



of this litigation. I make the statements herein based on my personal knowledge, as well as on information that I acquired while performing my official duties.

3. Under the leadership of the Chief Privacy Officer, the DHS Privacy Office is responsible for monitoring FOIA operations across the Department and recommending adjustments to agency practices, policies, personnel, and funding as may be necessary to improve performance, providing FOIA-related training, and preparing the required annual reports on the Department's FOIA performance.

4. These responsibilities are carried out by the FOIA Division within the DHS Privacy Office to promote efficiency, effectiveness, and statutory compliance throughout the Department. The FOIA Division is comprised of three teams: 1) Disclosure; 2) FOIA Appeals and Litigation; and 3) FOIA Policy, Compliance, and Training.

5. The DHS Privacy Office FOIA Division Disclosure team is responsible for receiving, tracking, processing, and closing all FOIA requests received by the DHS Privacy Office. The Disclosure team processes initial FOIA and Privacy Act (PA) requests made to the Office of the Secretary, the Management Directorate, the Office of the General Counsel, the Office of Public Engagement, and numerous other offices. This team is also responsible for engaging with the Components on the proper handling and processing of all FOIA transfers and referrals to the DHS Privacy Office. Further, the DHS Privacy Office also coordinates FOIA responses across DHS components when the requests involve cross-cutting issues involving multiple components and DHS Headquarters.

6. Of most relevance to this litigation, the DHS Privacy Office FOIA Appeals and Litigation Team (DHS FOIA Litigation Team) serves as liaison between Office of the General Counsel (OGC) and the DHS Privacy Office leadership on complex FOIA requests. In addition,

the team provides guidance and training on recent developments in the field of disclosure, to include court decisions and current legislation. The team also researches, analyzes, and evaluates complex FOIA requests to determine whether the FOIA/PA was properly applied during the original processing of a FOIA request.

7. FOIA specialists handle all aspects of the FOIA request process. They receive new FOIA requests, along with referrals and consultation requests from other agencies or DHS components, log those new FOIA requests into the FOIA case tracking system, and send out search taskers to various offices compelling them to search for records. Once those searches are complete, FOIA specialists review any records located and make withholding determinations, redacting any exempt information pursuant to the FOIA exemptions. FOIA specialists also send out FOIA responses and work on other FOIA projects for the DHS Privacy Office, as needed.

8. Project South and Center for Constitutional Rights (PSCCR) submitted two separate FOIA requests (the “Data Request” and the “Communications Request”), each dated April 26, 2021. On October 13, 2021, PSCCR filed the present litigation. PSCCR and DHS-HQ have engaged in ongoing discussions and negotiations to resolve this case since its inception.

9. In response to the Data Request, DHS-HQ determined that it did not have databases likely to have information responsive to the Request, as it does not maintain such databases. Specifically, CHIVE and FALCON are systems managed by Immigration and Customs Enforcement (ICE), and LeadTrack is managed by ICE and Homeland Security Investigations (HSI). DHS-HQ further determined that DHS did not have primary responsibility for any additional databases likely to contain the information sought by the Data Request.

10. In an attempt to locate any policy documents responsive to the Data Request, DHS-HQ determined that, out of possible offices in DHS-HQ, the Office of the General Counsel (OGC) and the Office of Policy were the components most likely to have relevant records. DHS-HQ send inquiries to those offices to determine if a search for relevant records would be appropriate for either one.

11. In response, DHS OGC provided its Immigration Law Division (IMM), Operations and Enforcement Law Division (OELD), and its Executive Secretary, with relevant parts of the FOIA request for potential search of responsive records. Each of the three offices determined that the applicable items would not fall under its purview and, therefore, that DHS components would be best equipped to provide such records. Separately, the Office of Policy was also provided with relevant parts of the FOIA request. Custodians in the Office of International Affairs in the Office of Strategy, Policy, and Plans (PLCY) including the Director for the Middle East, Africa, and Southwest Asia and the PLCY Executive Secretary were instructed to manually search any applicable computer files, hard copy work folders, or email systems for records potentially responsive to the request. The Office of Policy located 6 pages of potentially responsive records. After review of the 6-page record set, it was determined that 3 pages were non-responsive, 2 pages were duplicative of previously produced pages, and 1 page was the publicly available letter dated October 28, 2020, from four United States Senators to the Acting Secretary at the time, Chad Wolf.

12. In response to the Communications Request, DHS engaged in discussions with Plaintiffs over the scope of the search. DHS proposed six custodians: Emily Hymowitz, Deputy Assistant Secretary for the House (Acting), Office of Legislative Affairs; Marsha Espinosa, Assistant Secretary, Office of Public Affairs; David Shahoulian, Assistant Secretary for Border

Security and Immigration; Jeff Readinger, Deputy Assistant Secretary (Acting), Office of Legislative Affairs; Angela Kelley, Senior Counselor for Immigration and Border to the Secretary; and Joseph Joh, Assistant Director of Legislative Affairs. Plaintiffs proposed an additional 6 custodians: Kyle P. Egan, Legislative Advisor; Robert T. Goad, Deputy Assistant Secretary; John Richard Lange, Chief of Staff; Jeffrey T. Readinger, Deputy Assistant Secretary (Acting); Natalie Nguyen McGarry, Deputy Assistant Secretary, Senate; and Harlan C. Geer, Deputy Assistant Secretary for Legislative Affairs. DHS agreed to search all 12 of the custodians, using search terms agreed to by the parties:

- Cameroon w/5 remove
- Cameroon w/5 removal
- Cameroonian w/5 remove
- Cameroonian w/5 removal
- Cameroon w/5 repatriate
- Cameroon w/5 repatriation
- Cameroonian w/5 repatriate
- Cameroonian w/5 repatriation
- Cameroon w/5 flight
- Cameroonian w/5 flight
- Cameroon w/5 charter
- Cameroonian w/5 charter
- Cameroon w/5 manifest
- Cameroonian w/5 manifest
- Cameroon w/5 Omni
- Cameroonian w/5 Omni
- Cameroon w/5 illegal
- Cameroon w/5 illegals
- Cameroonian w/5 illegal
- Cameroonian w/5 illegals
- Cameroon w/5 alien
- Cameroon w/5 aliens
- Cameroonian w/5 alien
- Cameroonian w/5 aliens

13. These searches resulted in identification of 661 pages of records potentially responsive to the Communications Request. In the course of reviewing and processing all

potentially responsive records found, DHS-HQ made two interim responses, which were dated June 3, 2022 and June 24, 2022. For the June 3, 2022 release, DHS-HQ processed 328 pages of potentially responsive records and produced 131 pages of which 56 were released in full, 26 were partially withheld, and 49 pages withheld in full pursuant to FOIA exemptions (b)(5) and (b)(6). For the June 24, 2022 release, DHS-HQ processed 333 pages of potentially responsive records and produced 6 pages in full, 30 pages were partially withheld, and 69 pages withheld in full pursuant to FOIA exemptions (b)(5) and (b)(6).

14. In March of 2023 and upon request from Plaintiffs, DHS-HQ provided Plaintiffs with a *Vaughn* index for all records withheld in full or in part.

15. In April 2023, Plaintiff notified Assistant United States Attorney (AUSA) Lucas Issacharoff that after review of the withholding descriptions provided in the *Vaughn* index, Plaintiff planned to challenge specific DHS-HQ records previously identified as Bates stamped pages 000117-119, 000121-124, and 000224-226, to which DHS-HQ had applied FOIA Exemption (b)(6) to withhold the names and contact information for certain DHS employees identified in email correspondence within these pages. The final *Vaughn* index relating to these challenges is attached as Exhibit A to this declaration.

16. Disclosure of contact information for DHS-HQ employees and disclosure of employee names who are not senior leaders, political appointees, or employed at a grade level of GS-15 or SES, would not shed any light on the functioning of the Department in any meaningful fashion, and would constitute an unwarranted invasion of their personal privacy. In each instance where information continues to be withheld from plaintiffs pursuant to Exemption 6, DHS determined that the individuals' privacy interests were not outweighed by any FOIA public interest in disclosure of that information.

17. Both before the initial release and after receiving the list of challenges, DHS-HQ conducted a line-by-line review of all potentially responsive records. However, in good faith and to attempt to resolve any remaining issues, DHS-HQ did conduct a re-review of the pages at issue for possible supplemental release of any segregable information. On May 25, 2023, DHS made a supplemental release of two additional names previously withheld in the responsive record, after determining that such release would not pose harm.

I declare the foregoing is true and correct to the best of my knowledge and belief, under penalty of perjury, pursuant to 28 U.S.C. § 1746.

Dated the 25<sup>th</sup> day of May 2023

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Catrina M. Pavlik-Keenan  
Deputy Chief FOIA Officer  
U.S. Department of Homeland Security