

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

AMERICAN CIVIL LIBERTIES UNION)
OF MAINE FOUNDATION,)

Plaintiff,)

v.)

Case No. 2:18-cv-00176-JDL

U.S. DEPARTMENT OF HOMELAND)
SECURITY, and U.S. CUSTOMS AND)
BORDER PROTECTION,)

Defendants.)

**FOURTH JOINT STATUS REPORT AND
JOINT MOTION FOR BRIEFING SCHEDULE**

Pursuant to the Court’s minute Order dated November 4, 2018 (the “Order,” ECF No. 21), the American Civil Liberties Union of Maine (“Plaintiff”), and the U.S. Department of Homeland Security and U.S. Customs and Border Protection (collectively, “Defendants”), hereby file this Fourth Joint Status Report and Joint Motion for Briefing Schedule addressing the status of production in this case under the Freedom of Information Act (“FOIA”) and the parties’ proposed schedule for future proceedings.

Since the last status report, the Defendants have re-produced several responsive documents with fewer redactions. However, even after this updated production, there remain numerous redactions that the Plaintiff contends are unsupported by the FOIA statute. Accordingly, the parties request the Court’s adjudication of the legal question of whether FOIA exemptions apply to the redacted material. In furtherance of the Court’s decision on these issues, the parties propose to submit the redacted and the un-redacted records for the Court’s *in camera* review, along with simultaneous letter briefs addressing the claimed exemptions. The parties believe this would be the most efficient resolution of the dispute, as there is only a small quantity

of challenged documents, lending the case to non-burdensome *in camera* review. Specifically, the parties propose the following briefing schedule:

- **February 1, 2019:** ACLU of Maine will designate the challenged redacted documents.
- **February 22, 2019:**
 - ACLU of Maine will file the challenged redacted documents and its memorandum opposing the claimed exemptions (no longer than 10 pages).
 - Defendants will submit the un-redacted documents for in camera review and will file their memorandum in support of the claimed exemptions (no longer than 10 pages).
- **March 8, 2019:** The parties will submit response briefs (no longer than 7 pages).
- The parties are amenable to the review of the subject documents and adjudication of their dispute regarding all redactions proceeding before the assigned Magistrate Judge.

The Court could then schedule oral argument as it deems necessary.

WHEREFORE, the Parties jointly request that they be permitted to file simultaneous briefs addressing the legal adequacy of the challenged redactions in the Defendants' FOIA production, under the proposed schedule set forth above.

Dated: December 17, 2018
Portland, Maine

Respectfully submitted,

HALSEY B. FRANK
United States Attorney

/s/ Andrew K. Lizotte
Andrew K. Lizotte, AUSA
U.S. Attorney's Office
100 Middle St., East Tower
Portland, ME 04101
(207) 771-3246
Andrew.Lizotte@usdoj.gov

Dated: December 17, 2018
Portland, Maine

/s/ Emma E. Bond, Esq.
Emma E. Bond, Esq.
Zachary L. Heiden, Esq.
AMERICAN CIVIL LIBERTIES UNION OF
MAINE
121 Middle St., Suite 200
Portland, ME 04101
(207) 774-5444
ebond@aclumaine.org
zheiden@aclumaine.org

CERTIFICATE OF SERVICE

I hereby certify that on December 17, 2018, I electronically filed the foregoing using the CM/ECF system, which will send electronic notifications of such filing(s) to all counsel of record in this case.

/s/ Emma E. Bond, Esq.

Emma E. Bond, Esq.

AMERICAN CIVIL LIBERTIES UNION OF
MAINE

121 Middle St., Suite 200

Portland, ME 04101

(207) 774-5444

ebond@aclumaine.org