



United States Attorney
Southern District of New York

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April 7, 2016

Hon. Colleen McMahon
United States District Judge
Daniel P. Moynihan United States Courthouse
500 Pearl Street, Room 1640
New York, NY 10007

Re: *ACLU v. Department of Justice*, 15 Civ. 1954 (CM)

Dear Judge McMahon:

We write respectfully on behalf of defendants (the “Government”) in the above-referenced case, and in response to the Court’s Order of March 10, 2016. The Government has reviewed all of the documents described in its consolidated Classified Index to identify those documents with information that is no longer protected in full or in part in light of the Government’s decision to disclose in part the Presidential Policy Memorandum, or “PPG” (OLC 306). In addition to DOD 7 and DOD 8, which the Government previously provided to the Court, DOD 6 and DOD 9¹ can also be partially unredacted. Read-through versions of those documents are being lodged today with the Department of Justice’s Classified Information Security Officer for the Court’s *in camera*, *ex parte* review. Although some of remaining documents on the Government’s Classified Index reference the PPG or its contents, they remain classified and/or privileged and are not susceptible to further release.

The Government also wishes to bring to the Court’s attention certain recent public remarks. On April 1, 2016, the State Department’s Legal Adviser delivered remarks to the annual conference of the American Society for International Law. This keynote address was entitled “International Law, Legal Diplomacy and the Counter-ISIL Campaign,” a copy of which is attached to this correspondence. Although the remarks included a section on the PPG and its heightened policy standards, they were entirely consistent with the earlier-released fact sheet, and the proposed redactions to the PPG proffered earlier this month to the Court *ex parte* and *in camera*.

¹ On March 31, 2016, the Court issued an Order directing the Government to provide the Court with an unredacted copy of DOD 9, a redacted version of which was already produced to Plaintiff. Plaintiff has not challenged the redactions to that document. *See* ACLU Memorandum in Support of Motion for Summary Judgment, p. 2 (Dec. 1, 2015) [ecf #52]. The Government, however, mistakenly included DOD 9 on its consolidated index, for which we apologize. Nevertheless, the Government is providing the unredacted document to the Court in accordance with the Court’s direction, and has determined to re-release the document in less redacted form once the Court issues its decision.

Respectfully,

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