

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

PUBLIC RECORD MEDIA, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	Case No. 1:18-cv-01052-DLF
UNITED STATES DEPARTMENT OF JUSTICE,	)	
	)	
Defendant.	)	
	)	

**JOINT STATUS REPORT**

The parties, by undersigned counsel, and pursuant to the Court's order dated December 14, 2018, provide the following status report.

1. On May 25, 2017, Plaintiff submitted a FOIA request to Defendant that contained four parts and sought the following information for certain specified periods of time, as set forth more fully in the request, which is attached as Exhibit 2 to the Complaint:

- (a) Any and all DOJ policies and practices governing the use of law enforcement tools, including subpoenas, court orders, and search warrants, to obtain information or records from or concerning members of the news media in criminal and civil investigations. Time frame: July 12, 2013 – January 23, 2017.
  
- (b) Any and all correspondence and/or memoranda (in written or electronic form) relating to modifications or proposed modifications to DOJ policies and practices governing the use of law enforcement tools, including subpoenas, court orders, and search warrants, to obtain information or records from or concerning members of the news media in criminal and civil investigations. Time frame: January 23, 2017 – May 25, 2017.
  
- (c) Any and all correspondence (in written or electronic form) between staff members of the White House, including, but not limited to, staff of the Executive Office of the President and/or the President of the United

States, and staff members of your agency related to the prosecution and/or potential prosecution of journalists under the provisions of the Espionage Act (18 U.S.C. § 793). Time frame: January 23, 2017 – May 25, 2017.

- (d) Any and all memoranda and/or legal opinions (including legal opinions constituting final determination of policy and/or final opinions that are post-decisional in nature) related to the prosecution and/or potential prosecution of journalists under the provisions of the Espionage Act (18 U.S.C. § 793). Time frame: January 23, 2017 – May 25, 2017.

2. The FOIA request was submitted to the DOJ FOIA Referral Unit, which routed the request to the Office of Information Policy (OIP). Based on communications with the requester, OIP routed the request to the National Security Division (NSD) and Office of Legal Counsel (OLC), and initiated processing on behalf of the Offices of the Attorney General (OAG), Deputy Attorney General (ODAG), Associate Attorney General (OASG), and Legal Policy (OLP).

3. NSD provided its final response to the FOIA request by letter dated November 30, 2018. In that letter, NSD stated that it had located two documents responsive to the request and referred those documents to OIP. OIP states that those two referenced documents were among the documents produced to Plaintiff by OIP on November 9, 2018, in satisfaction of Part 1 of Plaintiff's request.

4. With respect to OLC and OIP, since the last status report, OIP issued, on January 31, 2019, its final response stating that it conducted its search as agreed to by the parties, and located no records responsive to Parts 2 through 4 of Plaintiff's request. Consistent with its response, OIP confirms that it is not withholding any responsive documents in full pursuant to a FOIA exemption, however certain information was redacted on behalf of other components from the documents provided to PRM on November 9, 2018. OLC issued its final response by letter dated February 13, 2019, stating that it located no responsive documents. OLC likewise is not

withholding any responsive records and found no responsive records in connection with the search that it conducted.

5. PRM has questioned the no records responses from OIP and OLC and has requested an affidavit from both OIP and OLC describing the searches that were conducted. Given what PRM contends to be evidence in the record (*see, e.g.*, Complaint at ¶¶ 7-8 and documents referenced therein) showing that the Attorney General made public statements regarding DOJ's efforts to obtain records from members of the news media, specifying areas where DOJ was seeking to make policy adjustments related to same, and that DOJ was reviewing policies that impact "leak investigations," PRM feels it is reasonable to assume that some records exist within OIP and OLC that are responsive to its FOIA request.

6. OIP and OLC have advised PRM that they are willing to provide an informal description of their search, but maintain that it would be premature to provide a formal search declaration prior to the filing of any summary judgment motions, should such motions be necessary. OIP and OLC have agreed to each provide PRM with an informal description of their search within the next 30 days.

7. Accordingly, the parties jointly request that the Court defer setting a briefing schedule at this time and that the parties file another status report on or before March 27, 2019.

Dated this 14<sup>th</sup> day of February, 2019.

Respectfully Submitted,

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