

ALEX G. TSE (CABN 152348)
United States Attorney
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Attorneys for Defendant

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

AMERICAN CIVIL LIBERTIES UNION OF
NORTHERN CALIFORNIA,

Plaintiff,

v.

U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT,

Defendant.

Case No. 18-cv-03050-JCS

**JOINT CASE MANAGEMENT CONFERENCE
STATEMENT**

Date & Time: Aug. 24, 2018, 2 p.m.

Courtroom: G, 15th Floor

Location: Phillip Burton Federal Building
450 Golden Gate Avenue
San Francisco, California

Hon. Joseph C. Spero

JOINT CASE MANAGEMENT CONFERENCE STATEMENT

The parties jointly submit this case management conference statement pursuant to the Court's May 5, 2018, Order (ECF 4), Standing Order for All Judges of the Northern District of California, dated January 17, 2017, Civil Local Rule 16-9, and Federal Rule of Civil Procedure 26(f).

1. Jurisdiction and Service.

There are no issues concerning personal jurisdiction, venue, or service. Plaintiff asserts jurisdiction under the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"); and Defendant has been served.

1 **2. Statement of Facts.**

2 Plaintiff filed two FOIA requests with Defendant seeking records reflecting information related
3 to contracts by and between Defendant and any contractors related to automated license plate reader
4 (“ALPR”) technology, as well as any training materials, privacy guidance, audit logs, and other
5 documents relating to any use and sharing of ALPR data by Defendant. Plaintiff’s FOIA requests were
6 dated (1) March 19, 2018 (tracking number 2018-ICFO-26258) and (2) March 21, 2018 (tracking
7 number 2018-ICFO-27097). As of the filing of the complaint on May 23, 2018, Defendant had not
8 released records responsive to Plaintiff’s requests. Plaintiff’s complaint asserts that Defendant
9 wrongfully withheld the requested records in violation of FOIA. Defendant denies plaintiff’s
10 allegations.

11 Defendant is currently working to respond to the two FOIA requests. Defendant made its first
12 interim release on July 13, 2018, and a second interim release on July 18, 2018. Defendant has collected
13 more than 1,800 additional pages and a number of spreadsheets that are currently being reviewed for
14 release in response to Plaintiff’s FOIA requests. Defendant plans to produce any non-exempt records to
15 Plaintiff on a rolling basis in monthly interim releases until the responses are complete. Defendant
16 anticipates that it will complete its review, production, and response to Plaintiff’s FOIA requests in mid-
17 November 2018.

18 **3. Legal Issues.**

19 Plaintiff’s complaint (ECF 1) raises a number of issues, including whether Defendant wrongfully
20 withheld agency records in violation of FOIA and whether Plaintiff is entitled to injunctive relief.

21 **4. Motions.**

22 The parties anticipate that any issues that cannot be resolved between the parties will be
23 submitted to the Court via cross-motions for summary judgment.

24 **5. Amendment of Pleadings.**

25 At this time, the parties do not anticipate amending the pleadings.
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6. Evidence Preservation.

The parties certify that they have reviewed the Guidelines Relating to the Discovery of Electronically Stored Information (“ESI Guidelines”). The parties acknowledge their duty to preserve relevant materials in accordance with applicable rules and case law.

7. Disclosures.

At this time the parties do not anticipate the need for discovery in this FOIA action and respectfully request that the Court excuse the parties from the exchange of initial disclosures pursuant to Federal Rule of Civil Procedure 26.

8. Discovery.

The parties do not anticipate the need for discovery in this FOIA action at this time.

9. Class Actions.

Not applicable.

10. Related Cases.

None.

11. Relief.

Plaintiff seeks declaratory and injunctive relief with respect to the search, release and disclosure of requested agency records, as well as attorneys’ fees and costs.

Defendant states that Plaintiff is not entitled to any relief.

12. Settlement and ADR.

The parties are currently working to resolve their disputes and do not believe that ADR is necessary or appropriate at this time. If the parties are unable to resolve all of the issues raised by plaintiff’s complaint, the parties may seek referral to a United States Magistrate Judge for a settlement conference at an appropriate time.

13. Consent to Magistrate Judge for all Purposes.

The parties have consented to United States Magistrate Judge jurisdiction in this case.

14. Other References.

This case is not suitable for reference to binding arbitration, a special master, or the Judicial

Panel on Multidistrict litigation.

15. Narrowing of Issues.

The parties are working to resolve their disputes and narrow the issues (if any) to be presented to the Court for its resolution by cross-motions for summary judgment.

16. Expedited Trial Procedure.

The parties do not believe that this case is appropriate for an expedited trial.

17. Scheduling.

The parties propose the following schedule for summary judgment in the event that they cannot resolve their disputes:

Event	Date
Defendant's Motion for Summary Judgment	December 14, 2018
Plaintiff's Opposition and Cross-Motion for Summary Judgment	January 18, 2019
Defendant's Opposition and Reply	February 15, 2019
Plaintiff's Reply	March 1, 2019
Hearing on Cross-Motions	March 8, 2019

18. Trial.

At this time, the parties expect that any disputed issues will be resolved on cross-motions for summary judgment and do not anticipate the need for trial in this FOIA action.

19. Disclosure of Non-party Interested Entities or Persons.

Plaintiff states that there are no interested parties that must be disclosed pursuant to Civil Local Rule 3-15.

This requirement does not apply to the federal defendant.

20. Professional Conduct.

All attorneys of record for the parties have reviewed the Guidelines for Professional Conduct for the Northern District of California.

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1 Dated: August 16, 2018

ALEX G. TSE
United States Attorney

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3 /s/ Robin M. Wall
ROBIN M. WALL
Assistant United States Attorney
Attorneys for Federal Defendant

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6 Dated: August 16, 2018

AMERICAN CIVIL LIBERTIES UNION
OF NORTHERN CALIFORNIA

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8 /s/ Vasudha Talla
VASUDHA TALLA
Attorneys for Plaintiff

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11 **CERTIFICATION**

12 Pursuant to Civil Local Rule 5-1(i)(3), the undersigned hereby attests that Vasudha Talla has
13 concurred in the filing of this document.

14 Dated: August 16, 2018

ALEX G. TSE
United States Attorney

15
16 /s/ Robin M. Wall
ROBIN M. WALL
Assistant United States Attorney
Attorneys for Federal Defendant