

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

	)	
OPEN SOCIETY JUSTICE INITIATIVE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 1:20-cv-00706-RC
	)	
UNITED STATES DEPARTMENT OF	)	
JUSTICE, CRIMINAL DIVISION, <i>et al.</i> ,	)	
	)	
Defendants.	)	
	)	

**JOINT STATUS REPORT**

Defendants, U.S. Department of Justice: Criminal Division (“DoJ Criminal Division”), Civil Division (“DoJ Civil Division”), Executive Office for United States Attorneys (“EOUSA”), and Federal Bureau of Investigation (“FBI”), and U.S. Department of Homeland Security: Secretariat (“DHS”), Immigration and Customs Enforcement (“ICE”), and U.S. Citizenship and Immigration Services (“USCIS”), and Plaintiff, Open Society Justice Initiative (“Plaintiff”), by and through the undersigned counsel, submit this joint status report in response to the Court’s April 20, 2021 Minute Order.

1. DoJ Criminal Division’s FOIA/PA Unit search identified approximately 47,000 pages of potentially responsive records. Pursuant to an agreement with Plaintiff, as explained in the Joint Status Report filed on May 19, 2021, DoJ Criminal Division shifted its focus to non-case file records. On June 21, 2021, after reviewing an additional 82 pages of records, DoJ Criminal Division issued its fifth interim response, providing Plaintiff with a final determination regarding these 82 pages. In this letter, DoJ Criminal Division withheld 82 pages in full pursuant to FOIA Exemptions 5, 6, and 7(C). DoJ Criminal Division also stated that 36 pages were duplicative

material. Finally, DoJ Criminal Division stated that an additional 30 pages of records continue to undergo review and it expects to issue a sixth interim response as soon as practicable.

Plaintiff states that it does not adopt, agree with or accept any factual statements made by DoJ Criminal Division in this Joint Status Report except where otherwise specified. Plaintiff is reviewing DoJ Criminal Division's fifth interim production and is concerned with the rate DoJ Criminal Division is reviewing the documents. DoJ Criminal Division has slowed its review from over 500 pages a month in its fourth interim response on May 14, 2021 to 30 pages a month with its upcoming sixth interim response. Plaintiff will raise any additional concerns in a meet and confer to try to resolve inadequacies without the Court's involvement.

Plaintiff continues to reserve all rights with respect to its offer that DoJ focus on non-case file records.

2. DoJ Civil Division's search has identified approximately 36,320 pages of potentially responsive records. DoJ Civil Division has not yet completed its responsiveness and duplication review. DoJ Civil Division reviewed 1,052 pages of records and issued its first interim response on January 15, 2021, indicating that DoJ Civil Division withheld the pages in full pursuant to Exemptions 5, 6, 7(C), and 7(E) of the FOIA. In addition, the DoJ Civil Division indicated that some of the records were also protected from disclosure by a court seal issued by the Honorable George H. Wu of the United States District Court for the Central District of California. DoJ Civil Division reviewed 1,138 pages of records and issued its second interim response on March 10, 2021, indicating that DoJ Civil Division withheld 840 pages in full pursuant to Exemptions 5 and 6 of the FOIA. In addition, DoJ Civil Division noted that 218 pages were removed as duplicates and 80 were not responsive to the request.

In addition, on April 1, 2021, DoJ Civil provided a *Vaughn* index describing the justification for withholding the records in full. The *Vaughn* index included a description of the universe of response records the Civil Division located, excluding records which would be maintained in Civil Division case files. The records maintained in DoJ Civil Division case files included all records related to litigation (investigatory files, court records, inter-agency and intra-agency correspondence, and legal research). DoJ Civil Division also referred 12 documents to the Office of Information Policy (OIP) and one document to United States Citizenship and Immigration Services (USCIS) for review and direct response. On May 5, 2021, per Plaintiff's request, DoJ Civil Division updated the *Vaughn* index providing additional information pertaining to the types of records withheld pursuant to Exemption 5. In addition, on May 5, 2021, the Civil Division provided a final interim response to Plaintiff indicating that the Civil Division completed its review of all responsive records, excluding records determined to be in case files.

Plaintiff states that it does not adopt, agree with or accept any factual statements made by DoJ Civil Division in this Joint Status Report except where otherwise specified. As with DoJ Criminal Division, Plaintiff states that it has offered to set aside any records DoJ Civil Division has determined to be "case files," which the agency has accepted by providing Plaintiff with a *Vaughn* index. Plaintiff has reviewed the May 5, 2021 *Vaughn* index and will correspond with DoJ Civil regarding the inadequacies in that index. Plaintiff intends to resolve these inadequacies without the Court's involvement. Should these issues not be resolved by meeting and conferring, Plaintiff intends to seek the Court's review of the DoJ Civil Division's *Vaughn* index.

3. On August 19, 2019, EOUSA made a full release of 6 pages to the requester. Upon receiving a new FOIA request from the requester in August 13, 2020, EOUSA responded to the requester with a duplicate disposition on October 15, 2020. In an effort to promote a reasonable

and good faith search, EOUSA renewed the search and has identified approximately 5 pages of potentially responsive records. EOUSA made a full release of the 5 pages of reports to the requester on April 15, 2021.

EOUSA and Plaintiff held a meet-and-confer on May 24, 2021 to discuss the release on April 15, 2021. EOUSA explained the renewed information was a renewed search that changed the fiscal year that the search was made under.

4. The FBI contacted the Criminal Justice Investigative Service ("CJIS"), the entity most likely within the FBI to contain potentially responsive records. CJIS and CJIS personnel conducted a search for any potentially responsive records. CJIS did not locate any potentially responsive records to plaintiff's request.

Plaintiff states that it does not adopt, agree with or accept any factual statements made by FBI in this Joint Status Report except where otherwise specified. Public records demonstrate FBI was involved in denaturalization investigations and/or proceedings and Plaintiff renews its request that FBI conduct a responsiveness search in other entities that may have responsive documents.

5. DHS conducted a search for responsive documents and did not locate any responsive documents. DHS completed a supplemental search, identifying 970 pages of potentially responsive records. DHS will review records at 275 pages per month and will make its first release of any responsive, non-exempt records by August 31, 2021.

6. To date, Defendant ICE has located approximately 8,215 pages of documents potentially responsive to OSJI's FOIA request. Additional searches remain ongoing. ICE anticipates that it will be able to provide a status update regarding completion of searches by the next status report. In the interim, ICE proposes to process 500 pages of records per month, releasing all non-exempt records (or portions of records). Plaintiff states that a rate of 500 pages

per month is an unreasonably slow rate of review for the number of potentially responsive pages ICE has reviewed, particularly in light of the agency's stated expectation that the number of pages may grow. Plaintiff intends to meet and confer with ICE about its rate of review. On July 16, 2021, Plaintiff received ICE's third interim response that processed 600 pages of potentially responsive records and withheld all 600 pages under Exemption (7)(E) of the FOIA. Plaintiff intends to meet and confer with ICE regarding its decision to withhold all 600 pages under a single FOIA exemption.

7. USCIS has completed review of all responsive documents collected by USCIS and made its final release on October 9, 2020. USCIS provided Plaintiff a *Vaughn* index for all withheld material on January 15, 2021. The preparation of this *Vaughn* index included a re-review of all responsive documents, which was received via UPS by Plaintiff on January 29, 2021. Additionally, by letter dated January 26, 2021, USCIS informed Plaintiff that information referred to it by DoJ was outside the scope of the request. Via email dated April 27, 2021, Plaintiff raised certain questions about USCIS's *Vaughn* index. These questions were discussed in a telephone conference between Plaintiff's counsel, the AUSA in this matter and USCIS on April 30, 2021. By letter dated May 6, 2021, USCIS released portions of a seven (7) page referral made to it from DoJ Civil Division. By letter dated June 16, 2021, USCIS released 28 additional pages in full and 24 additional pages in part with certain information withheld pursuant to FOIA Exemptions 5 and 7(E).

8. The parties propose that the Court order the parties to submit a joint status report on September 21, 2021.

Dated: July 21, 2021

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