

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

ELECTRONIC FRONTIER FOUNDATION,)	
)	
Plaintiff,)	
vs.)	Civil Action No. 06-cv-1773 (RBW)
)	
DEPARTMENT OF JUSTICE,)	
)	
Defendant.)	

DEFENDANT’S STATUS REPORT

This action relates to two Freedom of Information Act (FOIA) requests submitted by the plaintiff, Electronic Frontier Foundation (EFF), seeking disclosure of records pertaining to the Federal Bureau of Investigation (FBI)’s Investigative Data Warehouse (IDW), a law enforcement database “that holds hundreds of millions of records containing personal information.” See Compl. for Injunctive Relief ¶¶ 11–18 (dkt. no. 1); Answer ¶¶ 11–18 (dkt. no. 3); Defs.’ Supplemental Answer (dkt. no. 5). The Court entered orders on September 27, 2007, and March 28, 2008, requiring the defendant, the Department of Justice, to submit reports at 120-day intervals to advise the Court and the plaintiff of the defendant’s progress in responding to the plaintiff’s FOIA requests. See Order Denying Mot. for Prelim. Inj. (Sept. 27, 2007) (dkt. no. 16) at 11; Order (Mar. 28, 2008) (dkt. no. 18) at 1–2. Defendant Department of Justice submits this status report in accordance with the Court’s orders.

Since the filing of the defendant’s last status report on January 25, 2008, Defs.’ Status Report (dkt. no. 17), the FBI has made significant progress in the processing of the plaintiff’s FOIA requests. The defendant’s April 2, 2007, Motion for Open America Stay (dkt. no. 7) requested that the Court stay this litigation until February 28, 2013, based on the large volume of

documents that the FBI identified as potentially responsive to the plaintiff's FOIA requests. See Mem. of P. & A. in Supp. of Mot. for Open America Stay (dkt. no. 7) at 1–2. At that time, the FBI noted that it was working diligently to process the plaintiff's FOIA requests and expected that continued review would eliminate a significant volume of documents not responsive to the plaintiff's FOIA requests, thus significantly reducing the total time required to complete processing, though the FBI was not able at the time to estimate the savings in processing time. See Mem. of P. & A. in Supp. of Mot. for Open America Stay (dkt. no. 7) at 2. Since the filing of the defendant's last status report, the FBI has completed this initial scoping review process and, as anticipated, was able to eliminate a significant volume of nonresponsive documents. See Fourth Decl. of David M. Hardy (attached as Exhibit A) ¶ 15. The FBI now anticipates that it will be able to complete processing of the plaintiff's FOIA requests by June 9, 2008.

Since the filing of the defendant's last status report, the FBI has made two interim releases of documents, on April 8, 2008, and May 8, 2008. Decl. ¶¶ 10–11. These two interim releases together accounted for a total of 343 pages of documents reviewed and 332 pages of documents released to EFF. Decl. ¶¶ 10–11. The FBI will make a sixth release, or inform the plaintiff that responsive documents are not being released because they are exempt from FOIA, on or before June 9, 2008. See Decl. ¶ 16. The FBI anticipates that upon this sixth release, the plaintiff's FOIA requests will have been completed, and all releasable information will have been made available to the plaintiff. See Decl. ¶ 16.

Dated: May 27, 2008

Respectfully submitted,

GREGORY G. KATSAS
Acting Assistant Attorney General

JEFFREY A. TAYLOR
United States Attorney

ELIZABETH J. SHAPIRO
Assistant Branch Director

/s/ JAMES C. LUH

JAMES C. LUH

Trial Attorney

United States Department of Justice
Civil Division, Federal Programs Branch

20 Massachusetts Ave NW

Washington DC 20530

Tel: (202) 514-4938

Fax: (202) 616-8460

E-mail: James.Luh@usdoj.gov

Attorneys for Defendant