

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

JASON LEOPOLD,

and

BUZZFEED INC.,

Plaintiffs,

v.

CENTERS FOR DISEASE CONTROL AND
PREVENTION,

U.S. DEPARTMENT OF HEALTH AND
HUMAN SERVICES,

FEDERAL EMERGENCY MANAGEMENT
AGENCY,

U.S. DEPARTMENT OF HOMELAND
SECURITY,

FOOD AND DRUG ADMINISTRATION,

and

NATIONAL INSTITUTES OF HEALTH,

Defendants.

Civil Docket No. 1:20-cv-722-CKK

JOINT STATUS REPORT

The parties to this Freedom of Information Act (“FOIA”) case respectfully submit this joint status report pursuant to this Court’s Order of January 15, 2021, which directed the parties to jointly file a status report every 60 days. The parties provide the following regarding Plaintiffs’ FOIA requests:

National Institutes of Health (“NIH”). As previously reported, Plaintiffs have asked NIH to prioritize the first and third parts of their eight-part FOIA request. *See* ECF No. 15 at 2. NIH has informed Plaintiffs that it has no records responsive to the third part of their request. For those records collected in response to the first part of Plaintiffs’ request regarding Dr. Fauci’s emails, NIH has completed processing except for the email attachments or the complete email chains that Plaintiffs may request for processing.¹ *See* ECF No. 15 at 2; ECF No. 30 at 2. NIH is currently processing a batch of email attachments that Plaintiff requested for processing. Furthermore, NIH is currently preparing to conduct a search for records responsive to the first part of Plaintiffs’ request regarding Dr. Fauci’s text messages, and the parties expect to confer about the processing of the remaining six parts of Plaintiffs’ FOIA request.

Department of Health and Human Services (“HHS”). As previously reported, HHS has finished processing all records collected in response to Plaintiffs’ March 15, 2020 FOIA request, except for the 30 email attachments that Plaintiffs may request for processing.² *See* ECF No. 27 at 2. The parties have been conferring about these email attachments, and Plaintiffs expect to identify which HHS attachments they want the agency to process after NIH has completed processing the email attachments that Plaintiffs requested for processing. Furthermore, on March 15, 2023, HHS

¹ As explained in the parties’ June 5, 2020 Joint Status Report, the parties agreed to limit the first part of Plaintiffs’ FOIA request to NIH, but “Plaintiffs may specifically identify up to 150 emails from any NIH production in response to Plaintiffs’ FOIA request and request that NIH process the entirety of the thread to which such an email belongs, to the extent that thread has not already been entirely processed. Plaintiffs may also specifically identify up to 30 email attachments and request that NIH process such attachments.” ECF No. 16 at 2-3.

² As explained in the parties’ June 5, 2020 Joint Status Report, “Plaintiffs agreed to narrow their March 15, 2020 FOIA request by limiting it to the identified custodians’ sent items and excluding any attachments to those items, except for up to 30 email attachments that Plaintiffs may later specifically identify and request that HHS process.” ECF No. 16 at 3.

produced its final batch of non-exempt records responsive to Plaintiffs' March 16, 2020 FOIA request.

Food and Drug Administration ("FDA"). As previously reported, FDA produced its final batch of non-exempt records responsive to Plaintiffs' FOIA request on August 5, 2022.

Centers for Disease Control and Prevention ("CDC"). As previously reported, CDC has finished processing all records collected in response to Plaintiffs' FOIA requests, except for the 30 email attachments that Plaintiffs may request for processing.³ See ECF No. 27 at 2. The parties have been conferring about these email attachments, and Plaintiffs expect to identify which CDC attachments they want the agency to process after NIH has completed processing the email attachments that Plaintiffs requested for processing.

Department of Homeland Security ("DHS"). As previously reported, DHS has finished processing all records collected in response to Plaintiffs' FOIA request (submitted to the Federal Emergency Management Agency), except for records that the agency has referred for consultations and for which processing is not complete. The agency continues to engage in consultations with other agencies regarding records responsive to Plaintiffs' FOIA request.

* * *

Pursuant to this Court's Order of January 15, 2021, the parties intend to file a further joint status report on or before June 5, 2023.

Dated: April 6, 2023

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

³ As explained in the parties' June 5, 2020 Joint Status Report, Plaintiffs agreed to narrow the scope of the FOIA requests submitted to CDC "by limiting them to Director Redfield's sent items and excluding any attachments to those items, except for up to 30 email attachments that Plaintiffs may later specifically identify and request that CDC process." ECF No. 16 at 2.

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