

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 1:17-cv-21382-DPG

AMERICAN CIVIL LIBERTIES UNION OF
FLORIDA,

Plaintiff,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY and U.S. CUSTOMS AND
BORDER PROTECTION,

Defendants.

JOINT STATUS REPORT

Pursuant to the Court’s Endorsed Order dated November 17, 2017, ECF No. 33, Plaintiff American Civil Liberties Union of Florida (“Plaintiff”), and Defendants U.S. Department of Homeland Security (“DHS”) and U.S. Customs and Border Protection (“CBP”) (collectively, “Defendants”), submit the following Joint Status Report.

1. This matter involves Plaintiff’s requests under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, submitted to CBP, a component of DHS, on February 2, 2017. *See* ECF No. 1, Exs. A-B. Plaintiff seeks from CBP records related to the local implementation and enforcement of Executive Order No. 13,769, titled “Protecting the Nation from Foreign Terrorist Entry into the United States,” at what Plaintiff describes as sites within the purview of CBP’s Miami Field Office and CBP’s Tampa Field Office. The FOIA requests are attached to Plaintiff’s Complaint as Exhibits A and B, and speak for themselves.

2. Plaintiff filed its Complaint on April 12, 2017, ECF No. 1, and Defendants filed their Answer on September 6, 2017, ECF No. 29. At the time Plaintiff filed its Complaint, CBP had not yet completed its processing of Plaintiff's FOIA requests.

3. On July 14, July 26, September 21, and October 27, 2017, CBP made its first, second, third, and fourth releases, respectively, of non-exempt records deemed responsive by Defendants to Plaintiff's and other ACLU affiliates' requests. On November 17 and December 6, 2017, CBP made its fifth and sixth releases, respectively, of non-exempt records deemed responsive by Defendants to other ACLU affiliates' requests. The agency is working to identify whether those records are also responsive to Plaintiff's requests.

4. On November 28, 2017, counsel for Defendants informed counsel for Plaintiff that the agency's estimated processing rate across all ACLU affiliate requests had increased from 3,575 pages of potentially responsive records per month to 6,500 pages of potentially responsive records per month. This updated processing capacity is set forth in the declaration of Patrick A. Howard, a Branch Chief within CBP's FOIA division, filed on December 12, 2017 in a parallel case. *See* ECF No. 49-1, *ACLU v. DHS*, No. 1-17-cv-00441 (E.D. Va.).

5. Plaintiff is still reviewing the productions made thus far and wishes to monitor any progress made in light of the abovementioned increase in the agency's estimated processing rate. The parties are continuing to confer about the status of CBP's searches and about the adequacy of ongoing efforts the agency is making to satisfy Plaintiff's requests. Therefore, the parties propose filing another joint status report by January 8, 2018. Plaintiff reserves the right, at that time, to ask the Court to set a schedule for Defendants to complete their search and produce records and a Vaughn index. A proposed order is attached.

Dated: December 15, 2017

Respectfully submitted,

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