

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 STATUS REPORT**

Pursuant to the Court’s order of October 16, 2020 (ECF No. 81), the parties jointly submit this status report 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. OIP will be issuing additional responses once these consultations are completed,

1 with the first such additional response anticipated for December 8, 2020.

2 II. FBI

3 The FBI issued its thirteenth release on October 30, 2020. Approximately  
4 2,058 pages remain to be processed. The FBI anticipates processing another set of  
5 approximately 500 pages and releasing non-exempt information on or about  
6 November 30, 2020.

7 III. State Department

8 The State Department is working through the process necessary to transfer  
9 the remaining potentially responsive documents in this case from the current  
10 document review system (“FREEDOMS2”), which is exclusively available on an  
11 on-site, classified network, to its newer document review system (“FOIAXpress”),  
12 which is available on an unclassified network and is remotely accessible. As  
13 previously reported, the State Department anticipates resuming production in this  
14 case by December 30, 2020.

15 IV. DHS Privacy Office (“DHS”)

16 Regarding Part 1 of Plaintiff’s request, on September 30, 2020, DHS sent the  
17 Office of Policy a revised tasking to conduct a targeted search using the  
18 keywords/filters suggested by Plaintiff for this search tasking. This search is now  
19 complete and has resulted in 659 potentially responsive pages.

20 Regarding Parts 2, 3, and 5 of Plaintiff’s request, DHS tasked the Office of  
21 the Chief Information Officer (OCIO) on October 1, 2020. At this time, DHS is  
22 still working on ingesting the files resulting from the OCIO search. Once the  
23 ingestion is complete, DHS will be able to provide a page count for this OCIO  
24 search as well. It is not until after DHS has a page count that it will be able to  
25 provide a production schedule.

26 V. DHS I&A

27 I&A has steadily continued its monthly processing, processing just over  
28 1000 pages of potentially responsive records last month, the majority of which

1 were unresponsive or were referred to another DHS office or component. I&A is  
2 currently processing another set of records for release to Plaintiffs by the end of  
3 this month.

#### 4 **Plaintiffs' Report**

5 As Plaintiffs set forth in previous joint status reports, DHS has chronically  
6 delayed its processing and production of records responsive to Plaintiffs' request.  
7 See ECF No. 79 at 4; 80 at 3. To date, DHS still has not produced a single page of  
8 responsive records. Given the repeated delays and reversals by DHS, Plaintiffs  
9 respectfully requested that the Court direct DHS to produce all responsive records  
10 by January 15, 2021. See *id.* Plaintiffs renew their request that DHS be required to  
11 produce all responsive records by that date or a date certain reasonably soon  
12 thereafter, so that Plaintiffs may seek any necessary further relief from the Court as  
13 to the adequacy of DHS's search and production. See *Clemente v. FBI*, 71 F. Supp.  
14 3d 262, 269 (D.D.C. 2014) (a court "may use its equitable powers to require the  
15 agency to process documents according to a court-imposed timeline")."

#### 16 **Next Steps**

17 The parties propose filing a further joint status report in 30 days.

18  
19 Respectfully submitted,

20 DATED: November 18, 2020

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