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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO-OAKLAND DIVISION

AMERICAN CIVIL LIBERTIES
UNION FOUNDATION, *et al.*,

Plaintiffs,

v.

DEPARTMENT OF JUSTICE, *et al.*,

Defendants.

Case No. 19-CV-00290-EMC

**JOINT CASE MANAGEMENT
STATEMENT**

The parties jointly submit this joint case management statement pursuant to the Court’s order of May 12, 2021 (ECF No. 122) to address the status of searches and processing of records by the Department of Justice’s Office of Information Policy (“OIP”), the Federal Bureau of Investigation (“FBI”), the State Department (“State”), the Department of Homeland Security’s Office of Intelligence & Analysis (“I&A”) and the DHS Privacy Office (“DHS”).

Defendants’ Report

I. OIP

OIP has completed its productions, with the exception of records pending consultation with other Department components and Executive Branch agencies. Specifically, OIP is awaiting a consultation response from the Department of

1 Homeland Security before a final response can be issued. OIP will be issuing a
2 final response once this consultation is completed.

3 II. FBI

4 The FBI issued a production on April 30, 2021, processing 233 pages and
5 releasing 77 pages, some of which contained exemptions. This release concludes
6 the FBI's processing except for pages for which the FBI is awaiting responses on
7 outstanding consults and awaiting responses with regard to submitter notices per
8 Exemption (b)(4).

9 III. State Department

10 Pursuant to the parties' agreement and the subsequent order entered by
11 Magistrate Judge Illman (ECF Nos. 107, 110), the State Department is continuing
12 to process rolling productions in advance of its final production date in September
13 2021. The State Department issued its most recent production to Plaintiffs on May
14 20, 2021.

15 IV. DHS Privacy Office

16 DHS conducted three searches to locate records for Parts 1, 2, 3, and 5 of
17 Plaintiffs' request. Search 1 corresponds to Part 1 of Plaintiffs' request. Searches 2
18 and 3 correspond to Parts 2, 3, and 5 of Plaintiffs' request. Pursuant to the parties'
19 agreement and a subsequent order entered by Judge Illman (ECF Nos. 107, 110),
20 DHS is currently making monthly rolling productions of responsive documents
21 located in Search 1.

22 Prior to March 31, 2021, DHS ingested into FOIAXpress and prepared for
23 review all of Search 1 (659 pages) and the first 10GB portion (2101 pages) of
24 Search 2. DHS made its first rolling production on March 31, 2021. Although
25 DHS previously described the March 31 production as reflecting documents
26 located in response to Part 1 of Plaintiffs' FOIA request, the March 31 release was
27 in fact made from the documents that were ingested from Search 2, and thus
28 contained documents located in response to Part 2 of the FOIA request.

1 DHS made its second rolling production on April 29, 2021. DHS reviewed
2 and produced records from Search 1 in the April production. Production of
3 responsive documents located in Search 1 will be complete by May 31, 2021.

4 For Parts 2, 3, and 5 of Plaintiffs' request (Searches 2 and 3), pursuant to
5 Judge Illman's order (ECF No. 116), DHS last week communicated to Plaintiffs an
6 estimate of the volume of potentially responsive pages in Searches 2 and 3 and
7 information to aid the parties in identifying ways to further adjust search
8 parameters in order to reduce the volume of potentially responsive records to a
9 manageable amount. Pursuant to Judge Illman's order, the parties must "submit a
10 status report setting forth their respective positions as to the appropriate processing
11 rate and schedule" by Monday, May 24, 2021.

12 When it sent its initial communication to Plaintiffs and then provided
13 additional information in response to Plaintiffs' queries last week, DHS sought to
14 meet and confer with Plaintiffs regarding the relevant search issues, and twice
15 asked for Plaintiffs' counsel's availability for such a meeting. However, DHS did
16 not receive a response to these inquiries. On Monday, May 17, Defendants'
17 counsel again reached out to Plaintiffs' counsel, and, in the early hours of May 18,
18 Plaintiffs' counsel responded that they were available to confer on Thursday, May
19 20. Accordingly, DHS met and conferred with Plaintiffs on May 20 in advance of
20 submission of the required status report to Judge Illman on May 24.

21 While the parties explore options to reduce the volume of potentially
22 responsive records to a manageable amount, DHS will continue to produce
23 documents that have been ingested from Search 2 starting on June 30, reviewing
24 250 pages per month.

25 V. DHS I&A

26 I&A has completed its productions, with the exception of records pending
27 consultation with other Department components and offices and Executive Branch
28 agencies. I&A will be issuing a final response once this consultation is completed.

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