

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

THE JAMES MADISON PROJECT and)
NOAH SHACHTMAN,)
))
Plaintiffs,)
))
v.)
))
DEPARTMENT OF JUSTICE and)
DEPARTMENT OF HOMELAND)
SECURITY,)
))
Defendants.)

No. 1:17-cv-00390-CKK

JOINT STATUS REPORT

Defendants Department of Justice (“DOJ”) and Department of Homeland Security (“DHS”) (collectively, “Defendants”) and Plaintiffs The James Madison Project and Noah Shachtman (“Plaintiffs”) respectfully submit this Joint Status Report pursuant to the Court’s Minute Order, dated February 28, 2018. The parties report as follows:

1. Plaintiffs initiated this action under the Freedom of Information Act (“FOIA”) on March 3, 2017. The Complaint alleges that this action involves FOIA requests dated January 31, 2017, and submitted to DOJ’s Office of Legal Counsel (“OLC”), DHS, and four components of DHS (the Transportation Security Administration (“TSA”), U.S. Customs and Border Protection (“CBP”), U.S. Immigration and Customs Enforcement (“ICE”), and U.S. Citizenship and Immigration Services (“USCIS”)).
2. On May 10, 2017, Plaintiffs filed an Amended Complaint, which explains that the FOIA request to OLC was not actually submitted to the agency until March 24, 2017.

3. OLC, DHS, and the four DHS components have initiated searches for records responsive to Plaintiffs' FOIA request.

4. TSA has completed its processing of Plaintiffs' request and released 35 pages of responsive records subject to FOIA, withholding some information in those records pursuant to the FOIA's statutory exemptions from disclosure and referring some information to DHS for further review. DHS processed TSA's referral and sent its response to Plaintiff on December 27, 2017.

5. With respect to OLC, DHS, and the remaining DHS components, the parties have conferred about the scope of Plaintiffs' requests, and Plaintiffs have agreed to certain limitations or clarifications of their scope.

6. CBP received a large number of FOIA requests for records relating to the January 27, 2017 Executive Order "Protecting the Nation from Foreign Terrorist Entry into the United States" and its searches for records responsive to those requests have located tens of thousands of records. The agency is making rolling productions and uploading records relating to the Executive Order to its online FOIA library. CBP's most recent release of records to Plaintiffs in this case was made on January 17, 2018, and totaled 530 pages, of which 137 pages were withheld in full and 393 pages were released in full or in part. CBP is preparing another set of records for release and anticipates that its next production will be completed by April 30, 2018.

7. ICE has completed its processing of Plaintiffs' request. ICE's most recent release of records to Plaintiffs in this case was made on March 6, 2018. ICE released three pages of records subject to FOIA, withholding some information in those records pursuant to the FOIA's statutory exemptions from disclosure. Another 14 pages have been referred for further intra- and/or inter-agency review. ICE has now released all non-exempt records with the exception of

the records it has referred for further review. ICE is still awaiting the results of that further review, and following the completion of that process, ICE will endeavor to produce the remaining pages within 30 days.

8. USCIS has completed its processing of Plaintiffs' request and released 407 pages of records subject to FOIA in their entirety and 701 pages in part, withholding some information pursuant to the FOIA's statutory exemptions from disclosure. In addition, USCIS referred 138 pages of records for further intra- and/or inter-agency review. USCIS is still awaiting the results from that further review, and following the completion of that process, USCIS will endeavor to produce the remaining pages within 30 days.

9. OLC conducted a keyword-based search for records relating to one or both of the Executive Orders, issued on January 27, 2017, and March 6, 2017, titled "Protecting the Nation from Foreign Terrorist Entry into the United States." This search was designed to capture records responsive to any of twenty-five pending FOIA requests, including Plaintiffs', which seek various categories of OLC records relating to these Executive Orders. OLC's keyword-based search identified over 14,000 potentially responsive documents, including emails and stand-alone files. With email attachments included in the count, the number of potentially responsive records requiring further responsiveness review totaled more than 26,000.

10. On August 2, 2017, OLC released 13 pages of records consisting of final OLC legal advice documents relating to the Executive Orders. OLC subsequently completed its initial manual responsiveness review and deduplication of the potentially responsive records that it had not already released. This review reduced the volume of potentially responsive records requiring further review for responsiveness and potential withholdings from over 26,000 documents to approximately 2,730 documents. OLC has been making approximately monthly productions

from this batch of documents since October 31, 2017. OLC's productions to date from this batch of documents total 1,766 pages, of which 1325 pages have been withheld in full and 441 pages have been released in full or in part.

11. DHS has completed its initial search and review of potentially responsive records. That search and initial review has located 1149 pages of records subject to FOIA, which DHS must further review and process. DHS anticipates that it will commence rolling production of records on an approximately monthly basis beginning on April 30, 2018 and will endeavor to produce 300 pages a month. DHS endeavors to complete its production by the end of August 2018.

12. The parties agree that it is too early to determine whether Defendants will need to prepare *Vaughn* indices.

13. The parties respectfully propose that they file another Joint Status Report no later than May 21, 2018.

Dated: March 20, 2018

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