may examine all the documents in that subset. If police officers are authorized to search through “many (perhaps all) folders and sometimes the documents contained within those folders” in electronic records, *Burgess*, 576 F.3d at 1094, surely the government is authorized to search through the entire subset of documents returned following an appropriate keyword search. Just because such a search may result in the government examining, “at least cursorily, some innocuous documents,” *Richards*, 659 F.3d at 539

(quotations omitted), does not render it the sort of “general” search of electronic media that courts are wary of authorizing, *see United States v. Stabile*, 633 F.3d 219, 237 (3d Cir. 2011). The government need not employ a third-party filter team or waive reliance on the plain view doctrine in order to conduct its investigation of the subset of potentially relevant documents returned in its keyword search.

### **III. CONCLUSION AND ORDER**

The government’s proposed methods for screening the validly seized documents and records neither unduly infringe on any applicable privilege nor risk any constitutional violation. It is therefore hereby

**ORDERED** that the motions for return of property are **DENIED**; and it is further

**ORDERED** that the parties file under seal within 20 days of the date of the issuance of this memorandum and order a proposed redacted version that could be released to the public, or, in the alternative, a response indicating why no redacted version could be released. If either the petitioners or the government fails to submit a timely response, that party will be deemed to have consented to full unsealing.

**SO ORDERED.**

Signed by Royce C. Lamberth, Chief Judge, on May 3, 2012.