

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

AMERICAN CIVIL LIBERTIES)
UNION, et al.,)
)
Plaintiffs,)
)
v.)
)
UNITED STATES DEPARTMENT)
OF HOMELAND SECURITY, et al.,)
)
Defendants.)
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Case No. 1:16-cv-221 (CKK)

JOINT STATUS REPORT

The parties to this Freedom of Information Act (“FOIA”) matter respectfully submit the following Joint Status Report in response to this Court’s March 18, 2016 Order. ECF No. 16.

BACKGROUND

This lawsuit arises out of a FOIA request (the “Request”) dated May 13, 2015 for records concerning the government’s Countering Violent Extremism (“CVE”) programs. Plaintiffs filed the Complaint on February 10, 2016. ECF No. 1.¹ Defendants answered the Complaint on March 17, 2016. ECF No. 15. On March 18, 2016, the Court issued an Order directing the parties to meet and confer, and to file a joint status report proposing a schedule for proceeding in this matter and addressing a number of specific issues. ECF No. 16.

STATUS OF THE REQUEST

The parties have conferred via telephone and email on multiple occasions regarding the status of Plaintiffs’ Request. During the course of those discussions, the parties have agreed to

¹ Plaintiffs’ FOIA claims against Defendant Department of Education pertain only to a FOIA request dated October 15, 2015 concerning CVE.

an initial interim production date for most Defendants, and Plaintiffs have agreed to narrow the Request to two other Defendants, Department of State and the Office of the Director of National Intelligence, based on input from those agencies. The parties are continuing to negotiate the scope of the Request to those agencies.

Defendants state that the status of each of their responses to Plaintiffs' Request is as follows:

Department of Health and Human Services. The Department of Health and Human Services ("HHS") has located approximately 3,000 pages of potentially responsive records. HHS is continuing to search for responsive records and will make an interim production of non-exempt records that are responsive to Plaintiffs' FOIA request on or before May 27, 2016.

Department of Education. The Department of Education ("DOE") has located 810 potentially responsive emails that still need to be processed. DOE will make an interim production of non-exempt records that are responsive to Plaintiffs' FOIA request on or before May 27, 2016.

Department of Homeland Security. Several components within the Department of Homeland Security ("DHS") have located potentially responsive documents. The Office of Intelligence & Analysis ("I&A") has located approximately 25 potentially responsive documents totaling approximately 200 pages that are not currently processed. Other divisions at I&A are searching for responsive documents but have not yet turned over all of their potentially responsive documents for processing. I&A will make an interim production of non-exempt records that are responsive to Plaintiffs' FOIA request on or before May 27, 2016.

The DHS Privacy Office has begun a preliminary key word search and has located approximately 20,000 potentially responsive documents to date. The Privacy Office has begun

processing documents and will make an interim production of non-exempt records that are responsive to Plaintiffs' FOIA request on or before May 27, 2016.

The DHS Science & Technology Directorate ("S&T") is reviewing its previous searches to determine if additional searches should be conducted, and it is also reviewing redactions in previously produced documents. S&T will provide additional documents and/or revisions, if it determines that it is appropriate based on these inquiries, on or before May 27, 2016.

Department of Justice. The parties agree that at this time, the only component of the Department of Justice ("DOJ") whose actions are at issue in this case is the Federal Bureau of Investigation ("FBI").² The FBI is working to identify responsive records, a process that requires searches of multiple offices that reasonably could be expected to have responsive records. Each office or division is currently in the process of searching for responsive records. If those offices locate any potentially responsive records, they will send those records to FBI headquarters for review. Until this process is completed, the FBI is unable to estimate how many potentially responsive records exist. The FBI expects to have completed this process on or before May 27, 2016.

Department of State and Office of the Director of National Intelligence. The parties are actively discussing the scope of Plaintiffs' Request to the Department of State and the Office of the Director of National Intelligence, and they are working diligently to narrow the Request to parameters that will facilitate those agencies' timely processing and production of documents. The parties need additional time for these negotiations and respectfully request that the Court allow them to continue.

² Plaintiffs intend to file an amended complaint at an appropriate date to cover the remaining DOJ components, in order to resolve a dispute between the parties as to the date of DOJ's receipt of the FOIA request.

REMAINING ISSUES

With respect to the remaining issues the Court ordered the Parties to address, Defendants do not intend at the moment to file a motion for an *Open America* stay. The parties anticipate that a *Vaughn* index will be necessary.

Plaintiffs respectfully suggest that the Court order the parties to file a joint status report no later than June 3, 2016 with a proposed order providing a schedule that will govern production of responsive documents.

Defendants respectfully suggest that the Court order the parties to file a joint status report no later than June 3, 2016. Defendants hope to provide a proposed production schedule at that time but cannot represent at this time that they will be able to do so. As outlined above, the scope of the Request is still being negotiated with the Department of State and Office of the Director of National Intelligence. Moreover, Defendants are continuing to search for responsive records and thus the volume of potentially responsive documents is unknown at this time.

Dated: April 22, 2016

Respectfully submitted,

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