

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DANIEL J. BERNSTEIN,

Plaintiff,

v.

NATIONAL INSTITUTE OF STANDARDS
AND TECHNOLOGY et al.,

Defendants.

Civil Action No. 22-2319 (DLF)

JOINT STATUS REPORT

Pursuant to this Court’s Minute Order on July 18, 2023, Plaintiff Daniel J. Bernstein and Defendants National Institute of Standards and Technology and U.S. Department of Commerce, by and through the undersigned counsel, respectfully submit this Joint Status Report (“JSR”) to update the Court on the status of the search for, processing of, and production of records responsive to Plaintiff’s request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552.

Defendants previously reported they expected to make a final determination on Plaintiff’s FOIA request by the end of 2023, and are releasing records on a rolling basis as they are processed. Defendants have fallen behind in processing the request due to the volume of other requests being concurrently processed by the same division of NIST, and currently estimate that a final determination will be complete by the end of February 2024. Defendants started producing responsive records on August 31, 2022, and have thus far made 18 releases, furnishing Plaintiff with over 5,500 pages of responsive records. (395 records comprising 5,481 pages of records have been released in full, 2 records comprising 19 pages had some information redacted pursuant to Exemption 6, and 1 record comprising 6 pages was withheld pursuant to Exemption 5.) The table

below provides further details about the releases.

Production	Date	Documents	Pages	Exemption Notes
IR1	8/31/2022	3	49	released in full
IR2	9/14/2022	4	89	released in full
IR3	10/3/2022	30	735	released in full
IR4	10/12/2022	55	612	released in full
IR5	11/7/2022	25 1	532 17	released in full partial withholding per (b)(6)
IR6	12/9/2022	12	205	released in full
IR7	1/3/2023	31 1	570 6	released in full withheld in full under (b)(5)-DPP
IR8	1/13/2023	35	861	released in full
IR9	2/3/2023	20	341	released in full
IR10	2/9/2023	31	177	released in full
IR11	3/14/2023	12	187	released in full
IR12	5/4/2023	18	237	released in full
IR13	5/16/2023	10	182	released in full
IR14	6/16/2023	15	210	released in full
IR15	7/26/2023	15	143	released in full
IR16	8/14/2023	28 1	85 2	released in full partial withholding per (b)(6)
IR17	8/15/2023	9	118	released in full
IR18	9/14/2023	42	148	released in full

Table of releases made by NIST to Bernstein for FOIA request DOC-NIST-2022-001064

The parties propose that the Court direct them to file another JSR by November 17, 2023.

Dated: September 18, 2023

Respectfully submitted,

/s/ Merrick Wayne

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