

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

JUDICIAL WATCH, INC.

Plaintiff,

v.

U.S. DEPARTMENT OF STATE,

Defendant.

Civil Action No. 15-cv-692 (APM)

JOINT STATUS REPORT

Plaintiff Judicial Watch, Inc. and Defendant U.S. Department of State (“State”), by counsel and pursuant to the Court’s June 29, 2015 minute order respectfully submit this third Joint Status Report:

1. This lawsuit arises out of two requests submitted by Judicial Watch to State on March 4, 2015 under the Freedom of Information Act (“FOIA”). The first FOIA request seeks access to the following records:

Any and all emails of former Secretary of State Hillary Rodham Clinton concerning, regarding, or relating to the September 11, 2012 attack on the U.S. Consulate in Benghazi, Libya.

The time frame of the request was identified as September 11, 2012 to January 31, 2013.

(hereinafter “FOIA Request 1”). The second FOIA request seeks access to the following:

Any and all communications between officials, officers, or employees of the Department of State and members of Congress, Congressional staff members, or Congressional members or staff members of the U.S. House of representatives Select Committee on Benghazi concerning, regarding, or relating to the use of non-’state.gov’ email addresses by former Secretary of State Hillary Clinton.

The timeframe for this request is June 1, 2014 to the present. (hereinafter “FOIA Request 2”).

2. By minute order of July 31, 2015, the Court ordered State to make its first production of the non-exempt portions of records responsive to FOIA Request 2 by September 30, 2015, and to file a status report by October 1, 2015 “in which it will provide an estimate of the number of documents potentially responsive to FOIA Request 2 that remain to be reviewed and processed.” State made its first production of eleven (11) pages and filed its status report as scheduled. *See* ECF No. 17. In the July 31 minute order, the Court also ordered the parties to file a joint status report on or before October 8, 2015, in which they: “(1) propose a production schedule for the remaining non-exempt portions of documents responsive to FOIA Request 2, and, if the parties are not able to reach an agreement as to the production schedule, each provide their own proposed schedule; (2) provide an update to the court on their efforts to resolve Plaintiff’s concerns regarding the scope of Defendant’s search and efforts to preserve responsive federal records in connection with FOIA Request 1; and (3) propose a production schedule for the documents responsive to FOIA Request 1, and, if the parties remain unable to reach an agreement as to the production schedule, each provide their own proposed schedule.”

3. The parties conferred and have reached agreement regarding a production schedule for FOIA Request 2 and propose that State make three rolling productions at six-week intervals (on November 12, 2015; December 23, 2015; and February 3, 2016) of the remaining non-exempt portions of documents responsive to FOIA Request 2.

4. The parties have not yet reached agreement regarding a production schedule for the non-exempt portions of documents responsive to FOIA Request 1. They jointly propose that, on or before October 22, 2015, State shall file a status report in which it will provide an estimate of the number of documents potentially responsive to FOIA Request 1 within the collection of approximately 30,000 e-mails, comprising approximately 55,000 pages, provided to State by

former Secretary Clinton (the “Clinton emails”); State will specify how many of those documents were created on or before December 31, 2012. After that status report is filed, the parties shall meet and confer and, on or before October 29, 2015, propose to the Court a production schedule for the non-exempt portions of Clinton emails responsive to FOIA Request 1, and, if the parties remain unable to reach an agreement as to the production schedule, each provide their own proposed schedule.

5. In addition, State has, in order to possibly reduce the issues that must be litigated, offered to conduct a search of the records received by State from Cheryl Mills, Jacob Sullivan, and Huma Abedin through September 2015 (“the recently provided documents”) for documents responsive to FOIA Request 1. The parties jointly propose that, on or before November 13, 2015, State shall inform Judicial Watch of the number of documents potentially responsive to FOIA Request 1 within the recently provided documents. The parties will then meet and confer and, on or before November 20, 2015, propose to the Court a production schedule for the non-exempt portions of the recently provided documents responsive to FOIA Request 1, or submit further recommendations how to proceed.

6. The parties have not yet resolved Judicial Watch’s concerns regarding the scope of State’s search and efforts to preserve responsive federal records in connection with FOIA Request 1. Since the parties’ last joint status report, Judicial Watch has made additional inquiries to State regarding two recent developments: (1) an email Judicial Watch obtained in another FOIA proceeding that purports to list chronological gaps in the email collection that the State Department received from former Secretary Clinton, including in January 2013, a time relevant to Request 1; and (2) press accounts of additional Clinton emails related to the attacks in Benghazi that were recently provided to Congress. State believes that it can demonstrate that

there are no gaps in the Clinton email collection relevant to FOIA Request 1, and State represents that its search discussed in paragraph 4 will include the Clinton emails recently provided to Congress. The parties propose that they continue to attempt to resolve Judicial Watch's concerns regarding the scope of State's search and efforts to preserve responsive federal records in connection with FOIA Request 1 and report the state of those discussions to the Court in their joint status report on October 29, 2015.

7. In summary, the parties propose the following schedule:
 - a. State to complete production of non-exempt portions of records responsive to FOIA Request 2 by February 3, 2016, with interim rolling productions on November 12, 2015, and December 23, 2015.
 - b. State to file a status report on October 22, 2015, disclosing the number of Clinton emails potentially responsive to FOIA Request 1. State will specify how many of those documents were created on or before December 31, 2012.
 - c. The parties to file a joint status report on October 29, 2015, in which they will (i) propose to the Court a production schedule for the non-exempt portions of emails provided to the Department by former Secretary Clinton that are responsive to FOIA Request 1, and, if the parties remain unable to reach an agreement as to the production schedule, each provide their own proposed schedule; and (ii) provide a further update to the court on their efforts to resolve Judicial Watch's concerns regarding the scope of State's search and efforts to preserve responsive federal records in connection with FOIA Request 1.
 - d. State to inform Judicial Watch on November 13, 2015, of the number of documents potentially responsive to FOIA Request 1 within the documents recently provided by Ms. Mills, Ms. Abedin, and Mr. Sullivan.
 - e. The parties to file a joint status report on November 20, 2015, in which they will propose to the Court a production schedule for the non-exempt portions of the recently provided documents responsive to FOIA Request 1, or with further recommendations for proceedings.

Date: October 8, 2015

Respectfully submitted,

/s/ Ramona R. Cotca
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