

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICA FIRST LEGAL FOUNDATION,

Plaintiff,

v.

ANTHONY COLEY, in his official capacity
as Director, Office of Public Affairs, United
States Department of Justice; and UNITED
STATES DEPARTMENT OF JUSTICE,

Defendants.

Case No. 1:21-cv-03024 (TSC)

STATUS REPORT

Plaintiff, America First Legal Foundation, and Defendants, United States Department of Justice and Anthony Coley (collectively, "DOJ"), provide the following status report to the Court pursuant to the Court's order of October 24, 2022:

1. This case concerns Plaintiff's challenge to DOJ's response to eight separate FOIA requests filed by Plaintiff. The requests include:
 - a. A request for records about the DOJ's involvement in the airlift of individuals out of the Afghanistan and into the United States, submitted to the Office of Information Policy (OIP) on August 31, 2021.
 - b. A request to the Civil Rights Division (CRT) for records about CRT's operations and personnel and for information about CRT's role in an election law suit brought against the State of Georgia.
 - c. Requests to OIP, CRT, the Criminal Division (CRM), the Executive Office of the United States Attorneys (EOUSA), the Office of Legal Counsel

(OLC), and the Federal Bureau of Investigation (FBI) about Attorney General Garland’s memorandum of October 4, 2021 regarding school board meetings. *See* Memorandum from the Attorney General to DOJ Officials (Oct. 4, 2021), *available at* <https://perma.cc/5A5P-TXMJ>.

2. The Court granted DOJ’s motion to dismiss Count II of the original complaint on September 30, 2022. ECF No. 10. DOJ served an answer to the complaint on October 21, 2022. ECF No. 12. Plaintiff filed an amended complaint on December 21, 2022. ECF No. 16. DOJ filed an answer on January 6, 2023. ECF No. 17.

3. Per the Court’s instructions in its order of October 23, 2022, ECF No. 13, the status of the eight requests at issue in this case is provided in the table below, broken down by component (“Comp.”) and subject matter.

Comp.	Status
“Afghanistan” Request	
OIP	OIP is in the process of conducting initial keyword searches for records responsive to this request. OIP anticipates that the results of these searches will be returned in March. Once these results are returned, OIP will conduct an initial review of the results and confer with Plaintiff regarding an estimated processing schedule.
“Georgia Civil Rights” Request	
CRT	CRT has completed its search and retrieved approximately 9,000 potentially responsive records. These records are currently in processing, in conjunction with records responsive to the “October 4 Memo” request. CRT is reviewing 250 records monthly, and will begin rolling responses starting in April 2023 regarding whatever material it deems responsive, assuming the materials do not need to be referred to other components for processing or consultation.
“October 4 Memo” Requests	
OIP	OIP has received partial results to its initial keyword searches and is in the process of conducting the remaining initial keyword searches

	for records responsive to this request. OIP anticipates that the results of these searches will be returned in mid-February. In the meantime, OIP has begun to review the returned, partial results, and anticipates being able to confer with Plaintiff regarding a processing schedule by the end of next week.
CRT	CRT has retrieved approximately 24,005 records responsive to this request, which are currently under review, in conjunction with records responsive to the “Georgia Civil Rights” request. CRT is reviewing 250 records monthly, and will begin rolling responses starting in April 2023 regarding whatever material it deems responsive, assuming the materials do not need to be referred to other components for processing or consultation.
CRM	CRM has completed its search for records and collected approximately 1,600 potentially responsive documents. It is currently conducting a responsiveness review of those documents, and that review will be complete no later than March 3, 2023. Once this review is complete, and the number of potentially responsive pages is determined, CRM will be able to estimate a processing schedule.
EOUSA	EOUSA’s search for records is complete. EOUSA located 12,052 potentially responsive pages. EOUSA will make an initial release of records to Plaintiff on or before January 31, 2023. EOUSA anticipates monthly rolling releases of records at a rate of approximately 250 pages per month on a rolling basis.
OLC	OLC’s search for this request is underway. OLC has identified custodians and submitted the search for potentially responsive records. OLC anticipates the initial search will be completed by February 10, 2023. Once the initial search is complete, and the number of potentially responsive records is assessed, OLC will be able to estimate a processing schedule.
FBI	FBI has completed a search for records and sent its determination to Plaintiff on November 4, 2021. FBI is preparing a search summary for Plaintiff’s consideration.

4. The parties agree that an *Open America* stay is unlikely in this case.

5. The parties agree that a *Vaughn* index may be required in this case, but until the processing of Plaintiff's request for records is complete, the parties cannot say with any certainty at this time whether or not it will be required.

6. The parties agree that dispositive motion practice may be necessary to resolve this case, but that the necessity and scope of any such motion cannot be determined until processing is complete.

7. The parties propose providing a status report to the Court every sixty days to apprise the Court of the status of processing in this case. The provisions of Civil Rule 6(a)(1) shall apply when the sixty-day deadline falls on a weekend or federal holiday. On this schedule, the parties next joint status report would be due on March 20, 2023.

An appropriate proposed order is attached.

Dated: January 20, 2023

/s/Christopher Mills
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Respectfully submitted,

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