

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

NATIONAL ASSOCIATION OF CRIMINAL  
DEFENSE LAWYERS,

Plaintiff,

v.

FEDERAL BUREAU OF PRISONS

and

DEPARTMENT OF JUSTICE,

Defendants.

Civil Action No. 18-2399 (KBJ)

**NINTH JOINT STATUS REPORT**

Per the Court’s order, Plaintiff National Association of Criminal Defense Lawyers (“NACDL”) and Defendants Federal Bureau of Prisons (“BOP”) and Department of Justice (“DOJ”) respectfully submit this Ninth Joint Status Report. *See* Minute Order, Oct. 22, 2019.

**Overview**

1. At issue in this case are three Freedom of Information Act (“FOIA”) requests filed by NACDL with various of Defendants’ component offices, which the parties have called “the BOP Request,” “the Main Justice Request,” and “the EOUSA Request.” *See* Ex. A to Am. Compl., ECF No. 9-2; Ex. B to Am. Compl., ECF No. 9-3; Ex. C to Am. Compl., ECF No. 9-4; *see also* 8th Joint Status Report (“8th JSR”) ¶¶ 2–6, ECF No. 31 (describing requests and parties’ previous litigation).

2. The parties have filed eight previous Joint Status Reports that provide more detail about their negotiations and the agencies’ productions to date. *See* Joint Status Report, ECF No. 20; Joint

Status Report, ECF No. 22; 3d Joint Status Report, ECF No. 23; 4th Joint Status Report, ECF No. 24; 5th Joint Status Report, ECF No. 25; 6th Joint Status Report, ECF No. 26; 7th Joint Status Report, ECF No. 30; 8th JSR.

**Parties' Negotiations Since the Eighth Joint Status Report**

3. As discussed in the parties' Eighth Joint Status Report, the remaining outstanding productions are from the Criminal Division's search for records responsive to the Main Justice Request. *See* 8th JSR ¶ 21. In particular, the parties have been negotiating how to complete "New Search 2" and the related processing and production of responsive records. *See id.* ¶¶ 18–19.

4. Since the parties' Eighth Joint Status Report, the Criminal Division has conducted New Search 2 with agreed upon modifications. The Criminal Division ran New Search 2 within the results from Search 2 using the following search terms: (("Bureau of Prisons" OR BOP) **AND** (guidance OR policy) **AND** (inmate OR prisoner)) w/20 email.

5. New Search 2 yielded 259 documents (corresponding to 304 items), 53 discussions, 228 files, and 141 participants. The Criminal Division indicated that these potentially responsive records comprise approximately 32,700 pages.

6. The potentially responsive records must be manually deduplicated and reviewed for responsiveness. The parties believe that once that process is complete, the number of records that will be processed for production will be significantly smaller.

7. The parties have agreed that the deduplication and responsiveness review will be completed by the end of 2019.

8. The parties have further agreed that the Criminal Division will process the responsive records at a rate of 500 pages per month, and that the Criminal Division will make its next production by January 31, 2020.

**Other Productions Related to the Main Justice Request**

9. Both the BOP and EOUSA have continued making timely productions of records responsive to the Main Justice Request that were referred to them. Aside from perhaps processing referrals it may receive from other component defendants, BOP’s production is complete. The Federal Bureau of Investigation has acknowledged a referral of records made by the EOUSA related to the Main Justice Request, but has not provided a timeline for production.

**Proposed Next Step**

10. The parties propose filing another joint status report on January 6, 2020, updating the Court on the deduplication and responsiveness review results of New Search 2, as well as the parties’ assessment of the production timeline for those records.

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Respectfully submitted,

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