U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

May 18, 2018

BY ECF
The Honorable Andrew L. Carter, Jr.
United States District Judge
Thurgood Marshall United States Courthouse
40 Foley Square, Room 2203
New York, NY 10007

Re: *Knight First Amendment Institute v. U.S. Dep't of Homeland Security et al.*, No. 17 Civ. 7572 (ALC)

Dear Judge Carter:

I write respectfully on behalf of Defendant the United States Department of State ("State") in response to the Court's Order dated May 18, 2018.

In response to Plaintiffs' FOIA request, State requested that various offices search for potentially responsive documents, and received 861 documents potentially responsive to Plaintiffs' FOIA Request.[1] State has now determined that those 861 documents totaled approximately 40,000 pages, thus confirming that in this case, one document does not necessarily equal one page. State has now also finished conducting a responsiveness review of those 40,000 pages, and determined that 72 documents, totaling 1,719 pages, are most likely responsive to Plaintiffs' FOIA Request.

Accordingly, State has initiated the upload of those 1,719 pages into its review software for processing. It is possible that when State reviews those documents more closely during processing, State will determine that some of the remaining pages are not, in fact, responsive or are duplicates, and thus the total number of responsive pages may decrease as a result. Further, as a result of the responsiveness review, State has determined that many of the documents contain classified information and will need to be referred to other agencies for review.

Although State was able to conduct a responsiveness review of approximately 40,000 pages in a month-and-a-half, it cannot process pages for production at a similar rate, because such responsiveness review does not include (a) a review of every page; (b) a review of every line on every page; (c) any determination regarding applicable FOIA exemptions; (d)

[1] When it received those documents, State informed Plaintiffs that it had received approximately 850 potentially responsive emails and 674 pages of other documents. State has now determined that, together, the emails and pages totaled 861 unique documents.

consultation with equity holders about the sensitivity of the information and potential harm in release; or (e) review to ensure that classified information is properly marked and protected. As a result, processing the documents for production takes much longer.

State respectfully requests that, for the reasons set forth in its submission dated April 20, 2018, *see* Dkt. No. 52, the Court approve a schedule requiring State to process 300 pages per month. State understands that Plaintiffs request State to process all documents by June 15, 2018, which is not practicable.

We thank the Court for considering this request.

Respectfully,

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