

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

MUSLIM ADVOCATES
P.O. Box 34440
Washington, D.C. 20043

Plaintiff,

v.

UNITED STATES DEPARTMENT OF JUSTICE
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

and

UNITED STATES IMMIGRATION AND
CUSTOMS ENFORCEMENT
500 12th Street, SW
Washington, D.C. 20024

Defendants.

CASE NO. _____

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiff Muslim Advocates brings this action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 *et seq.* for declaratory, injunctive, and other appropriate relief to compel the disclosure and release of documents from Defendants U.S. Department of Justice (“DOJ”) and U.S. Immigration and Customs Enforcement (“ICE”) (collectively, “Defendants”).

PRELIMINARY STATEMENT

1. Muslim Advocates is a not-for-profit legal advocacy and educational organization. On January 11, 2018, Plaintiff submitted a FOIA Request (the “Request”) for materials related to denaturalization efforts by the federal government, including but not limited to “Operation Janus,” a joint initiative between DOJ and the U.S. Department of Homeland Security (“DHS”), where

federal agencies reviewed the files of naturalized citizens for the purpose of identifying misrepresentations in their naturalization applications that could render American citizens eligible for denaturalization. The Request was sent to the DOJ's National Security Division ("NSD"), DOJ's Civil Division ("Civil Division"), DHS, and DHS's component agency, the U.S. Citizenship and Immigration Services ("USCIS"). *See* Ex. A. On January 25, 2018 DHS referred the Request to its component agency, ICE. On February 13, 2018, Muslim Advocates submitted a revised FOIA request to ICE after the agency requested clarification on the scope of the request (hereinafter, the "Second ICE Request"). *See* Ex. C.

2. As of this filing, Defendants have wholly failed to comply with their obligations under FOIA: Defendant DOJ wrongfully denied Plaintiff's Request and has thereafter failed to adjudicate Plaintiff's administrative appeal of the Civil Division's denial within the time limit. Defendant ICE has outright refused to process either Muslim Advocates' initial Request or the Second ICE Request and has likewise failed to respond to any appeals. To date, neither of the Defendants have produced a single document in response to Plaintiff's FOIA requests.¹

3. The interests at stake in government transparency on the issue of denaturalization could not be more important. An aggressive pursuit of denaturalization by the federal government is unprecedented in recent history and has the potential to disrupt thousands of U.S. citizen lives and families.² The documents and information Muslim Advocates seeks would help provide much-

¹ Neither NSD nor USCIS are named in this action. NSD issued a final determination on Muslim Advocates' request on July 6, 2018. Muslim Advocates is currently in discussions with USCIS regarding the production of responsive documents.

² *See, e.g.,* Adiel Kaplan, *Miami grandma targeted as U.S. takes aim at naturalized immigrants with prior offenses*, MIAMI HERALD (July 9, 2018); Masha Gessen, *In America, Naturalized Citizens No Longer Have an Assumption of Permanence*, THE NEW YORKER (June 18, 2018).

needed transparency with respect to the means, ends, and enforcement patterns of the government's ongoing denaturalization efforts.

4. Plaintiff brings this action to compel Defendants to immediately process and release to Plaintiff all responsive records that they have unlawfully withheld.

JURISDICTION AND VENUE

5. This Court has original jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1346. This Court also has subject matter jurisdiction over this action and personal jurisdiction over all parties pursuant to 5 U.S.C. § 552(a)(4)(B).

6. Venue is proper in this District pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e), because a substantial portion of the events giving rise to this action occurred in this District, and because Defendants maintain records and information subject to the Requests in this District.

PARTIES

7. Plaintiff Muslim Advocates is a non-profit organization with offices in Washington, D.C. and Oakland, California that works to ensure civil rights for Americans of all faiths through legal advocacy, litigation, policy engagement, and civic education. Muslim Advocates also regularly disseminates information to the public through its website, social media platforms, and email distribution lists. Muslim Advocates is a "person" within the meaning of 5 U.S.C. § 551(2).

8. Defendant U.S. Department of Justice is the United States agency responsible for the enforcement of law and in particular, the prosecution of civil denaturalization suits. The Civil Division is a component of DOJ and a direct recipient of the Request at issue. The Civil Division litigates cases related to immigration enforcement on behalf of the United States, including

prosecuting denaturalization lawsuits. DOJ has possession of and control over the documents and information requested by Plaintiff.

9. Defendant Immigration and Customs Enforcement is a component of the U.S. Department of Homeland Security and an “agency” within the meaning of 5 U.S.C. § 552(f)(1). ICE is the component agency of DHS that enforces U.S. immigration law. ICE has possession of and control over the documents and information requested by Plaintiff.

STATUTORY BACKGROUND

10. The Freedom of Information Act provides that any member of the public may request records from a United States agency. Upon receipt of a FOIA request, an agency must determine within 20 business days—or, in “unusual circumstances,” by 30 business days—whether it will comply with a request and notify the requestor of its determination and reasoning in writing. 5 U.S.C. § 552(a)(6)(A)(i)-(B)(i). This determination must also timely indicate the scope of the documents the agency intends to produce and the exemptions, if any, that it will apply to withhold documents.

11. In response to a FOIA request, an agency, after engaging in a reasonable search for responsive records, including of any field offices that may possess relevant materials, must disclose in a timely manner all records that do not fall within nine narrowly construed statutory exemptions. 5 U.S.C. § 552 (a)(3)(A), (C), (b)(1)-(9).

12. Typically, a requester under FOIA must appeal agency action administratively before commencing litigation. However, if the agency has failed to abide by its obligations and issue a determination on the request or a determination on an administrative appeal within the statutory timeframe, the administrative appeal process is considered exhausted. 5 U.S.C. § 552(a)(6)(C)(i).

13. Upon complaint, a district court can enjoin an agency from withholding records and order production of records improperly withheld. 5 U.S.C. § 552(a)(4)(B).

FACTUAL BACKGROUND

14. Historically, denaturalization has been used sparingly and almost exclusively against perpetrators of war crimes, such as members of the Schutzstaffel (“SS”), Nazi concentration camp guards, and other genocidaires who lied on their U.S. immigration documentation.³ However, systematic denaturalization has come to the fore occasionally: during the Red Scare, the government initiated a program of denaturalization proceedings against suspected Communists.⁴ Likewise, during World War II, DOJ pursued denaturalization against German Americans and against Indian Americans following the Supreme Court’s 1923 decision in *United States v. Thind*, which held that Indians were ineligible for citizenship because of their race.⁵

15. Seventy years after the Red Scare, the federal government has mounted a concerted campaign to increase the use of denaturalization to strip foreign-born U.S. citizens of their citizenship and deport them, regardless of how long they have resided in the country and the families and lives they have built.

³ See, e.g., Linda Greenhouse, *Justices Revoke U.S. Citizenship of a Nazi Guard*, N.Y. TIMES (Jan. 22, 1981), at A1, available at <https://www.nytimes.com/1981/01/22/us/justices-revoke-us-citizenship-of-a-nazi-guard.html>.

⁴ Ruth Ellen Wasem, *Trump administration now has naturalized citizens in its sights*, THE HILL (July 17, 2018), <http://thehill.com/opinion/immigration/396923-trump-administration-now-has-naturalized-citizens-in-its-sights>.

⁵ See Kritika Agarwal, *Stripping Naturalized Immigrants of Their Citizenship Isn’t New*, SMITHSONIAN MAG (Jul. 24, 2018), <https://www.smithsonianmag.com/history/stripping-naturalized-immigrants-their-citizenship-isnt-new-180969733/>.

16. In 2016, DHS launched Operation Janus, an effort coordinated with DOJ, where immigration agencies reviewed the files of hundreds of thousands of naturalized citizens. Through Operation Janus, DHS identified 315,000 cases where “some fingerprint data was missing from the centralized digital fingerprint repository.”⁶

17. The current administration has increased and intensified these denaturalization efforts.

18. On September 19, 2017, DOJ announced that it had filed “denaturalization complaints” in the Middle District of Florida, District of Connecticut, and District of New Jersey, alleging that each defendant had obtained his U.S. citizenship fraudulently.⁷ The defendants are two men of Pakistani origin and one man of Indian origin.⁸ Each of these cases were referred to DOJ for prosecution as a result of Operation Janus. According to the DOJ press release, these cases resulted from “an ongoing collaboration between [DHS and DOJ] to investigate and seek denaturalization proceedings...”⁹ On January 5, 2018, a judge in the District Court of New Jersey ordered a citizen denaturalized as part of Operation Janus.¹⁰

19. Those prosecutions are the tip of the iceberg. In January 2018, DOJ announced in that USCIS intends to refer approximately 1,600 cases to DOJ for prosecution.¹¹ As part of this

⁶ Press Release, Dep’t of Justice Off. Pub. Affairs, *Justice Department Secures First Denaturalization As a Result of Operation Janus* (Jan. 9, 2018), <https://www.justice.gov/opa/pr/justice-department-secures-first-denaturalization-result-operation-janus>.

⁷ Press Release, Dep’t of Justice Off. Pub. Affairs, *United States Files Denaturalization Complaints in Florida, Connecticut and New Jersey Against Three Individuals Who Fraudulently Naturalized After Having Been Ordered Deported Under Different Identities* (Sept. 19, 2017), <https://www.justice.gov/opa/pr/united-states-files-denaturalization-complaints-florida-connecticut-and-new-jersey-against>.

⁸ *Id.*

⁹ *Id.*

¹⁰ Press Release, Dep’t of Justice Off. Pub. Affairs, *supra* note 6.

¹¹ *Id.*

growing, coordinated interagency effort, in June 2018, DHS announced the institution of a new office within USCIS dedicated to reviewing and referring cases to DOJ for denaturalizing and deporting U.S. citizens.¹²

20. Transparency about this initiative is of the utmost concern to the American public. As of 2015, there are 19.8 million naturalized U.S. citizens, with 500,000 to 750,000 new citizens naturalized each year. The growing government policy of actively seeking denaturalization of everyday Americans effectively renders naturalized citizens “second-class”¹³ and has the potential to disrupt lives and families in violent and unpredictable ways. This effort is therefore of exceptional importance to these citizens, their families, their communities, and the American public at large.

A. PLAINTIFF’S FOIA REQUESTS

21. Plaintiff submitted the Request to NSD, the Civil Division, DHS, and USCIS on January 11, 2018. *See* Ex. A.

22. The Request seeks records concerning policies and procedures relating to how DHS and its component agencies, including USCIS, identify denaturalization cases and refer them to DOJ for prosecution, interagency guidance shared between DHS, USCIS, and/or DOJ pertaining to denaturalization complaints and/or Operation Janus, and DOJ guidance and memoranda regarding denaturalization complaints and Operation Janus. The Request further seeks non-identifying information reflecting the countries of origin and/or ethnic background of individuals identified as candidates for denaturalization complaints.

¹² Nicole Rojas, *New USCIS Office Aims to Strip U.S. Citizenship from Naturalized Americans for Lying on Application*, NEWSWEEK (June 13, 2018), available at <http://www.newsweek.com/new-uscis-office-aims-strip-us-citizenship-naturalized-americans-lying-975484>.

¹³ Gessen, *supra* note 2.

23. Muslim Advocates sought a determination on the Request within ten calendar days pursuant to 28 C.F.R. § 16.5(d)(4). Muslim Advocates also sought a fee waiver pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II), (iii) because disclosure of documents pertaining to denaturalization and Operation Janus is in the public interest and because Muslim Advocates is a member of the news media. *See* Ex. B.

B. AGENCY RESPONSE AND EXHAUSTION OF ADMINISTRATIVE REMEDIES

1. Defendant DOJ's Response

24. On January 18, 2018, DOJ's Civil Division sent a letter via email acknowledging receipt of the Request in their office on January 11, 2018. *See* Ex. B. The letter denied expedited processing. It also found that Muslim Advocates is a member of the news media and reserved decision on the grant of a full fee waiver until after it processed the request. Under 5 U.S.C. § 552(a)(6)(B)(iii)(I), the Civil Division invoked a 10-day extension beyond the typical 20-day statutory limit to respond to Plaintiff's Request.

25. The following day, on January 19, 2018, the Civil Division sent a letter via email to Plaintiff denying in full Plaintiff's request for records related to Operation Janus, invoking 5 U.S.C. § 552(b)(7)(A) ("Exemption 7(A)"), claiming that the records had been compiled for law enforcement purposes the release of which would be "reasonably expected" to interfere with enforcement. The Civil Division further invoked 5 U.S.C. § 552(b)(7)(E) ("Exemption 7(E)"), claiming that the requested documents would disclose law enforcement investigation and prosecution techniques and procedures. *See id.* The Civil Division letter was conclusory and provided no description of the relevant law enforcement investigation and prosecution techniques and procedures. The Civil Division did not explain why all of the documents were covered by the

claimed exemptions or how their disclosure would present a risk of circumvention of the law.¹⁴ As such, the Civil Division's withholding of responsive documents was improper.

26. This letter advised Plaintiff that they could file an administrative appeal to OIP within ninety days of this determination.

27. On January 29, 2018, in light of this complete denial, Plaintiff sent a letter to the Civil Division requesting a *Vaughn* Index, in which the government provides an itemized index of the withheld portions of documents justifications for each withheld document. *See Vaughn v. Rosen*, 484 F.2d 820, 827 (D.C. Cir. 1973).

28. The Civil Division did not respond to this request.

29. On April 5, 2018, Plaintiff timely submitted an administrative appeal of the Civil Division's denial to DOJ's Office of Information Policy ("OIP"). OIP was required to respond to this appeal within 20 days. 5 U.S.C. § 552(a)(6)(A)(ii).

30. On April 18, 2018, Muslim Advocates received a letter from OIP stating that the appeal had been received in their office on April 9, 2018.

31. Accordingly, a response on this appeal was due to Muslim Advocates by April 30, 2018.

32. As of this filing, Plaintiff has not received the required determination from OIP regarding its appeal of the Civil Division's determination. Undersigned counsel called OIP on June

¹⁴ *See, e.g., N.L.R.B v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 235 (1978) ("Where an agency fails to demonstrat[e] that the . . . documents [sought] relate to any ongoing investigation or . . . would jeopardize any future law enforcement proceedings, Exemption 7(A) would not provide protection to the agency's decision.") (internal quotation marks omitted); *See PHE, Inc. v. Dep't of Justice*, 983 F.2d 248, 250 (D.C. Cir. 1993) ("An agency that chooses to withhold requested information bears the burden of justifying its decision.").

19, 2018 and was told by an agency official that there are no updates on the status of Muslim Advocates' appeal.

33. A complete copy of Muslim Advocates' correspondence with DOJ is attached hereto as Exhibit B.

2. Defendant ICE's Response

34. On January 25, 2018, DHS informed Muslim Advocates by letter sent via email that they had transferred the Request to Defendant ICE. *See Ex. C.*

35. On February 7, 2018, ICE sent a letter via email acknowledging receipt of the Request in their office on January 25, 2018.

36. On February 5, 2018, the ICE FOIA Office acknowledged receipt of the Request, invoking a 10-day extension and granting Muslim Advocates' request for a fee waiver.

37. On February 9, 2018, ICE sent a boilerplate letter to Muslim Advocates stating that the Request submitted was "too broad in scope, did not specifically identify the records which you are seeking, or only posed questions to the agency" and that accordingly, ICE refused to process the Request.

38. Even though the original letter was appropriately specific, Muslim Advocates, in response to ICE's letter, submitted a revised version of its FOIA request, augmenting it with further detail. ICE failed to respond to the Second ICE Request for over a month.

39. On March 6, 2018, Muslim Advocates emailed the ICE FOIA Office seeking confirmation of receipt of the Second ICE Request and stating that FOIA required a determination by March 14, 2018 or 20 business days after the revised request was submitted.

40. On March 15, 2018, the ICE FOIA Office sent a response to the Second ICE Request, claiming that the Second ICE Request submitted on February 13, 2018 was received in

their office over a month later on March 15, 2018. The ICE FOIA Office claimed once more in a boilerplate letter that the Second ICE Request was “too broad in scope, did not specifically identify the records which you are seeking, or only posed questions to the agency.”

41. Plaintiff’s Second ICE Request sought a narrow subset of records pertaining to denaturalization and Operation Janus, listing specific types of records sought, and posed no questions to ICE.

42. ICE’s categorical denials of Muslim Advocates’ Requests obstruct public access to agency records and are squarely at odds with the purpose of FOIA.

43. On April 16, 2018, Muslim Advocates timely appealed the ICE FOIA Office’s refusal to respond to the Second ICE Request to ICE’s Office of the Principal Legal Advisor in the Government Information Law Division, explaining that courts have repeatedly held that agencies have a duty to construe FOIA requests liberally and that a refusal to do so violates FOIA. *See* Ex. C. Muslim Advocates also cited to ICE’s duty under FOIA to exert a “reasonable amount of effort” and utilize “common sense” when interpreting FOIA requests.

44. Under the statutory 20-day time limit for responding to an appeal, ICE’s determination with respect to Muslim Advocates’ appeal was due by May 7, 2018.

45. As of the date of this filing, over three months after that deadline, the Office of the Principal Legal Advisor has neither responded to the appeal nor issued a determination.

46. A complete copy of Muslim Advocates’ correspondence with ICE is attached hereto as Exhibit C.

3. Exhaustion of Administrative Remedies

47. Despite their clear obligations under FOIA, Defendants have not provided any substantive determination in response to the Requests or appeals submitted nor released any records responsive to the Requests within the statutory timeframe.

48. OIP has failed to timely adjudicate Muslim Advocates' appeal of DOJ – Civil Division's invocation of Exemptions 7(A) and 7(E).

49. ICE has wholesale and improperly refused to process Plaintiff's Requests. The Government Information Law Division has failed to timely adjudicate Muslim Advocates' appeal of ICE's refusal to process the Second ICE Request.

50. Because Defendants have not complied with the statutory time limits set forth in the FOIA statute, Plaintiff's administrative remedies are considered exhausted under 5 U.S.C. § 552(a)(6)(C)(i). *See Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1310 (D.C. Cir. 2003).

CAUSES OF ACTION

FIRST CAUSE OF ACTION

Violation of the Freedom of Information Act 5 U.S.C. § 552(a) Against DOJ

51. Plaintiff repeats and realleges the allegations in the foregoing paragraphs as if set forth fully herein.

52. Defendant DOJ has violated 5 U.S.C. § 552(a)(6)(A) and applicable regulations promulgated thereunder by improperly withholding documents from Plaintiff without providing reasons for its determination.

53. 5 U.S.C. § 552(a)(4)(B) authorizes the grant of injunctive relief to Plaintiff because Defendant DOJ continues to flout FOIA and improperly withhold agency records. Defendant DOJ's refusal to reach a determination on Plaintiff's Request and release responsive documents prevents Plaintiff from properly advising impacted individuals and from educating the public about Operation Janus and other denaturalization efforts. Defendant DOJ's withholding of responsive documents will continue to cause Plaintiff irreparable injury.

54. 28 U.S.C. § 2201 authorizes declaratory relief because an actual and justiciable controversy exists regarding Defendant's improper withholding of agency records in violation of FOIA.

SECOND CAUSE OF ACTION
Violation of the Freedom of Information Act
5 U.S.C. § 552(a)
Against ICE

55. Plaintiff repeats and realleges the allegations in the foregoing paragraphs as if set forth fully herein.

56. Defendant ICE has violated 5 U.S.C. § 552(a)(6) by inappropriately refusing to process Plaintiff's proper requests and by failing to make a determination on Plaintiff's appeal within 20 days.

57. Defendant ICE's failure to timely release agency records in response to Plaintiff's Request and Second ICE Request violates 5 U.S.C. § 552(a)(3)(A).

58. Defendant ICE has violated 5 U.S.C. § 552(a)(3)(C)-(D) by failing to make reasonable efforts to search for records responsive to Plaintiff's requests to ICE.

59. 5 U.S.C. § 552(a)(4)(B) authorizes the grant of injunctive relief to Plaintiff because Defendant ICE continues to flout FOIA and improperly withhold agency records. Defendant ICE's refusal to reach a determination on Plaintiff's Request and release responsive documents prevents

Plaintiff from properly advising impacted individuals and educating the public about the ramifications of Operation Janus and other denaturalization programs. Therefore, Plaintiff will continue to suffer irreparable injury from Defendant ICE's withholding of government documents subject to Plaintiff's Request to ICE in defiance of FOIA mandates.

60. 28 U.S.C. § 2201 authorizes declaratory relief because an actual and justiciable controversy exists regarding Defendant's improper withholding of agency records in violation of FOIA.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Muslim Advocates respectfully prays that this Court:

- A. Enter judgment that Defendants DOJ – Civil Division and ICE's failure to timely adjudicate Plaintiff's administrative appeals violates FOIA;
- B. Enter judgment that Defendants' unlawful withholding of the records requested violates FOIA;
- C. Enter an order requiring Defendants to immediately release any and all responsive, non-exempt records or reasonably segregable portions of records to Plaintiff;
- D. Enter an order requiring Defendant DOJ – Civil Division to immediately release a *Vaughn* Index of any responsive records withheld;
- E. Award Plaintiff their reasonable costs and attorneys' fees pursuant to 5 U.S.C. § 552(a)(4)(E); and
- F. Award such other further relief as the Court may deem just and proper.

DATED: August 23, 2018

Respectfully submitted,

/s/ Johnathan Smith

Johnathan Smith (D.C. Bar No. 1029373)

Sirine Shebaya (D.C. Bar No. 1019748)

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** application for pro hac vice admission forthcoming*

^oadmitted in New York only; supervised by members of the D.C. Bar

Exhibit A



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January 11, 2018

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Lee's Summit, MO 64064-8010

Re: Freedom of Information Act Request

To Whom It May Concern:

This is a request under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, *et seq.* submitted on behalf of Muslim Advocates. We ask that this request be expedited pursuant to 5 U.S.C. § 552(a)(6)(E) and that Muslim Advocates be granted a fee waiver. We also ask that you refer the requests contained herein to any other component agency of the U.S. Department of Homeland Security ("DHS") or the U.S. Department of Justice ("DOJ") as appropriate.



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Background

Governmental agencies have in the last year commenced a more targeted program of denaturalization of citizens. In March 2017, DOJ announced that it had filed a denaturalization lawsuit against a naturalized citizen of Pakistani origin who had been convicted of providing material support to al-Qaeda.¹ DOJ stated that it would pursue denaturalization proceedings against known or suspected terrorists who had “procured their citizenship by fraud.”² On September 19, 2017, DOJ announced that it had filed “denaturalization complaints” in the Middle District of Florida, District of Connecticut, and District of New Jersey, alleging that each defendant had obtained his naturalized U.S. citizenship fraudulently.³ The defendants are two men of Pakistani origin and one man of Indian origin.⁴ DHS and United States Citizenship and Immigration Services (“USCIS”) identified these cases through Operation Janus, which DOJ stated identified 315,000 cases “where some fingerprint data was missing from the centralized digital fingerprint repository.”⁵ According to the DOJ press release, these cases resulted from “an ongoing collaboration between [DHS and DOJ] to investigate and seek denaturalization proceedings....”⁶ On January 5, 2018, a judge in the District Court of New Jersey ordered a citizen denaturalized as part of Operation Janus.⁷ USCIS has dedicated a team to review the Operation Janus cases and intends to refer approximately 1,600 cases for prosecution.⁸

Muslim Advocates seeks records pertaining to Operation Janus and any other coordinated denaturalization efforts in order to understand and explain to the public the means and ends of the government’s denaturalization efforts.

¹ Press Release, Dep’t of Justice Off. of Pub. Affairs, *Denaturalization Lawsuit Filed Against Convicted Al Qaeda Conspirator Residing In Illinois* (Mar. 20, 2017), <https://www.justice.gov/opa/pr/denaturalization-lawsuit-filed-against-convicted-al-qaeda-conspirator-residing-illinois>.

² *Id.*

³ Press Release, Dep’t of Justice Off. of Pub. Affairs, *United States Files Denaturalization Complaints in Florida, Connecticut and New Jersey Against Three Individuals Who Fraudulently Naturalized After Having Been Ordered Deported Under Different Identities* (Sept. 19, 2017), <https://www.justice.gov/opa/pr/united-states-files-denaturalization-complaints-florida-connecticut-and-new-jersey-against>.

⁴ *Id.*

⁵ *Id.*; Press Release, Dep’t of Justice Off. of Pub. Affairs, *Justice Department Secures First Denaturalization As a Result of Operation Janus* (Jan. 9, 2018), <https://www.justice.gov/opa/pr/justice-department-secures-first-denaturalization-result-operation-janus>.

⁶ Press Release, Dep’t of Justice Off. of Pub. Affairs, *supra* note 3.

⁷ Press Release, Dep’t of Justice Off. of Pub. Affairs, *supra* note 5.

⁸ *Id.*



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Records Requested

For the purposes of this Request, “Record” means a record in the broadest sense possible and includes, without limitation, everything tangible, electronic, or digital containing a datum, number, photograph, picture, word, or any other information, including, but not limited to, communications between phones or other electronic devices, emails, digital or physical images, video, audio recordings, voicemail messages, social media posts, instructions, directives, guidance documents, formal and informal presentations, training documents, bulletins, notices, alerts, updates, advisories, reports, legal and policy memoranda, contracts, agreements, minutes or notes of meetings and phone calls, and memoranda of understanding.

Muslim Advocates seeks release of the following:

1. Policies, practices, guidance, memoranda, communications, and procedures pertaining to the processes by which DHS and USCIS identify denaturalization cases and refer them to DOJ for prosecution;
2. Interagency guidance, policies, practices, memoranda, and communications shared between DHS, USCIS, and/or DOJ relating to denaturalization complaints and/or Operation Janus.
3. DOJ policies, practices, guidance, memoranda, communications, and procedures relating to the goals and methods of denaturalization complaints generally and Operation Janus specifically; and
4. Non-identifying information that reflects country of origin and/or ethnic background of individuals identified as candidates for denaturalization complaints by governmental agencies.

Application for Waiver of Fees

Muslim Advocates requests a waiver of document search, review, and duplication fees on the grounds that disclosure is in the public interest because it is “likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii). Muslim Advocates is a non-profit civil rights and advocacy organization that focuses on issues of particular relevance to



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the Muslim and immigrant communities.¹ The requested records detail the development of Operation Janus and the policies and procedures by which DHS, USCIS, and DOJ select and undertake denaturalization complaints. Members of the American public, particularly Muslim Americans, immigrants, and naturalized citizens, have a significant and urgent interest in knowing the aims and procedures around denaturalization efforts, including Operation Janus, and how it may affect their communities and their lives.

Even if a waiver is not granted, fees should be “limited to reasonable standard charges for document duplication” because Muslim Advocates is a “representative of the news media” and the records are not sought for commercial use. 5 U.S.C. § 552(4)(A)(ii)(II). Other organizations similar to Requestor in mission, function, and educational activities have been found by courts to be representatives of the news media. *See Elec. Privacy Info. Ctr. v. Dep’t of Defense*, 241 F. Supp. 2d 5, 10–15 (D.D.C. 2003) (a non-profit educational organization qualified under the news media category); *Nat’l Sec. Archive v. Dep’t of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989) (a non-profit research organization qualified under the news media category).

Finally, Muslim Advocates does not seek to use the information requested for commercial use, 22 C.F.R. § 171.16(a)(2), and does not have a commercial interest that the disclosure would advance. Instead, Muslim Advocates’ primary interest in the disclosure of information is to educate the public and advocate for the rights of Americans to be free from racial and religious profiling. § 171.16(a)(2)(i)-(ii).

Response Requested in 10 days

Your attention to this request is appreciated and Muslim Advocates anticipates your determination of our request within ten (10) calendar days pursuant to 28 C.F.R. § 16.5(d)(4).

To the extent that our Request encompasses records responsive or potentially responsive to the Request that have been destroyed, our Request should be interpreted to include, but is not limited to, any and all records relating or referring to the destruction of those records. This includes, but is not limited to, any and all records relating or referring to the events leading to the destruction of those records.

With respect to the form of production, see 5 U.S.C. § 552(a)(3)(B), we request that responsive electronic records be provided electronically in their native file format, if possible. Alternatively, we request that the records be provided electronically in a text-searchable, static-

¹ *About*, MUSLIM ADVOCATES, <https://www.muslimadvocates.org/about/>.



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image format (e.g., PDF), in the best image quality in the agency's possession, and that the records be provided in separate, Bates-stamped files.

If you have any questions concerning this request, you may contact me at nimra@muslimadvocates.org or at (202) 897-2564.

Very truly yours,

A handwritten signature in black ink, appearing to read "Nimra Azmi".

Nimra Azmi

Exhibit B

 muslim **advocates**



www.muslimadvocates.org



@muslimadvocates



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January 11, 2018

Arnetta Mallory
FOIA Initiatives Coordinator
National Security Division
Department of Justice
Room 6150, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Hirsh D. Kravitz
FOIA, Records, and E-Discovery Office
Civil Division
Department of Justice
Room 8020
1100 L Street, NW
Washington, DC 20530-0001

Sam Kaplan
Chief Privacy Officer/Chief FOIA Officer
The Privacy Office
U.S. Department of Homeland Security
245 Murray Lane, SW
STOP-0655
Washington, D.C. 20528-0655

U.S. Citizenship and Immigration Services
National Records Center, FOIA/PA Office
P.O. Box 648010
Lee's Summit, MO 64064-8010

Re: Freedom of Information Act Request

To Whom It May Concern:

This is a request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, *et seq.* submitted on behalf of Muslim Advocates. We ask that this request be expedited pursuant to 5 U.S.C. § 552(a)(6)(E) and that Muslim Advocates be granted a fee waiver. We also ask that you refer the requests contained herein to any other component agency of the U.S. Department of Homeland Security (“DHS”) or the U.S. Department of Justice (“DOJ”) as appropriate.

Background

Governmental agencies have in the last year commenced a more targeted program of denaturalization of citizens. In March 2017, DOJ announced that it had filed a denaturalization lawsuit against a naturalized citizen of Pakistani origin who had been convicted of providing material support to al-Qaeda.¹ DOJ stated that it would pursue denaturalization proceedings against known or suspected terrorists who had “procured their citizenship by fraud.”² On September 19, 2017, DOJ announced that it had filed “denaturalization complaints” in the Middle District of Florida, District of Connecticut, and District of New Jersey, alleging that each defendant had obtained his naturalized U.S. citizenship fraudulently.³ The defendants are two men of Pakistani origin and one man of Indian origin.⁴ DHS and United States Citizenship and Immigration Services (“USCIS”) identified these cases through Operation Janus, which DOJ stated identified 315,000 cases “where some fingerprint data was missing from the centralized digital fingerprint repository.”⁵ According to the DOJ press release, these cases resulted from “an ongoing collaboration between [DHS and DOJ] to investigate and seek denaturalization proceedings....”⁶ On January 5, 2018, a judge in the District Court of New Jersey ordered a citizen denaturalized as part of Operation Janus.⁷ USCIS has dedicated a team to review the Operation Janus cases and intends to refer approximately 1,600 cases for prosecution.⁸

Muslim Advocates seeks records pertaining to Operation Janus and any other coordinated denaturalization efforts in order to understand and explain to the public the means and ends of the government’s denaturalization efforts.

¹ Press Release, Dep’t of Justice Off. of Pub. Affairs, Denaturalization Lawsuit Filed Against Convicted Al Qaeda Conspirator Residing In Illinois (Mar. 20, 2017), <https://www.justice.gov/opa/pr/denaturalization-lawsuit-filed-against-convicted-al-qaeda-conspirator-residing-illinois>.

² *Id.*

³ Press Release, Dep’t of Justice Off. of Pub. Affairs, United States Files Denaturalization Complaints in Florida, Connecticut and New Jersey Against Three Individuals Who Fraudulently Naturalized After Having Been Ordered Deported Under Different Identities (Sept. 19, 2017), <https://www.justice.gov/opa/pr/united-states-files-denaturalization-complaints-florida-connecticut-and-new-jersey-against>.

⁴ *Id.*

⁵ *Id.*; Press Release, Dep’t of Justice Off. of Pub. Affairs, *Justice Department Secures First Denaturalization As a Result of Operation Janus* (Jan. 9, 2018), <https://www.justice.gov/opa/pr/justice-department-secures-first-denaturalization-result-operation-janus>.

⁶ Press Release, Dep’t of Justice Off. of Pub. Affairs, *supra* note 3.

⁷ Press Release, Dep’t of Justice Off. of Pub. Affairs, *supra* note 5.

⁸ *Id.*

Records Requested

For the purposes of this Request, “Record” means a record in the broadest sense possible and includes, without limitation, everything tangible, electronic, or digital containing a datum, number, photograph, picture, word, or any other information, including, but not limited to, communications between phones or other electronic devices, emails, digital or physical images, video, audio recordings, voicemail messages, social media posts, instructions, directives, guidance documents, formal and informal presentations, training documents, bulletins, notices, alerts, updates, advisories, reports, legal and policy memoranda, contracts, agreements, minutes or notes of meetings and phone calls, and memoranda of understanding.

Muslim Advocates seeks release of the following:

1. Policies, practices, guidance, memoranda, communications, and procedures pertaining to the processes by which DHS and USCIS identify denaturalization cases and refer them to DOJ for prosecution;
2. Interagency guidance, policies, practices, memoranda, and communications shared between DHS, USCIS, and/or DOJ relating to denaturalization complaints and/or Operation Janus.
3. DOJ policies, practices, guidance, memoranda, communications, and procedures relating to the goals and methods of denaturalization complaints generally and Operation Janus specifically; and
4. Non-identifying information that reflects country of origin and/or ethnic background of individuals identified as candidates for denaturalization complaints by governmental agencies.

Application for Waiver of Fees

Muslim Advocates requests a waiver of document search, review, and duplication fees on the grounds that disclosure is in the public interest because it is “likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii). Muslim Advocates is a non-profit civil rights and advocacy organization that focuses on issues of particular relevance to



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the Muslim and immigrant communities.¹ The requested records detail the development of Operation Janus and the policies and procedures by which DHS, USCIS, and DOJ select and undertake denaturalization complaints. Members of the American public, particularly Muslim Americans, immigrants, and naturalized citizens, have a significant and urgent interest in knowing the aims and procedures around denaturalization efforts, including Operation Janus, and how it may affect their communities and their lives.

Even if a waiver is not granted, fees should be “limited to reasonable standard charges for document duplication” because Muslim Advocates is a “representative of the news media” and the records are not sought for commercial use. 5 U.S.C. § 552(4)(A)(ii)(II). Other organizations similar to Requestor in mission, function, and educational activities have been found by courts to be representatives of the news media. *See Elec. Privacy Info. Ctr. v. Dep’t of Defense*, 241 F. Supp. 2d 5, 10–15 (D.D.C. 2003) (a non-profit educational organization qualified under the news media category); *Nat’l Sec. Archive v. Dep’t of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989) (a non-profit research organization qualified under the news media category).

Finally, Muslim Advocates does not seek to use the information requested for commercial use, 22 C.F.R. § 171.16(a)(2), and does not have a commercial interest that the disclosure would advance. Instead, Muslim Advocates’ primary interest in the disclosure of information is to educate the public and advocate for the rights of Americans to be free from racial and religious profiling. § 171.16(a)(2)(i)-(ii).

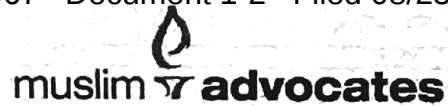
Response Requested in 10 days

Your attention to this request is appreciated and Muslim Advocates anticipates your determination of our request within ten (10) calendar days pursuant to 28 C.F.R. § 16.5(d)(4).

To the extent that our Request encompasses records responsive or potentially responsive to the Request that have been destroyed, our Request should be interpreted to include, but is not limited to, any and all records relating or referring to the destruction of those records. This includes, but is not limited to, any and all records relating or referring to the events leading to the destruction of those records.

With respect to the form of production, see 5 U.S.C. § 552(a)(3)(B), we request that responsive electronic records be provided electronically in their native file format, if possible. Alternatively, we request that the records be provided electronically in a text-searchable, static-

¹ *About*, MUSLIM ADVOCATES, <https://www.muslimadvocates.org/about/>.



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image format (e.g., PDF), in the best image quality in the agency's possession, and that the records be provided in separate, Bates-stamped files.

If you have any questions concerning this request, you may contact me at nimra@muslimadvocates.org or at (202) 897-2564.

Very truly yours,

A handwritten signature in cursive script that reads "Nimra Azmi".

Nimra Azmi



U.S. Department of Justice

Civil Division

Via Email

Washington, DC 20530
January 18, 2018

Ms. Nimra Azmi
Muslim Advocates
P.O. Box 66408
Washington, D.C. 20035
nimra@muslimadvocates.org

FOIA Request No. 145-FOI-15926
HDK

Dear Ms. Azmi:

This letter acknowledges that on January 17, 2018, the Civil Division received your January 11, 2018 Freedom of Information Act (FOIA) request in which you requested expedited processing of your request for records related to Operation Janus.

In your request letter, you request expedited treatment pursuant to 5 U.S.C. § 552(a)(6)(E). After carefully considering your request, I am denying your request for expedited treatment. Requesters seeking expedited treatment are required to submit a statement explaining in detail the basis for their request for such treatment. See 28 C.F.R. § 16.5(e)(3) (2015). This statement must be certified to be true and correct. See id.; see also 5 U.S.C. § 552(a)(6)(E)(vi). You have not provided such a statement nor have you established that your request fits within any of the four Department of Justice standards for expedited treatment. Rather, you simply state that you “request expedited treatment pursuant to 5 U.S.C. § 552(a)(6)(E).” Other than this statement, your request letter fails to address expedited processing and does not provide any basis upon which to grant expedited treatment of your request. Accordingly, I have determined that you failed to meet your burden under any standard for expedited processing. If you choose to provide the required certified explanation of the basis for seeking expedited treatment, I will make a decision under the appropriate standard.

Please be advised that your request has been assigned to a Government Information Specialist in this Office and a records search has been initiated in the Civil Division. The records you seek require a search in another Office in the Division, and so your request presents “unusual circumstances” under the FOIA. See 5 U.S.C. § 552(a)(6)(B)(iii)(I). Because of these unusual circumstances, we are extending the time limit to respond to your request beyond the ten additional days provided by the statute. We have not completed a search to determine whether there are records within the scope of your request. The time needed to process your request will depend on the complexity of our records search and on the volume and complexity of any records located. For your information, this Office assigns incoming requests to one of three tracks: simple, complex, or expedited. Simple requests usually receive a response in approximately one month, whereas complex requests necessarily take longer. At this

time your request has been assigned to the complex track. You may wish to narrow the scope of your request to limit the number of potentially responsive records or agree to an alternative time frame for processing, should records be located; or you may wish to await the completion of our records search to discuss either of these options.

Provisions of the FOIA allow us to recover part of the cost of complying with your request. We have determined that you are making this request as a "representative of the news media" as described in Department of Justice regulation 28 C.F.R. § 16.10(b)(6). As such, we are required to assess fees for any applicable duplication or direct costs for processing your request. *See id.* § 16.10(c). You may review the Department of Justice regulations which establish the fees charged for processing FOIA requests at <https://www.gpo.gov/fdsys/pkg/CFR-2017-title28-vol1/pdf/CFR-2017-title28-vol1-sec16-10.pdf>.

If you disagree with this determination, you are welcome to provide any additional information that would demonstrate that you should not be considered a representative of the news media.

We have not yet made a decision on your request for a fee waiver. We will do so after we determine whether the processing of your request will result in any assessable fees. As a "representative of the news media," you will not be charged search fees.

I regret the necessity of this delay, but I assure you that your request will be processed as soon as possible. If you have any questions or wish to discuss reformulation or an alternative time frame for the processing of your request, you may contact me by telephone at 202-514-2319 or you may write to me at the FOIA, Records, and E-Discovery Office, Civil Division, Department of Justice, Room 8020, 1100 L Street NW, Washington, DC 20530. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,



Hirsh D. Kravitz
Senior Supervisory FOIA Counsel
Office of FOIA, Records, and E-discovery



January 29, 2018

VIA EMAIL

Hirsh D. Kravitz
FOIA, Records, and E-Discovery Office
Civil Division
Department of Justice
Room 8020
1100 L Street, NW
Washington, DC 20530-0001

RE: FOIA Request No. 145-FOI-15926 HDK

Dear Mr. Kravitz:

On January 11, 2018, Muslim Advocates submitted a Freedom of Information Act (“FOIA”) request for records to the Civil Division, Department of Justice (“DOJ”), for records related to Operation Janus. The precise documents requested are contained within that letter. Per your January 19, 2018 response, you received this request, FOIA Request No. 145-FOI-15926 HDK, on January 17, 2018. Your response letter states that any records responsive to Muslim Advocates’ request are protected from disclosure and withheld in full under 5 U.S.C. § 552(b)(7)(A) and 5 U.S.C. § 552(b)(7)(E).

FOIA exemptions from disclosure must be construed narrowly to provide “maximum access” to requestors. *Vaughn v. Rosen*, 484 F. 2d 823 (D. C. Cir. 1973) *cert. denied*, 415 U. S. 977 (1974). Further, the Government cannot exempt entire documents because an isolated portion of the document is protected from disclosure *Id.* at 824. In light of the Civil Division’s complete withholding of documents sought by Muslim Advocates in our FOIA request for Operation Janus materials, we seek an index of the documents and excerpts that the Civil Division has withheld. *Id.* at 826-27. Such index must describe each withheld document or section of each withheld document and provide an itemized and detailed explanation of the agency’s non-disclosure. *Id.* at 827.

Please let us know, within five business days of receipt of this letter, whether your office will provide a Vaughn Index, and if so, the timeline for production. If you have any questions, please contact me at the information below. We look forward to your response.

Sincerely,

Nimra H. Azmi
Staff Attorney
Muslim Advocates
nimra@muslimadvocates.org
(202) 897-2564

April 5, 2018

Director, Office of Information Policy (OIP)
United States Department of Justice
1425 New York Avenue N.W., Suite 11050
Washington, D.C., 20350-0001

VIA CERTIFIED MAIL

Re: Appeal of Denial of Freedom of Information Request No. 145-FOI-15926 HDK

Dear Sir or Madam:

Muslim Advocates submits this letter in connection with the above-referenced request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, *et seq.*, for all records relating to Operation Janus and any other coordinated denaturalization efforts by the Department of Justice – Civil Division (“Civil Division”), Department of Justice – National Security Division (“NSD”), Department of Homeland Security (“DHS”), and United States Citizenship and Immigration Services (“USCIS”). We write to formally appeal the Civil Division’s denial of this request. *See* 5 U.S.C. § 552(a)(6)(A)(i)(III)(aa).

I. History of Muslim Advocates’ Request

On January 11, 2018, Muslim Advocates submitted a FOIA Request to the Civil Division for all records relating to Operation Janus and any other coordinated denaturalization efforts (“the Request”). *See* Attachment A, Letter from Muslim Advocates to Civil Division, NSD, DHS, and USCIS (Jan. 11, 2018). On January 19, 2018, the Civil Division denied the Request in full, stating that all of the records responsive to the request were protected from disclosure under 5 U.S.C. § 552(b)(7)(A), (E). *See* Attachment B, Letter from Hirsh D. Kravitz, Senior Supervisory FOIA Counsel to Muslim Advocates (Jan. 19, 2018).

In response, on January 29, 2018, Muslim Advocates requested a fuller description of the withheld records or a *Vaughn* index of the allegedly exempt records pursuant to *Vaughn v. Rosen*, 484 F. 2d 823 (D.C. Cir. 1973). *See* Attachment C, Letter from Muslim Advocates to Hirsh D. Kravitz, Senior Supervisory FOIA Counsel (Jan. 29, 2018). A response to this letter was requested within five business days of its receipt. *See id.* The Civil Division has failed to respond to this letter, or to provide Muslim Advocates with the requested description or *Vaughn* index.

For the reasons discussed below, the Civil Division has failed to demonstrate that the exemptions under 5 U.S.C. § 552(b)(7)(A), (E) apply to all the records requested.

II. The Civil Division Has Failed to Demonstrate That All Records Relating to Denaturalization Are Exempt From Disclosure Under FOIA.

To justify its FOIA denial, the Civil Division needs to show either that the requested records (a) have already been produced; (b) were unidentifiable after an adequate search; or (c) are wholly exempt from FOIA disclosure requirements. *Weisberg v. Dep't of Justice*, 627 F.2d 365, 367 (D.C. Cir. 1980) (quoting *Nat'l Cable Television Ass'n v. FCC*, 479 F.2d 183, 186 (D.C. Cir. 1973)).

In its denial, the Civil Division relies on two exemptions, 5 U.S.C. § 552(b)(7)(A) (“Exemption 7(A)”) and 5 U.S.C. § 552(b)(7)(E) (“Exemption 7(E)”), to withhold the requested records in full. The Civil Division has provided no description of the withheld records and no explanation why the claimed exemptions apply to the responsive records.

A. Exemption 7(A)

Exemption 7(A) provides a limited exception for records compiled for law enforcement purposes which “could reasonably be expected to interfere with enforcement proceedings.” 5 U.S.C. § 552(b)(7)(A). The agency bears the burden of establishing that the claimed exemption applies. *See Citizens for Responsibility & Ethics in Washington v. U.S. Dep't of Justice*, 746 F.3d 1082, 1088 (D.C. Cir. 2014). To invoke this exemption, the Civil Division must demonstrate that the particular kinds of records sought relate to an ongoing investigation or anticipated law enforcement proceeding, with which the release of the information would interfere. *See N.L.R.B. v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 243 (1978). The exemption cannot be used to withhold information relating to any abandoned, concluded, or purely speculative future proceedings. *See Citizens for Responsibility & Ethics in Washington v. Dep't of Justice*, 658 F.Supp.2d 217, 230-31 (D.D.C. 2009).

In its denial, the Civil Division has not identified any specific pending or contemplated enforcement proceedings engaged by the kinds of records requested. *See id.* at 229 (agency must identify some “concrete” law enforcement proceeding); *see also Campbell v. Department of Health and Human Services*, 682 F.2d 256, 259 (D.C. Cir. 1982) (“[T]he government must show, by more than conclusory statement, how the particular kinds of investigatory records requested would interfere with a pending enforcement proceeding.”). The Civil Division also failed to specify in any detail how revelation of the kinds of records responsive to the request would

interfere with any particular targets, actual or potential, or the scope, direction or focus of any inquiry. *Id.* at 265. For instance, the Civil Division has not clarified how non-identifying information reflecting only the country of origin and/or ethnic background of individuals identified as candidates for denaturalization could possibly impact any law enforcement proceedings. The lack of detail in the denial has not been remedied, as specifically requested, by the provision of a *Vaughn* index.

The Civil Division has thus fallen far short of its burden of demonstrating that Exemption 7(A) is applicable to all the records requested.

B. Exemption 7(E)

Exemption 7(E) provides a limited exception for records compiled for law enforcement purposes which “would disclose techniques and procedures for law enforcement investigations or prosecutions.” 5 U.S.C. § 552(b)(7)(E). To invoke this exemption, the Civil Division must demonstrate that disclosure of the technique or procedure would create a risk of circumvention of the law. *See PHE, Inc. v. Dep’t of Justice*, 983 F.2d 248, 250 (D.C. Cir. 1993). Moreover, the government must “demonstrate logically how the release of the requested information might create a risk of circumvention of the law.” *See Elec. Privacy Info. Ctr. v. United States Drug Enf’t Agency*, 192 F. Supp. 3d 92, 112 (D.D.C. 2016) (internal citations and quotations omitted). The exemption applies to obscure or secret techniques, not to law enforcement techniques which are already well-known to the public. *See id.* at 112-13 (finding that disclosure of the names of private companies cooperating with the government in a widely reported operation did not create risk of circumvention); *see also Goldstein v. Office of Independent Counsel*, 1999 WL 570862, at *14 (D.D.C. 1999) (requested information was not covered because it was not a “secret or exceptional investigative technique or procedure”).

In its denial, the Civil Division failed to identify any specific risk of circumvention posed by the records requested. Operation Janus merely involves the digitization of pre-existing fingerprint repositories held by DHS and the FBI to support denaturalization decisions and investigations. *See* Attachment A, Letter from Muslim Advocates to Civil Division, NSD, DHS, and USCIS (Jan. 11, 2018). There can be no risk of individuals circumventing this procedure as it is solely an intra-agency matter utilizing pre-existing law enforcement records. Nor would the records alert specific individuals that they are being investigated since the Request seeks non-identifying information only. Disclosure would neither impede nor nullify the effectiveness of the technique. Moreover, the law enforcement technique of collecting fingerprints is well-known to the public. *Conference Report No. 93-1200*, 93d Cong. 2d Sess., *reprinted in* 1974 U.S. Code Cong. & Admin. News, pp. 6285, 6291 (Exemption 7(E) does not include “routine techniques and

procedures already well known to the public, such as....fingerprinting....”); *Ferguson v. Kelly*, 448 F.Supp. 919, 925 (ND. Ill. 1977) (the tagging of fingerprints is not “the type of investigative technique meant to be protected” by Exemption 7(E)). The denaturalization efforts also cannot be characterized as “secret or exceptional” as DOJ and DHS have widely publicized them. *See, e.g.*, Press Release, Dep’t of Justice Off. of Pub. Affairs, *United States Files Denaturalization Complaints in Florida, Connecticut and New Jersey Against Three Individuals Who Fraudulently Naturalized After Having Been Ordered Deported Under Different Identities* (Sept. 19, 2017); Press Release, Dep’t of Justice Off. of Pub. Affairs, *Justice Department Secures First Denaturalization As a Result of Operation Janus* (Jan. 9, 2018).

The Civil Division has thus failed to carry its burden of demonstrating that U.S.C. § 552(b)(7)(E) is applicable to all the records requested.

III. The DOJ Has Failed to Demonstrate that Records Cannot be Reasonably Segregated

Even if the Civil Division believes that some records may be withheld under the listed exemptions, it nonetheless has failed to demonstrate that it cannot reasonably segregate and disclose any non-exempt records. Under 5 U.S.C. § 552(b), the Civil Division cannot withhold non-exempt information merely because the record also contains exempt information, but must release any “reasonably segregable portion” of the record. The Civil Division is not permitted to make “sweeping, generalized claims for exemptions of documents.” *Mead Data Central v. U.S. Dep’t of Air Force*, 566 F.2d 242, 251 (D.C. Cir. 1997).

In its denial, the Civil Division has argued that the information must be “withheld in full” because all the records are exempt under 5 U.S.C. § 552(b)(7)(A), (E). However, the Civil Division has not identified with any specificity why these exemptions are relevant to all the records responsive to the Request, nor how they relate to the particular categories of information sought in the request. *Mead Data Central*, 566 F.2d at 251 (the agency “must provide a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply”); *see also Vaughn*, 484 F. 2d at 827 (“it is vital that the agency specify in detail which portions of the document are disclosable and which are allegedly exempt”).

By withholding information “in full” without providing any description of the withheld documents or justifying its allegations with respect to why each of the records is exempt, the Civil Division has failed to reasonably segregate information as it is obliged to under 5 U.S.C. § 552(b).

IV. Conclusion

Muslim Advocates respectfully requests that this appeal be responded to within 20 days. *See* 5 U.S.C. § 552(a)(6)(A)(ii). Muslim Advocates further requests that the Civil Division promptly produce any records “prepared, received, transmitted, collected and or maintained” that relate to Operation Janus or any other coordinated denaturalization efforts, as well as provide a description of the withheld records or a *Vaughn* index.

Should you have any questions, you can reach us as provided below. We look forward to receiving your response.

Sincerely,

Nimra H. Azmi*
Muslim Advocates
Staff Attorney
P.O. Box 66408
Washington, D.C., 20035
nimra@muslimadvocates.org
(202) 897-2564

*Admitted in New York and supervised by members of the D.C. Bar

Exhibit C



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January 11, 2018

Arnetta Mallory
FOIA Initiatives Coordinator
National Security Division
Department of Justice
Room 6150, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Hirsh D. Kravitz
FOIA, Records, and E-Discovery Office
Civil Division
Department of Justice
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1100 L Street, NW
Washington, DC 20530-0001

Sam Kaplan
Chief Privacy Officer/Chief FOIA Officer
The Privacy Office
U.S. Department of Homeland Security
245 Murray Lane, SW
STOP-0655
Washington, D.C. 20528-0655

U.S. Citizenship and Immigration Services
National Records Center, FOIA/PA Office
P.O. Box 648010
Lee's Summit, MO 64064-8010

Re: Freedom of Information Act Request

To Whom It May Concern:

This is a request under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, *et seq.* submitted on behalf of Muslim Advocates. We ask that this request be expedited pursuant to 5 U.S.C. § 552(a)(6)(E) and that Muslim Advocates be granted a fee waiver. We also ask that you refer the requests contained herein to any other component agency of the U.S. Department of Homeland Security ("DHS") or the U.S. Department of Justice ("DOJ") as appropriate.



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Background

Governmental agencies have in the last year commenced a more targeted program of denaturalization of citizens. In March 2017, DOJ announced that it had filed a denaturalization lawsuit against a naturalized citizen of Pakistani origin who had been convicted of providing material support to al-Qaeda.¹ DOJ stated that it would pursue denaturalization proceedings against known or suspected terrorists who had “procured their citizenship by fraud.”² On September 19, 2017, DOJ announced that it had filed “denaturalization complaints” in the Middle District of Florida, District of Connecticut, and District of New Jersey, alleging that each defendant had obtained his naturalized U.S. citizenship fraudulently.³ The defendants are two men of Pakistani origin and one man of Indian origin.⁴ DHS and United States Citizenship and Immigration Services (“USCIS”) identified these cases through Operation Janus, which DOJ stated identified 315,000 cases “where some fingerprint data was missing from the centralized digital fingerprint repository.”⁵ According to the DOJ press release, these cases resulted from “an ongoing collaboration between [DHS and DOJ] to investigate and seek denaturalization proceedings....”⁶ On January 5, 2018, a judge in the District Court of New Jersey ordered a citizen denaturalized as part of Operation Janus.⁷ USCIS has dedicated a team to review the Operation Janus cases and intends to refer approximately 1,600 cases for prosecution.⁸

Muslim Advocates seeks records pertaining to Operation Janus and any other coordinated denaturalization efforts in order to understand and explain to the public the means and ends of the government’s denaturalization efforts.

¹ Press Release, Dep’t of Justice Off. of Pub. Affairs, *Denaturalization Lawsuit Filed Against Convicted Al Qaeda Conspirator Residing In Illinois* (Mar. 20, 2017), <https://www.justice.gov/opa/pr/denaturalization-lawsuit-filed-against-convicted-al-qaeda-conspirator-residing-illinois>.

² *Id.*

³ Press Release, Dep’t of Justice Off. of Pub. Affairs, *United States Files Denaturalization Complaints in Florida, Connecticut and New Jersey Against Three Individuals Who Fraudulently Naturalized After Having Been Ordered Deported Under Different Identities* (Sept. 19, 2017), <https://www.justice.gov/opa/pr/united-states-files-denaturalization-complaints-florida-connecticut-and-new-jersey-against>.

⁴ *Id.*

⁵ *Id.*; Press Release, Dep’t of Justice Off. of Pub. Affairs, *Justice Department Secures First Denaturalization As a Result of Operation Janus* (Jan. 9, 2018), <https://www.justice.gov/opa/pr/justice-department-secures-first-denaturalization-result-operation-janus>.

⁶ Press Release, Dep’t of Justice Off. of Pub. Affairs, *supra* note 3.

⁷ Press Release, Dep’t of Justice Off. of Pub. Affairs, *supra* note 5.

⁸ *Id.*



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Records Requested

For the purposes of this Request, “Record” means a record in the broadest sense possible and includes, without limitation, everything tangible, electronic, or digital containing a datum, number, photograph, picture, word, or any other information, including, but not limited to, communications between phones or other electronic devices, emails, digital or physical images, video, audio recordings, voicemail messages, social media posts, instructions, directives, guidance documents, formal and informal presentations, training documents, bulletins, notices, alerts, updates, advisories, reports, legal and policy memoranda, contracts, agreements, minutes or notes of meetings and phone calls, and memoranda of understanding.

Muslim Advocates seeks release of the following:

1. Policies, practices, guidance, memoranda, communications, and procedures pertaining to the processes by which DHS and USCIS identify denaturalization cases and refer them to DOJ for prosecution;
2. Interagency guidance, policies, practices, memoranda, and communications shared between DHS, USCIS, and/or DOJ relating to denaturalization complaints and/or Operation Janus.
3. DOJ policies, practices, guidance, memoranda, communications, and procedures relating to the goals and methods of denaturalization complaints generally and Operation Janus specifically; and
4. Non-identifying information that reflects country of origin and/or ethnic background of individuals identified as candidates for denaturalization complaints by governmental agencies.

Application for Waiver of Fees

Muslim Advocates requests a waiver of document search, review, and duplication fees on the grounds that disclosure is in the public interest because it is “likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii). Muslim Advocates is a non-profit civil rights and advocacy organization that focuses on issues of particular relevance to



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the Muslim and immigrant communities.¹ The requested records detail the development of Operation Janus and the policies and procedures by which DHS, USCIS, and DOJ select and undertake denaturalization complaints. Members of the American public, particularly Muslim Americans, immigrants, and naturalized citizens, have a significant and urgent interest in knowing the aims and procedures around denaturalization efforts, including Operation Janus, and how it may affect their communities and their lives.

Even if a waiver is not granted, fees should be “limited to reasonable standard charges for document duplication” because Muslim Advocates is a “representative of the news media” and the records are not sought for commercial use. 5 U.S.C. § 552(4)(A)(ii)(II). Other organizations similar to Requestor in mission, function, and educational activities have been found by courts to be representatives of the news media. *See Elec. Privacy Info. Ctr. v. Dep’t of Defense*, 241 F. Supp. 2d 5, 10–15 (D.D.C. 2003) (a non-profit educational organization qualified under the news media category); *Nat’l Sec. Archive v. Dep’t of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989) (a non-profit research organization qualified under the news media category).

Finally, Muslim Advocates does not seek to use the information requested for commercial use, 22 C.F.R. § 171.16(a)(2), and does not have a commercial interest that the disclosure would advance. Instead, Muslim Advocates’ primary interest in the disclosure of information is to educate the public and advocate for the rights of Americans to be free from racial and religious profiling. § 171.16(a)(2)(i)-(ii).

Response Requested in 10 days

Your attention to this request is appreciated and Muslim Advocates anticipates your determination of our request within ten (10) calendar days pursuant to 28 C.F.R. § 16.5(d)(4).

To the extent that our Request encompasses records responsive or potentially responsive to the Request that have been destroyed, our Request should be interpreted to include, but is not limited to, any and all records relating or referring to the destruction of those records. This includes, but is not limited to, any and all records relating or referring to the events leading to the destruction of those records.

With respect to the form of production, see 5 U.S.C. § 552(a)(3)(B), we request that responsive electronic records be provided electronically in their native file format, if possible. Alternatively, we request that the records be provided electronically in a text-searchable, static-

¹ *About*, MUSLIM ADVOCATES, <https://www.muslimadvocates.org/about/>.



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image format (e.g., PDF), in the best image quality in the agency's possession, and that the records be provided in separate, Bates-stamped files.

If you have any questions concerning this request, you may contact me at nimra@muslimadvocates.org or at (202) 897-2564.

Very truly yours,

A handwritten signature in black ink that reads "Nimra Azmi".

Nimra Azmi



Homeland Security

Privacy Office, Mail Stop 0655

January 25, 2018

SENT VIA EMAIL TO: nimra@muslimadvocates.org

Nimra Azmi
Staff Attorney
Muslim Advocates
PO BOX 66408

Washington, DC 20035

Re: **2018-HQFO-00515**

Dear Ms. Azmi:

This letter acknowledges receipt of your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), Privacy Office, dated January 11, 2018, and received in this office on January 18, 2018. You requested documents regarding 1. policies, practices, guidance, memoranda, communications, and procedures pertaining to the processes by which DHS and USCIS identify denaturalization cases and refer them to DOJ for prosecution; 2. Interagency guidance, policies, practices, memoranda, and communications shared between DHS, USCIS, and/or DOJ relating to denaturalization complaints and/or Operation Janus. 3. DOJ policies, practices, guidance, memoranda, communications, and procedures relating to the goals and methods of denaturalization complaints generally and Operation Janus specifically; and 4. Non-identifying information that reflects country of origin and/or ethnic background of individuals identified as candidates for denaturalization complaints by governmental agencies.

Due to the subject matter of your request, I am transferring this request to the FOIA Officer for United States Immigration & Customs Enforcement (ICE), Fernando Pineiro, U.S. Department of Homeland Security, Washington, D.C. 20528, for processing under the FOIA and direct response to you. You may find their office contact information below:

United States Immigration & Customs Enforcement (ICE)

Freedom of Information Act Office
500 12th Street, SW, Stop 5009
Washington, D.C. 20536-5009
FOIA Officer: Catrina Pavlik-Keenan
FOIA Requester Service Center Contact: Fernando Pineiro
Phone: 866-633-1182
Fax: 202-732-4265

If you need to contact our office again about this matter, please refer to **2018-HQFO-00515**.
You may contact this office at 1-866-431-0486 or 202-343-1743.

Sincerely,

A handwritten signature in black ink, appearing to be 'Nida Habib', written in a cursive style.

Nida Habib
FOIA Program Specialist



Nimra Azmi <nimra@muslimadvocates.org>

ICE FOIA Request 2018-ICFO-17959

ice-foia@dhs.gov <ice-foia@dhs.gov>
To: nimra@muslimadvocates.org

Mon, Feb 5, 2018 at 7:31 AM

February 05, 2018

Nimra Azmi
Muslim Advocates
PO BOX 66408
Washington, DC 20035

RE: ICE FOIA Case Number 2018-ICFO-17959

Dear Ms. Azmi:

This acknowledges receipt of your Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), dated January 11, 2018, and to your request for a waiver of all assessable FOIA fees. Your request was received in this office on January 25, 2018. Specifically, you requested all records pertaining to OPERATION JANUS (see request for specific details).

Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Per Section 5.5(a) of the DHS FOIA regulations, 6 C.F.R. Part 5, ICE processes FOIA requests according to their order of receipt. Although ICE's goal is to respond within 20 business days of receipt of your request, the FOIA does permit a 10- day extension of this time period. As your request seeks numerous documents that will necessitate a thorough and wide-ranging search, ICE will invoke a 10-day extension for your request, as allowed by Title 5 U.S.C. § 552(a)(6)(B). If you care to narrow the scope of your request, please contact our office. We will make every effort to comply with your request in a timely manner.

ICE evaluates fee waiver requests under the legal standard set forth above and the fee waiver policy guidance issued by the Department of Justice on April 2, 1987, as incorporated into the Department of Homeland Security's Freedom of Information Act regulations[1]. These regulations set forth six factors to examine in determining whether the applicable legal standard for fee waiver has been met. I have considered the following factors in my evaluation of your request for a fee waiver:

- (1) Whether the subject of the requested records concerns "the operations or activities of the government";
- (2) Whether the disclosure is "likely to contribute" to an understanding of government operations or activities;
- (3) Whether disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requestor or a narrow segment of interested persons;
- (4) Whether the contribution to public understanding of government operations or activities will be "significant";
- (5) Whether the requester has a commercial interest that would be furthered by the requested disclosure; and
- (6) Whether the magnitude of any identified commercial interest to the requestor is sufficiently large in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requestor.

Upon review of your request and a careful consideration of the factors listed above, I have determined to grant your request for a fee waiver.

ICE has queried the appropriate program offices within ICE for responsive records. If any responsive records are located, they will be reviewed for determination of releasability. Please be assured that one of the processors in our office will respond to your request as expeditiously as possible. We appreciate your patience as we proceed with your request.

Your request has been assigned reference number **2018-ICFO-17959**. Please refer to this identifier in any future correspondence. To check the status of an ICE FOIA/PA request, please visit <http://www.dhs.gov/foia-status>. Please note that to check the status of a request, you must enter the 2017-ICFO-XXXXXX or 2018-ICFO-XXXXXX tracking number. If you need any further assistance or would like to discuss any aspect of your request, please contact the FOIA office. You may send an e-mail to ice-foia@ice.dhs.gov, call toll free (866) 633-1182, or you may contact our FOIA Public Liaison, Fernando Pineiro, in the same manner. Additionally, you have a right to right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS as follows: Office of Government

4/11/2018

Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Regards,

ICE FOIA Office

Immigration and Customs Enforcement

Freedom of Information Act Office

500 12th Street, S.W., Stop 5009

Washington, D.C. 20536-5009

Telephone: 1-866-633-1182

Visit our FOIA website at www.ice.gov/foia

[1] 6 CFR § 5.11(k).



Nimra Azmi <nimra@muslimadvocates.org>

ICE FOIA Request 2018-ICFO-17959

ice-foia@dhs.gov <ice-foia@dhs.gov>
To: nimra@muslimadvocates.org

Fri, Feb 9, 2018 at 11:08 AM

February 09, 2018

Nimra Azmi
Muslim Advocates
PO BOX 66408
Washington, DC 20035**RE: ICE FOIA Case Number 2018-ICFO-17959**

Dear Ms. Azmi:

This acknowledges receipt of your January 11, 2018, Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), for all records pertaining to OPERATION JANUS (see request for specific details). Your request was received in this office on January 25, 2018.

After careful review of your FOIA request, we determined that your request is **too broad** in scope, did not specifically identify the records which you are seeking, or only posed questions to the agency. Records must be described in reasonably sufficient detail to enable government employees who are familiar with the subject area to locate records without placing an unreasonable burden upon the agency. For this reason, §5.3(b) of the DHS regulations, 6 C.F.R. Part 5, require that you describe the records you are seeking with as much information as possible to ensure that our search can locate them with a reasonable amount of effort. Whenever possible, a request should include specific information about each record sought, such as the date, title or name, author, recipients, and subject matter of the records, if known, or the ICE program office you believe created and/or controls the record. The FOIA does not require an agency to create new records, answer questions posed by requesters, or attempt to interpret a request that does not identify specific records.

Please resubmit your request containing a reasonable description of the records you are seeking. Upon receipt of a perfected request, you will be advised as to the status of your request.

If we do not hear from you within 30 days from the date of this letter, we will assume you are no longer interested in this FOIA request, and the case will be administratively closed. Please be advised that this action is not a denial of your request and will not preclude you from filing other requests in the future.

Your request has been assigned reference number **2018-ICFO-17959**. Please refer to this identifier in any future correspondence. To check the status of an ICE FOIA/PA request, please visit <http://www.dhs.gov/foia-status>. Please note that to check the status of a request, you must enter the 2017-ICFO-XXXXX or 2018-ICFO-XXXXX tracking number. If you need any further assistance or would like to discuss any aspect of your request, please contact the FOIA office. You may send an e-mail to ice-foia@ice.dhs.gov, call toll free (866) 633-1182, or you may contact our FOIA Public Liaison, Fernando Pineiro, in the same manner. Additionally, you have a right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

ICE FOIA Office

Immigration and Customs Enforcement
Freedom of Information Act Office
500 12th Street, S.W., Stop 5009

4/11/2018

Muslim Advocates Mail, ICE FOIA Request 2018-ICFO-17959

Case 1:18-cv-01967 Document 1-3 Filed 08/23/18 Page 12 of 25

Washington, D.C. 20536-5009

Telephone: 1-866-633-1182

Visit our FOIA website at www.ice.gov/foia



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February 13, 2018

VIA ELECTRONIC MAIL

ICE FOIA Officer
Immigration and Customs Enforcement
Freedom of Information Act Office
500 12th Street, S.W., Stop 5009
Washington, D.C. 20536-5009

Re: Freedom of Information Act Request 2018-ICFO-17959

To Whom It May Concern:

This is a request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, *et seq.* submitted on behalf of Muslim Advocates (“Requestor”). It is a follow-up on the original request (2018-ICFO-17959) Muslim Advocates submitted on January 11, 2018. We ask that this request be expedited pursuant to 5 U.S.C. § 552(a)(6)(E) and that Muslim Advocates be granted a fee waiver.

I. Background

In the last year, governmental agencies have commenced a more targeted program of denaturalization of citizens. In March 2017, DOJ announced that it had filed a denaturalization lawsuit against a naturalized citizen of Pakistani origin who had been convicted of providing material support to al-Qaeda.¹ DOJ stated that it would pursue denaturalization proceedings against known or suspected terrorists who had “procured their citizenship by fraud.”² On September 19, 2017, DOJ announced that it had filed “denaturalization complaints” in the Middle District of Florida, District of Connecticut, and District of New Jersey, alleging that each defendant had obtained his naturalized U.S. citizenship fraudulently.³ The defendants are two

¹ Press Release, Dep’t of Justice Off. of Pub. Affairs, Denaturalization Lawsuit Filed Against Convicted Al Qaeda Conspirator Residing In Illinois (Mar. 20, 2017), <https://www.justice.gov/opa/pr/denaturalization-lawsuit-filed-against-convicted-al-qaeda-conspirator-residing-illinois>.

² *Id.*

³ Press Release, Dep’t of Justice Off. of Pub. Affairs, United States Files Denaturalization Complaints in Florida, Connecticut and New Jersey Against Three Individuals Who Fraudulently Naturalized After Having Been Ordered Deported Under Different Identities (Sept. 19, 2017), <https://www.justice.gov/opa/pr/united-states-files-denaturalization-complaints-florida-connecticut-and-new-jersey-against>.



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men of Pakistani origin and one man of Indian origin.⁴ DHS and United States Citizenship and Immigration Services (“USCIS”) identified these cases through Operation Janus, which DOJ stated identified 315,000 cases “where some fingerprint data was missing from the centralized digital fingerprint repository.”⁵ According to the DOJ press release, these cases resulted from “an ongoing collaboration between [DHS and DOJ] to investigate and seek denaturalization proceedings...”⁶ On January 5, 2018, a judge in the District Court of New Jersey ordered a citizen denaturalized as part of Operation Janus.⁷ USCIS has dedicated a team to review the Operation Janus cases and intends to refer approximately 1,600 cases for prosecution.⁸

Muslim Advocates seeks records pertaining to Operation Janus and any other coordinated denaturalization efforts in order to understand and explain to the public the means and ends of the government’s denaturalization efforts.

II. Instructions

Muslim Advocates requests disclosure of the following records⁹ that were prepared, received, transmitted, collected and/or maintained by the Recipients and any other agency components thereof.

⁴ *Id.*

⁵ *Id.*; Press Release, Dep’t of Justice Off. of Pub. Affairs, *Justice Department Secures First Denaturalization As a Result of Operation Janus* (Jan. 9, 2018), <https://www.justice.gov/opa/pr/justice-department-secures-first-denaturalization-result-operation-janus>.

⁶ Press Release, Dep’t of Justice Off. of Pub. Affairs, *supra* note 3.

⁷ Press Release, Dep’t of Justice Off. of Pub. Affairs, *supra* note 5.

⁸ *Id.*

⁹ The terms “records” is intended in the broadest possible sense and includes without limitation all records or communications preserved in electronic or written form, including but not limited to correspondence, regulations, directives, documents, data, videotapes, audiotapes, e-mails, faxes, files, guidance, guidelines, standards, evaluations, instructions, analyses, legal and policy memoranda, minutes or notes of meetings and phone calls, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, manuals, technical specifications, text communications between phones or other electronic devices (including, but not limited to, communications sent via SMA or other text, BlackBerry Messenger, iMessage, WhatsApp, Signal, Gchat, or Twitter direct message), training materials or studies, including records kept in written form, or electronic format on computers and/or other electronic storage devices, electronic communications and/or videotapes, as well as any reproductions thereof that differ in any way from any other reproduction, such as copies containing marginal notations. No category of material should be omitted from search, collection, and production.

Please search all records regarding agency business. Please do not exclude searches of files or emails in the personal custody of your officials, such as personal email accounts. Records of official business conducted using unofficial systems or stored outside of official files are subject to the Federal Records Act and FOIA.¹⁰ It is not adequate to rely on policies and procedures that require officials to move such information to official systems within a certain period of time; the Requestor has a right to records contained in those files even if material has not yet been moved to official systems or if officials have, through negligence or willfulness, failed to meet their obligations.¹¹

Please employ the most up-to-date technologies and tools available, in addition to searches by individual custodians likely to have responsive information. Recent technology may have rendered the agency's prior FOIA practices unreasonable. The government-wide requirements to manage information electronically by the end of 2016 have rendered it unreasonable to rely exclusively on custodian-driven searches.¹² Furthermore, agencies that have adopted the National Archives and Records Agency (NARA) Capstone program, or similar policies, now maintain emails in a form that is reasonably likely to be more complete than individual custodians' files. For example, a custodian may have deleted a responsive email from his or her email program, but the agency's archiving tools would capture that email under Capstone. Accordingly, Requestor insists that the agency use the most up-to-date technologies to search for responsive information and take steps to ensure that the most complete repositories of information are searched. The Requestor is available to work with you to craft appropriate search terms. However, custodian searches are still required; agencies may not have direct access to

¹⁰ See *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, 827 F.3d 145, 149-50 (D.C. Cir. 2016); cf. *Judicial Watch, Inc. v. Kerry*, 844 F.3d 952, 955-56 (D.C. Cir. 2016).

¹¹ See *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, No. 14-cv-765, slip op. at *8 (D.D.C. Dec. 12, 2016) (“The Government argues that because the agency had a policy requiring [the official] to forward all of his emails from his [personal] account to his business email, the [personal] account only contains duplicate agency records at best. Therefore, the Government claims that any hypothetical deletion of the [personal account] emails would still leave a copy of those records intact in [the official’s] work email. However, policies are rarely followed to perfection by anyone. At this stage of the case, the Court cannot assume that each and every work-related email in the [personal] account was duplicated in [the official’s] work email account.” (citations omitted)).

¹² Presidential Memorandum—Managing Government Records, 76 Fed. Reg. 75,423 (Nov. 28, 2011), <https://obamawhitehouse.archives.gov/the-press-office/2011/11/28/presidential-memorandum-managing-government-records>; Office of Mgmt. & Budget, Exec. Office of the President, Memorandum for the Heads of Executive Departments & Independent Agencies, “Managing Government Records Directive,” M-12-18 (Aug. 24, 2012), <https://www.archives.gov/files/records-mgmt/m-12-18.pdf>.

files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.

Under the FOIA Improvement Act of 2016, agencies must adopt a presumption of disclosure, withholding information “only if . . . disclosure would harm an interest protected by an exemption” or “disclosure is prohibited by law.”¹³ If it is your position that any portion of the requested records is exempt from disclosure, the Requestor requests that you provide an index of those records as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974). As you are aware, a *Vaughn* index must describe each document claimed as exempt with sufficient specificity “to permit a reasoned judgment as to whether the material is actually exempt under FOIA.”¹⁴ Moreover, the *Vaughn* index “must describe each document or portion thereof withheld, and for each withholding it must discuss the consequences of disclosing the sought-after information.”¹⁵ Further, “the withholding agency must supply ‘a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply.’”¹⁶

With respect to the form of production, *see* 5 U.S.C. § 552(a)(3)(B), the Requestor requests that responsive electronic records be provided electronically in their native file format, if possible. In particular, electronic records are to be produced in an electronic, native format that contains the original metadata of the files. As a non-exhaustive list of examples: Microsoft Excel spreadsheets are to be produced as files that open in Excel, with all original data and formulas intact; Microsoft Word documents are to be produced in the same file format they are stored in, such that they contain all tracked changes and comments present in the documents; and emails are to be produced with all metadata fields intact, including but not limited to the date and time the email was sent, the full names and email addresses of all recipients, any data contained in the bcc: field, and all attachments. If the records cannot be produced in their native format, the Requestor asks for 1) an explanation why the records cannot be so produced; and 2) that the records be provided electronically in a text-searchable, static-image format (PDF), in the best image quality in the agency’s possession, and that the records be provided in separate, Bates-stamped files.

In the event that some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested

¹³ FOIA Improvement Act of 2016 § 2 (Pub. L. No. 114–185).

¹⁴ *Founding Church of Scientology v. Bell*, 603 F.2d 945, 949 (D.C. Cir. 1979).

¹⁵ *King v. U.S. Dep’t of Justice*, 830 F.2d 210, 223—24 (D.C. Cir. 1987) (emphasis in original).

¹⁶ *Id.* at 224 (citing *Mead Data Central, Inc. v. U.S. Dep’t of the Air Force*, 566 F.2d 242, 251 (D.C. Cir. 1977)).



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records. If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document.¹⁷ Claims of non-segregability must be made with the same degree of detail as required for claims of exemptions in a *Vaughn* index. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

If the Request is denied in whole or in part, the Requestor asks that you justify all deletions by reference to specific FOIA exemptions. The Requestor reserves the right to appeal a decision to withhold any information or deny a waiver of fees.

Additionally, in order to avoid delays in receiving records, the Requestor requests that records be produced seriatim as they become available. Where possible, please provide responsive material in electronic format by email to nimra@muslimadvocates.org. Please furnish any responsive material being sent by mail to:

Nimra H. Azmi
Muslim Advocates
P.O. Box 66408
Washington, DC 20035

III. Description of Records

Muslim Advocates seeks release of records relating to the following:

1. Policies, practices, guidance, memoranda, communications, and procedures pertaining to the processes by which DHS and USCIS identify denaturalization cases and refer them to DOJ for prosecution;
2. Interagency guidance, policies, practices, memoranda, and communications shared between DHS, USCIS, and/or DOJ relating to denaturalization complaints and/or Operation Janus.
3. DOJ policies, practices, guidance, memoranda, communications, and procedures relating to the goals and methods of denaturalization complaints generally and Operation Janus specifically; and

¹⁷ *Mead Data Central*, 566 F.2d at 261.



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4. Non-identifying information that reflects country of origin and/or ethnic background of individuals identified as candidates for denaturalization complaints by governmental agencies.

IV. Application for Expedited Processing

Expedited processing of this request is warranted because: (1) there is an “urgency to inform the public about an actual or alleged Federal Government activity” by organizations, like the Requester, “primarily engaged in disseminating information,” 5 U.S.C. § 552(a)(6)(E)(i) & (v)(II); and (2) the request concerns “[a] matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity which affect public confidence” 6 C.F.R. § 5.5(e)(1)(iv); 5 U.S.C. § 552(a)(6)(E)(ii).

Muslim Advocates is a non-profit civil rights and advocacy organization that focuses on issues of particular relevance to the Muslim and immigrant communities.¹⁸ The requested records detail the development of Operation Janus and the policies and procedures by which DHS, USCIS, and DOJ select and undertake denaturalization complaints. Members of the American public, particularly Muslim Americans, immigrants, and naturalized citizens, have a significant and urgent interest in knowing the aims and procedures around denaturalization efforts, including Operation Janus, and how it may affect their communities and their lives. The denaturalization effort by the federal government has raised serious concerns about possible religious and racial discrimination in the federal government, giving rise to “questions about the government’s integrity” and an “urgency to inform the public.” Further, attorneys and other services providers need to understand the relevant policies, procedures, and practices to effectively serve and advise the population of individuals potentially affected by denaturalization initiatives. The requested records seek to inform the public about an urgent issue implicating the the status in this country of thousands of people.

Given the foregoing, the Requester has satisfied the requirements for expedited processing of this Request.

V. Application for Waiver or Limitation of Fees

Muslim Advocates requests a waiver of document search, review, and duplication fees on the grounds that disclosure of the requested records is in the public interest and because disclosure is “likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a) (4)(A)(iii). The Requestor also requests a waiver of search fees on the grounds

¹⁸ *About*, MUSLIM ADVOCATES, <https://www.muslimadvocates.org/about/>.



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that the Requestor qualifies as a “representative of the news media” and the records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii)(II).

A. The Request is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the Requestor.

As discussed above, news accounts underscore the substantial public interest in the records sought through this Request. Given the increasing media attention to this issue, the records sought will significantly contribute to public understanding of an issue of profound public importance.

Muslim Advocates is not filing this Request to further its commercial interest. Any information disclosed by the Requestor as a result of this FOIA Request will be made available to the public at no cost. Thus, a fee waiver would fulfill Congress’s legislative intent in amending the FOIA. *See Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (“Congress amended FOIA to ensure that it be liberally construed in favor of waivers for noncommercial requesters.” (internal quotation marks omitted)).

B. The Requestor is a representative of the news media and the records are not sought for commercial use.

Muslim Advocates seeks a waiver of search fees on the grounds that it qualifies as “representative[s] of the news media” and the records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii)(II). The Requestor meets the statutory and regulatory definitions of “representative[s] of the news media” because they gather information, exercise editorial discretion in selecting and organizing documents, and “distribute the resulting work to the public.” *Nat’l Sec. Archive v. U.S. Dep’t of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989). The Requestor is therefore a “representative of the news media” for the same reasons: it is “primarily engaged in [the] dissemination of information.” 5 U.S.C. § 552(a)(4)(A)(ii)(II), (6)(E)(v)(II).

Furthermore, courts have found other organizations whose mission, function, publishing, and public education activities are similar in kind to the Requestor’s to be “representative[s] of the news media” as well. Requestor Muslim Advocates has pursued FOIA litigation against many agencies that resulted in the disclosure of previously withheld information, including against the FBI in 2009 and multiple suits against DHS in 2017. *Cf. Judicial Watch, Inc. v. U.S.*



 www.muslimadvocates.org  [@muslimadvocates](https://twitter.com/muslimadvocates)  facebook.com/muslimadvocates

Dep't of Justice, 133 F. Supp. 2d 52, 53-54 (D.D.C. 2000) (finding Judicial Watch, self-described as a “public interest law firm,” a news media requester).¹⁹

On account of these factors, fees associated with responding to FOIA requests should be waived for the Requestor as a “representative[s] of the news media.”

Pursuant to applicable statutes and regulations, the Requestor expects a determination regarding expedited processing within 10 days. *See* 5 U.S.C. § 552(a)(6)(E)(ii)(I).

If you have any questions concerning this request, you may contact me at nimra@muslimadvocates.org or at (202) 897-2564. Thank you for your prompt attention to this matter.

I affirm that the information provided supporting the request for expedited processing is true and correct to the best of our knowledge and belief. *See* 5 U.S.C. § 552(a)(6)(E)(vi).

Very truly yours,

Nimra H. Azmi
Staff Attorney
Muslim Advocates

¹⁹ Courts have found these organizations to be “representative[s] of the news media” even though they engage in litigation and lobbying activities beyond their dissemination of information and public education activities. *See, e.g., Judicial Watch, Inc.*, 133 F. Supp. 2d at 53-54.

Office of Information Governance and Privacy

U.S. Department of Homeland Security
500 12th St., NW
Washington, D.C. 20536



**U.S. Immigration
and Customs
Enforcement**

March 15, 2018

Nimra Azmi
Muslim Advocates
PO BOX 66408
Washington, DC 20035

RE: ICE FOIA Case Number 2018-ICFO-24514

Dear Ms. Azmi:

This acknowledges receipt of your March 15, 2018, Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), for all records regarding agency business. Your request was received in this office on March 15, 2018.

After careful review of your FOIA request, we determined that your request is too broad in scope, did not specifically identify the records which you are seeking, or only posed questions to the agency. Records must be described in reasonably sufficient detail to enable government employees who are familiar with the subject area to locate records without placing an unreasonable burden upon the agency. For this reason, §5.3(b) of the DHS regulations, 6 C.F.R. Part 5, require that you describe the records you are seeking with as much information as possible to ensure that our search can locate them with a reasonable amount of effort. Whenever possible, a request should include specific information about each record sought, such as the date, title or name, author, recipients, and subject matter of the records, if known, or the ICE program office you believe created and/or controls the record. The FOIA does not require an agency to create new records, answer questions posed by requesters, or attempt to interpret a request that does not identify specific records.

Please resubmit your request containing a reasonable description of the records you are seeking. Upon receipt of a perfected request, you will be advised as to the status of your request.

If we do not hear from you within 30 days from the date of this letter, we will assume you are no longer interested in this FOIA request, and the case will be administratively closed. Please be advised that this action is not a denial of your request and will not preclude you from filing other requests in the future.

If you need any further assistance or would like to discuss any aspect of your request, please contact ICE FOIA Office. You may send an e-mail to ice-foia@ice.dhs.gov, call toll free (866) 633-1182, or you may contact our FOIA Public Liaison, Fernando Pineiro, in the same manner.

Your request has been assigned reference number **2018-ICFO-24514**. Please refer to this identifier in any future correspondence. To check the status of an ICE FOIA/PA request, please visit <http://www.dhs.gov/foia-status>. Please note that to check the status of a request, you must enter the 2018-ICFO-XXXXX tracking number.

Sincerely,

David F. Stadnicki / for

Catrina M. Pavlik-Keenan
FOIA Officer



April 16, 2018

VIA CERTIFIED MAIL

Office of the Principal Legal Advisor
Government Information Law Division
500 12th Street S.W., Stop 5900
Washington, D.C. 20536-5900

RE: Freedom of Information Act Appeal, ICE FOIA Case No. 2018-ICFO-24514

Dear Sir or Madam:

Muslim Advocates writes to appeal an adverse determination in the above-named request filed under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, *et seq.* The request sought all records relating to Operation Janus and any other coordinated denaturalization efforts in which Immigration and Customs Enforcement (“ICE”) participated along with other agencies named in the request.

I. History of the Request

On January 11, 2018, Muslim Advocates submitted a FOIA request to the Department of Justice National Security Division (“NSD”), the Department of Justice Civil Division (“Civil Division”), the Department of Homeland Security (“DHS”), and United States Citizenship and Immigration Services (“USCIS”) for all records relating to Operation Janus and any other coordinated denaturalization efforts (“the First Request”). *See* Attachment A, Letter from Muslim Advocates to Civil Division, NSD, DHS, and USCIS (Jan. 11, 2018). On January 25, 2018, DHS informed Muslim Advocates that they had transferred the First Request to ICE. *See* Attachment B, Letter from Nida Habib, DHS FOIA Program Specialist to Nimra Azmi (Jan. 25, 2018). On February 5, the ICE FOIA Office acknowledged receipt of the First Request, invoking a 10-day extension and granting Muslim Advocates’ request for a fee waiver. *See* Attachment C, Letter from ICE FOIA Office to Nimra Azmi (Feb. 5, 2018).

On February 9, 2018, ICE stated that the First Request was “too broad in scope, did not specifically identify the records which you are seeking, or only posed questions to the agency.” *See* Attachment D, Email from ICE FOIA Office to Nimra Azmi (Feb. 9, 2018). On February 13, 2018, Muslim Advocates submitted a revised version of their FOIA request, but received no response. *See* Attachment E, Letter from Muslim Advocates to ICE FOIA Officer (Feb. 13, 2018) (hereinafter the “Second Request”). On March 6, 2018, Muslim Advocates emailed the ICE FOIA Office seeking confirmation of receipt and stating that a response was expected by March 14, 2018 or 20 business days after the revised request was submitted. *See* Attachment F, Email from Nimra Azmi to ICE



FOIA Office (Mar. 6, 2018). On March 15, 2018, the ICE FOIA Office responded to the Second Request, claiming once more that it was “too broad in scope, did not specifically identify the records which you are seeking, or only posed questions to the agency.” See Attachment G, Letter from Catrina M. Pavlik-Keenan, FOIA Officer to Nimra Azmi (Mar. 15, 2018).

Accordingly, we now write to appeal the determination that the Second Request is too broad, and to request that ICE process the Second Request as written.

II. ICE Is Legally Required To Process The Second Request

The Freedom of Information Act contains “broad provisions favoring disclosure.” *John Doe Agency v. John Doe Corp.*, 493 U.S. 146, 153 (1989). The Second Request is not overly broad and reasonably describes the records sought, in a manner sufficient to enable an ICE employee familiar with Operation Janus and denaturalization to locate responsive records with a “reasonable amount of effort.” *Judicial Watch, Inc. v. Export–Import Bank*, 108 F.Supp.2d 19, 27 (D.D.C. 2000). It is well-established that ICE must use “common sense” when interpreting FOIA requests, and that those requests must be interpreted “liberally.” See *LaCedra v. Exec. Office for U.S. Attorneys*, 317 F.3d 345, 348 (D.C. Cir. 2003); *Dale v. IRS*, 238 F.Supp.2d 99, 105 (D.D.C. 2002). The ICE FOIA Office is required by law to process the Second Request, which asks for specific categories of information that are readily understandable by employees who have familiarity with denaturalization efforts, namely:

- Policies, practices, guidance, memoranda, communications, and procedures pertaining to the processes by which DHS and USCIS identify denaturalization cases and refer them to DOJ for prosecution;
- Interagency guidance, policies, practices, memoranda, and communications shared between DHS, USCIS, and/or DOJ relating to denaturalization complaints and/or Operation Janus.
- DOJ policies, practices, guidance, memoranda, communications, and procedures relating to the goals and methods of denaturalization complaints generally and Operation Janus specifically; and
- Non-identifying information that reflects country of origin and/or ethnic background of individuals identified as candidates for denaturalization complaints by governmental agencies.

III. Conclusion

Muslim Advocates respectfully requests a response within 20 days. *See* 5 U.S.C. § 552(a)(6)(A)(ii). Should you have any questions or require any further information, you may reach us at nimra@muslimadvocates.org or (202) 897-2564. We look forward to your response.

Sincerely,

Nimra H. Azmi*
Staff Attorney

*Admitted in New York and supervised by members of the D.C. Bar.

<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) *(If pro se, select this deck)*	<input type="radio"/> I. FOIA/Privacy Act <input checked="" type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran’s Benefits <input type="checkbox"/> 160 Stockholder’s Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN
 1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multi-district Litigation
 7 Appeal to District Judge from Mag. Judge
 8 Multi-district Litigation – Direct File

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
 5 U.S.C. s 552, et seq., violation of the Freedom of Information Act

VII. REQUESTED IN COMPLAINT	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$ _____	JURY DEMAND: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
VIII. RELATED CASE(S) IF ANY	(See instruction)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	If yes, please complete related case form

DATE: August 23, 2018	SIGNATURE OF ATTORNEY OF RECORD: /s/ Johnathan Smith
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INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I.** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III.** CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV.** CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI.** CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII.** RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk’s Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.