



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

KMA: 2019V03293

*271-A Cadman Plaza East
Brooklyn, New York 11201*

December 2, 2022

BY ECF

Honorable Ramon E. Reyes, Jr.
United States Magistrate Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *CLEAR, et al. v. United States Customs and Border Protection,*
Civil Action No. 19-CV-07079 (RER)

Dear Judge Reyes:

Defendant United States Customs and Border Protection (CBP) respectfully requests (1) an extension from December 16, 2022 to January 17, 2023, of the date by which CBP is to make the releases and supplemental filings in accordance with Your Honor's Memorandum and Order dated November 2, 2022 (ECF #54) ("Order"); and (2) an adjournment of the telephone conference scheduled for 12:30 p.m. on January 5, 2023, to a date on or after February 6, 2023. Plaintiffs' counsel have graciously consented to these requests.

In this action pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, Plaintiffs sought to compel the release of records pertaining to CBP's Tactical Terrorism Response Teams. Ultimately, Plaintiffs disputed CBP's assertion of FOIA Exemption 7(E) to withhold sixteen documents in their entirety and to redact portions of other documents. Also in dispute was the assertion of FOIA Exemption 3 with respect to redactions in one document. After conducting an *in camera* review of a selected sample of ten documents, the Court granted in part and denied in part the parties' respective motions for summary judgment.

The Order set forth specific findings regarding the applicability of Exemption 7(E),¹ and directed CBP to release all non-exempt and segregable information and to submit an

¹ The Court reserved judgment on whether FOIA Exemption 3 was properly invoked. Order at 15.

amended or supplemental *Vaughn* index and/or declaration addressing all of the disputed documents by December 16, 2022.

CBP has reviewed the disputed documents in accordance with the findings in the Order. The agency determined that no documents will continue to be withheld in full. However, CBP will not be able to complete reprocessing and release of all of documents and compile its supplemental court filings by December 16. Accordingly, CBP is requesting an extension of that deadline to Tuesday, January 17, 2023. This is CBP's first request for an extension.

In addition, in the Order, the Court scheduled a telephone conference to discuss further proceedings for December 27, 2022. That conference subsequently was adjourned to January 5, 2023, at Plaintiffs' request. If CBP's extension request is granted, a corresponding adjournment of the conference to a date on or after February 6, 2023 is requested.

Thank you for Your Honor's consideration of these requests.

Respectfully submitted,

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