

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

MUSLIM ADVOCATES, et al.

Plaintiffs,

v.

UNITED STATES DEPARTMENT
OF STATE, *et al.*,

Defendants.

Civil Action No. 18-1546 (TSC)

JOINT STATUS REPORT

Defendants, the United States Department of State (“DOS”), United States Department of Homeland Security (“DHS”), United States Customs and Border Protection (“CBP”), United States Citizenship and Immigration Services (“USCIS”) and Plaintiffs, Muslim Advocates and Center for Constitutional Rights (“CCR”), each by its undersigned counsel, submit this joint status report in this Freedom of Information Action in response to the Court’s Minute Order dated February 26, 2019.

Defendants provide the following updates regarding their responses to Plaintiffs’ FOIA requests.

a. DOS:

In addition to the productions identified in certain previous Joint Status Reports, DOS made productions of non-exempt, responsive material to Plaintiffs on September 25, 2019; October 25, 2019; November 21, 2019; and December 26, 2019. DOS intends to continue providing rolling productions of non-exempt, responsive material to Plaintiffs at a monthly rate. DOS estimates that approximately 1,400 potentially responsive pages remain to be processed in the case, which it estimates can be accomplished by the end of May 2020.

b. USCIS:

USCIS has finished its search, and has completed its review of potentially responsive records. In addition to the earlier USCIS production of documents, USCIS has processed 304 pages itself and referred over 2000 pages to DHS for review, which remains pending.

c. CBP materials:

CBP has concluded its search for responsive documents and has identified five pages of responsive documents; it released redacted versions of the responsive documents to Plaintiffs on February 5, 2019. Along with responsive records, CBP also provided to Plaintiffs a memorandum from a CBP official explaining the context and nature of the result of CBP's search for responsive records. Plaintiffs are currently reviewing CBP's production and memorandum and will report any issues with the production to the court at the next status report. Plaintiffs' counsel has asked CBP for some additional information about two redactions in the materials produced by CBP. Counsel for Defendants has responded to that inquiry and Plaintiffs do not have follow-up questions at this time.

DHS:

As DHS has previously advised the Court, by email dated May 7, 2019, DHS advised Plaintiffs that it had reviewed 3,709 pages of which 595 pages were being released in full, 2,515 pages were withheld in full, 213 pages were withheld in part pursuant to FOIA exemptions (b)(5) and (b)(6), and 222 pages were determined to be duplicates or non-responsive. DHS further advised that part of the reviewed 3,709 pages contained other equities and therefore sent 27 pages to the Office of Inspector General ("OIG") for review and direct response to Plaintiffs and 138 pages for consultation to other agencies. As to the consultations, DHS is still awaiting a response from two agencies, ICE and State, but is reaching out to them to ascertain the current

status of those referrals for consultation. DHS is also still processing the documents referred by USCIS, totaling over 2,000 pages, and at this juncture cannot estimate when it will complete processing of this referral, but does anticipate that it can begin the processing of those materials after the production of another request is completed, which DHS anticipates will be next month.

Plaintiffs have sought DHS' position on producing a *Vaughn* index for documents produced thus far that have been withheld and redacted. DHS has indicated that it believes that to commit to a complete *Vaughn* Index in advance of summary judgment briefing would place too much of a strain on DHS resources, but DHS would be willing to consider a more limited approach to an early *Vaughn* Index. DHS believes that there is often much non-controversial material that the parties can remove from the case early, and has asked if Plaintiffs would be willing to look at the DHS production and see if there are specific withholdings they plan on challenging and perhaps, depending on the number, DHS may be in a position to provide a partial *Vaughn* Index or other similar response. Plaintiffs are considering this approach.

The parties intend to consult again as productions proceed and propose that they file another joint status report on March 9, 2020, pursuant to the Court's Minute Order dated February 26, 2019.¹

Dated: January 8, 2020

Respectfully submitted,

/s/ Nimra H. Azmi

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¹ The parties note that the 60th day from the last status report ended on a day when the federal government and the Court were closed due to inclement weather. Thus, this joint status report is being filed in the first day thereafter on which the Court is accessible. *See* Fed. R. Civ. P. 6(a)(3).