

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

TEXAS CIVIL RIGHTS PROJECT, *et al.*,

Plaintiffs,

V.

U.S. DEPARTMENT OF HOMELAND
SECURITY, *et al.*,

Defendants.

Civ. A. No. 20-2389 (CJN)

JOINT STATUS REPORT

Defendants U.S. Department of Homeland Security (“DHS”), U.S. Customs and Border Protection (“CBP”), and U.S. Immigration and Customs Enforcement (“ICE,” and, together, “Defendants”), and Plaintiffs Texas Civil Rights Project (“TCRP”) and the Institute for Constitutional Advocacy and Protection (“ICAP,” and, together, “Plaintiffs”), by and through undersigned counsel, respectfully submit this Joint Status Report pursuant to the Court’s July 8, 2021 Minute Order.

1. On August 27, 2020, Plaintiffs filed their complaint under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 (“Complaint” or “Compl.”). ECF No. 1.

a. Plaintiffs' Complaint relates to three FOIA requests seeking DHS, ICE, and CBP records concerning unaccompanied minors, including but not limited to Title 42, Operation CAPIO, policies and procedures, formal agreements with foreign countries to accept removed persons, and various statistics. Compl. ¶¶ 3, 16, 18; Exhibits A, B, C (ECF Nos. 1-1, 1-2, 1-3).

2. On October 8, 2020, Defendants filed their Answer. ECF No. 3.

3. The parties last submitted a joint status report on March 17, 2023. ECF No. 25.

4. The parties jointly report as follows:

TCRP's FOIA request to ICE. Defendant ICE reviewed in excess of 500 pages per month during the pendency of this FOIA case. In their initial joint status report, the parties informed the Court that ICE had identified approximately 4,752 pages of documents potentially responsive to TCRP's FOIA request and would review approximately 500 pages per month and that production would be completed over the course of eleven months, with the first interim response on December 7, 2020. As of the status report dated November 8, 2021, ICE concluded its review and production of documents pursuant to Plaintiffs' FOIA request.

ICE also referred pages that have required consultation with other agencies and there are no outstanding consults remaining.

ICAP's FOIA request to Defendant CBP. The parties have met and conferred regarding narrowing the search with respect to ICAP's separate request to CBP. The parties narrowed the search to "all records related to all processes, standards, policies, or other documents used by your agency to determine what rights and legal processes are afforded to migrant children" in CBP custody under Title 42. CBP has completed the search and there are no additional responsive Title 42 documents that are not already on the FOIA Reading Room.

Plaintiffs have reviewed the Title 42 records that have been posted on the FOIA Reading Room and the additional links CBP shared in September 2022 and are evaluating whether these records satisfy their request. Plaintiffs have noted that their request is broader than Title 42 and reserve their rights to seek a more complete set of records.

Generally, Plaintiffs have expressed concerns regarding the high level of redactions in the documents Defendants have produced. Plaintiffs have requested that redactions be narrowly tailored (i.e., redacting words or sentences, not withholding entire pages) to comport with FOIA's

limited exemptions. Defendants state that the exemptions they have applied are reasonable and in accordance with the applicable exemptions.

The parties are conferring regarding the productions and discussing outstanding issues that may be resolved prior to seeking intervention by the Court.

The parties will continue to provide joint status reports at 60-day intervals. The parties respectfully request that they file the next Joint Status Report on or before July 17, 2023, to further apprise the Court of the status of this matter.

Dated: May 16, 2023

Respectfully submitted,

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