

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ELECTRONIC PRIVACY INFORMATION CENTER,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF HOMELAND
SECURITY,

Defendant.

Civ. Action No. 17-2047

JOINT STATUS REPORT

Plaintiff Electronic Privacy Information Center (“EPIC”) and Defendant U.S. Department of Homeland Security (“DHS”) hereby submit the following Joint Status Report pursuant to the November 25, 2019 Minute Order.

1. The DHS Cybersecurity and Infrastructure Security Agency (“CISA”), formerly DHS National Protection and Programs Directorate, has processed and released to EPIC some responsive records in this case.

2. As part of its processing, CISA referred certain documents to other DHS components as well as other federal agencies for review and direct responses.

3. In the last joint report filed on November 22, 2019, the parties reported that on November 13, 2019, CISA explaining that it had completed its supplemental search and produced one page in its entirety and 17 pages in part. The status report also stated that CISA had determined that 24 pages were under the purview of the Office of the Director of National

Intelligence (“ODNI”) and referred those pages to ODNI for processing and a direct response. *See* ECF No. 21 ¶ 6.

4. On December 6, 2019, the ODNI sent to EPIC the 24-page document that had been referred to it for a direct response. The ODNI stated that the document had already been posted on the ODNI public website.

5. In the Nov. 22, 2019 joint status report, the parties also reported that that after reviewing all of the records produced thus far as well as a CISA-provided draft Vaughn Index of records withheld in full that are not drafts or e-mail chains, EPIC requested that CISA reprocess four categories of records previously withheld in full. *See* ECF No. 21 ¶ 7. These four categories of records are: (1) Documents concerning contacts between the DHS and State Election Officials; (2) Election Task Force Meeting Minutes; (3) Documents about risk characterizations and analysis reports on Russian interference; and (4) Incident reports and vulnerabilities in election systems. *Id.*

6. EPIC explained that these documents relate to the interference in and vulnerabilities of the 2016 presidential election systems. *Id.* EPIC believes that release of this information is critical for the public to understand election system vulnerabilities and whether the DHS has worked to ensure these systems are secure going forward. *Id.*

7. In an effort to continue the parties’ efforts to narrow the issues in dispute, CISA agreed to reprocess the 16 documents (94 pages) in these four categories to see whether any additional information can be released. *See Id.* ¶ 8.

8. On January 17, 2020, DHS counsel sent EPIC counsel an email explaining that the DHS Headquarters FOIA Program (which was now responsible for processing for CISA) was short-staffed and had technical difficulties. DHS intended to release the reprocessed records on

January 31, 2020. However, the FOIA analyst responsible for reviewing the records experienced a personal emergency. Additionally, the DHS Privacy Office, which houses the DHS Headquarters FOIA program, is moving to a new location the weekend of January 31 through February 2, 2020. The FOIA staff anticipates that unpacking, setting up new office space, and handling any move-related issues that may arise will make it difficult to complete reprocessing the records next week.

9. DHS therefore anticipates that it will complete reprocessing the records and make the release to EPIC by February 14, 2020.

10. The parties accordingly propose that they file a Joint Status Report on February 28, 2020.

Dated: January 31, 2020

Respectfully Submitted,

MARC ROTENBERG,
D.C. Bar # 422825
EPIC President and Executive
Director

ETHAN P. DAVIS
Principal Deputy Assistant Attorney
General

/s/Alan Butler
ALAN BUTLER,
D.C. Bar # 1012128
General Counsel
ELECTRONIC PRIVACY
INFORMATION CENTER
1718 Connecticut Avenue, N.W.
Suite 200
Washington, D.C. 20009
(202) 483-1140 (telephone)
(202) 483-1248 (facsimile)

Counsel for Plaintiff

MARCIA BERMAN,
Assistant Branch Director

/s/ Marcia Sowles
MARCIA SOWLES,
DC Bar # 369455
Senior Trial Counsel
U.S. Department of Justice
1100 L. Street, N.W.
Room 11028
Washington, D.C. 20530
Telephone: (202) 514-4960
Fax: (202) 616-8470
E-mail: marcia.sowles@usdoj.gov

Counsel for Defendant