

**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. )  
\_\_\_\_\_ )

Case No. 1:16-cv-221 (CKK)

**FIFTH JOINT STATUS REPORT**

The parties to this Freedom of Information Act (“FOIA”) matter respectfully submit this Fifth Joint Status Report in response to the Court’s September 27, 2016 Order.

**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.<sup>1</sup> On September 23, 2016, the parties filed their fourth joint status report, informing the Court of the status of Defendants’ responses to Plaintiffs’ FOIA Request. ECF No. 21. On September 27, 2016, the Court ordered the parties to file a further joint status report by December 21, 2016.

**UPDATED STATUS**

The parties continue to confer regarding Defendants’ responses to Plaintiffs’ Request.

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

Defendants state the following regarding their production of responsive, non-exempt records:<sup>2</sup>

Department of Homeland Security. The Department of Homeland Security (“DHS”) Office of Intelligence & Analysis (“I&A”) made a production on September 29, 2016, which concluded its processing of records that its search of I&A identified. Since that production, I&A completed the consultation process for records that were originally identified for referral, and made a production of those records on or around October 12, 2016 and November 30, 2016.

The Science and Technology Directorate at DHS made a production on October 27, 2016 of records that were referred to it for direct release to Plaintiffs.

Pursuant to the September 23, 2016 Joint Status Report, the DHS Privacy Office made interim productions on October 7, 2016, October 28, 2016, and November 30, 2016. The Privacy Office has completed its search for responsive records. The Privacy Office has not yet ingested all found records into its FOIA software in order to de-duplicate and process those records, but a preliminary count reveals that the Privacy Office has located approximately 17,000 potentially responsive records. The Privacy Office will process for production/withholding or for referral to other agencies or components a minimum of 500 pages of potentially responsive records per month. On or before the last day of each month, the Privacy Office will make an interim production of non-exempt records that are responsive to Plaintiffs’ FOIA Request.<sup>3</sup>

Pursuant to the September 23, 2016 Joint Status Report, FEMA re-released 195 pages of records with bates stamping, which completed FEMA’s release of records that were identified in its search.

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<sup>2</sup> Plaintiffs do not concede that the searches Defendants have conducted to this point are adequate or that the material Defendants have withheld in part or in full is properly subject to exemption.

<sup>3</sup> The parties have conferred and agreed that with respect to any agency’s production for December 2016, that agency may make that production on or before January 13, 2017.

Pursuant to the September 23, 2016 Joint Status Report, the National Protection and Programs Directorate (“NPPD”) at DHS made an interim production of non-exempt records that are responsive to Plaintiffs’ FOIA Request on October 31, 2016 and November 30, 2016. NPPD is continuing its search for responsive records, and will make an interim production of non-exempt records that are responsive to Plaintiffs’ FOIA request on or before January 13, 2017, January 31, 2017, and February 28, 2017.

The Federal Law Enforcement Training Centers (“FLETC”) at DHS made a production on October 27, 2016, which concluded its processing of records that its search of FLETC identified.

Department of Justice. The Federal Bureau of Investigation (“FBI”) made a production on September 29, 2016, which concluded its processing of records that its search of the FBI identified. On November 2, 2016 and December 7, 2016, the FBI made a production of records referred to it for direct release to Plaintiffs.

Department of State. Pursuant to the September 23, 2016 Joint Status Report, the Department of State (“State”) made an interim production of non-exempt records that are responsive to Plaintiffs’ FOIA Request on September 30, 2016, October 31, 2016, and November 30, 2016. State has finished its search for responsive records and has located approximately 15,949 pages of potentially responsive records. State will make an interim production of non-exempt records that are responsive to Plaintiffs’ FOIA request on or before January 13, 2017. Beginning in January 2016, State will process for production/withholding or for referral to other agencies or components a minimum of 300 pages of potentially responsive records per month. On or before the last day of each month, beginning on January 31, 2016,

State will make an interim production of non-exempt records that are responsive to Plaintiffs' FOIA Request.

Office of the Director of National Intelligence. The Office of the Director of National Intelligence ("ODNI") made a production on September 29, 2016, which concluded its processing of records that its search of ODNI identified. ODNI also made a production dated October 6, 2016 of one document that was referred to it for direct release to Plaintiffs.

Department of Education. The Department of Education made a production on December 19, 2016 of records that were referred to it for direct release to Plaintiffs.

With respect to records referred from one agency or component to another agency or component for further processing, the parties have conferred in an effort to resolve issues as to the timing of the processing and production of the referred records. The parties will continue to do so.

#### REQUESTED COURT ACTION

The parties respectfully suggest that the Court order the parties to file a joint status report no later than March 21, 2016.

Dated: December 21, 2016

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