U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

December 1, 2023

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 both parties in the above-referenced FOIA action to provide a status update.

Background

As the Court is aware, various defendant agencies and components agreed to conduct a search for documents responsive to Item Number 1 in plaintiff's FOIA Request, and the United States Department of State ("State"), Customs and Border Protection ("CBP"), Department of Justice ("DOJ"), Homeland Security ("DHS"), and Citizenship and Immigration Services ("USCIS") have completed searching, processing, and producing responsive, non-exempt documents, if any. *See* Dkt. No. 171. As the parties previously detailed at length, Immigration and Customs Enforcement ("ICE") and Plaintiff agreed on specific search terms, and as of October 2023, ICE completed processing and producing all remaining responsive documents. Accordingly, all defendants in this matter have now completed searching for, processing, and producing documents responsive to Plaintiff's FOIA Requests.

Current Status

Plaintiff has agreed to dismiss with prejudice all claims in this action (except for any claims for attorney's fees and costs) against the following agencies and/or components: DOJ, USCIS, and CBP. The agencies and/or components remaining in this action are therefore ICE, State, and DHS.

As the parties also previously detailed, Plaintiff identified certain records produced by ICE, State, and DHS that contain redactions pursuant to various FOIA exemptions that Plaintiff might challenge through a motion for summary judgment, and Plaintiff has asked the agencies to prepare draft Vaughn indices further explaining the bases for the exemptions. The parties agreed to the following deadlines: by December 15, 2023, State will provide a draft Vaughn index; by December

20, 2023, DHS will provide a draft Vaughn index; and by November 8, 2023, ICE will provide Plaintiff with a date by which ICE can complete draft Vaughn index.

DHS is on track to provide draft Vaughn indices by December 20. State is currently reevaluating certain redactions and conferring with various stakeholders; State will provide an update to Plaintiff forthwith. Finally, as previously detailed, ICE recently conducted a software transition from FX to SecureRelease; as a result of that transition, ICE has had to access to legacy systems to locate and pull the documents that Plaintiffs have identified. ICE has almost completed that process and expects to provide Plaintiff a draft Vaughn index in January 2024. The parties respectfully propose to file a further status update on February 16, 2024.

I thank the Court for considering this matter.

Respectfully,

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