

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ELECTRONIC PRIVACY  
INFORMATION CENTER,

*Plaintiff,*

v.

UNITED STATES DEPARTMENT  
OF HOMELAND SECURITY,

*Defendant.*

Civil Action No. 18-0545-KBJ

**STATUS REPORT**

Plaintiff, the Electronic Privacy Information Center (“EPIC”) submits this status report in response to the Court’s minute order dated April 14, 2019 to highlight the Defendant's, the United States Department of Homeland Security ("DHS"), unprecedented delay in completing the agency's search for responsive documents to EPIC's Freedom of Information Act ("FOIA") request.

1. On May 16, 2018, DHS stated that the agency was "in the process of finalizing its search for responsive records..." ECF No. 11. Additionally, DHS stated that the agency "expects to complete its search by or before May 31, 2018 and to process at least 300 pages of potentially responsive records per month starting 45 days after all searches are complete..." ECF No. 11.
2. DHS failed to complete the search by May 31, 2018 and reached out to EPIC to narrow the search and agree on a search protocol. *See* ECF No. 12.
3. On July 30, 2018, having reached an agreeable search protocol, DHS again stated it would begin processing 300 pages a month once the search was completed. ECF No. 14.

4. On September 13, 2018, DHS once more indicated the agency was still conducting the search and would begin producing documents 45 days after completion of the search. ECF No. 15.

5. On November 13, 2018, DHS stated it was still in the process of completing the search for responsive records and that staff turn-over had provided challenges in completing the search. ECF No. 16.

6. On February 8, 2019, DHS stated it was still in the process of completing the search and that staff turn-over as well as a backlog created by the lapse in appropriations was causing delay in the completion of the search. ECF No. 19.

7. On March 25, 2019, DHS again stated that staff turn-over and a backlog were causing a delay in completing the search. ECF No. 20.

8. On April 8, 2019, DHS stated it "discovered an error with [its] search tasker and is in the process of updating the search and correcting the prior deficiency." DHS also stated that the agency "anticipates being able to provide an estimated document count for potentially responsive documents in 30 days." ECF No. 21.

9. EPIC reached out to Counsel for Defendant on May 6, 2019 and May 8, 2019 to inquire about any update on the status of processing EPIC's Freedom of Information Act ("FOIA") request.

10. At 4:58 P.M. on May 8, 2019, Counsel for Defendant provided a draft joint status report that stated DHS had no update on the status of the search and did not know when the search would be completed.

12. DHS has had roughly a year to complete the search for responsive documents to EPIC's FOIA request and has failed to do so.

13. Given the failure of DHS to complete this routine task in a timely manner, EPIC request the Court order the agency to complete the search for responsive records in the next 30 days. Additionally, EPIC request the Court order DHS to begin a monthly rolling production of documents 30 days after the completion of the search with each production including the processing of at least 300 pages.

Dated: May 8, 2019

Respectfully submitted,

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EPIC President and Executive Director

Alan Butler, D.C. Bar #1012128  
EPIC Senior Counsel

    /s/ Jeramie D. Scott      
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