



U.S. Department of Justice

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August 2, 2019

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 United States Department of Homeland Security ("DHS"), a defendant in the above-referenced FOIA action, to provide a status update regarding DHS's ongoing searches and negotiations with plaintiff, pursuant to the Court's July 16, 2019, Order, and the parties' joint status report dated July 19, 2019.

As the Court is aware, DHS voluntarily agreed to conduct a new search for documents responsive to plaintiff's Narrowed FOIA Request.¹ Thereafter, DHS conducted searches suggested by plaintiff, which resulted in more than 1.6 terabytes data, gathering largely unresponsive documents. At a status conference on July 16, 2019, the parties reported that DHS and plaintiff had agreed to a new set of search terms, and on July 19, 2019, the parties filed a joint status report concerning those searches, outlining each of four searches (Searches 1a, 1b, 2a, and 2b) and indicating that DHS would conduct those searches in the following order: 2a, 2b, 1a and finally 1b. *See* Dkt. No. 129.

DHS has now concluded Search 2a. Initially, after running approximately only 10% of the search, DHS determined that the search had already returned approximately 138,000 emails. DHS concluded that the large size was likely due to the fact that one of the search terms was "civil liberties," and DHS's Civil Rights and Civil Liberties office was one of the components being searched, resulting in the collection of numerous emails only as a result of the phrase appearing in signature lines. Accordingly, DHS removed that term from the search, renewed the search, and completed the search. Search 2a has resulted in the collection of approximately 764,000 emails (before applying the de-duping process).

¹ As explained in the parties' prior submissions, plaintiff agreed to narrow the scope of the original FOIA request after commencing this action. *See, e.g.*, Dkt. No. 48 at ¶ 2.

Plaintiff and DHS are currently conferring regarding other reasonable ways to narrow Search 2a. Plaintiff and DHS are also conferring regarding how and if to conduct Search 2b while, simultaneously, determining how to refine Search 2a. As a result, the parties respectfully request the opportunity to provide the Court with a further status update regarding DHS's searches by August 9, 2019.

I thank the Court for considering this matter.

Respectfully,

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