



U.S. Department of Justice

United States Attorney  
Southern District of New York

86 Chambers Street  
New York, New York 10007

August 5, 2021

**BY ECF**

Hon. Lorna G. Schofield  
United States District Judge  
United States Courthouse  
40 Foley Square  
New York, New York 10007

Re: *American Civil Liberties Union et al. v. Office of the Director of National Intelligence, et al.*, 18 Civ. 12131 (LGS)

Dear Judge Schofield:

Consistent with the Court's previous orders, *see* ECF Nos. 67, 69, I write jointly with Plaintiffs' counsel to propose a schedule for processing the remaining potentially responsive records.

Exhibit A to the parties' June 24, 2021 letter, ECF No. 66, identifies proceedings before the Foreign Intelligence Surveillance Court and the Foreign Intelligence Surveillance Court of Review involving amicus appointments. The parties have previously agreed that the Department of Justice's National Security Division will process records it has gathered related to items 4 through 10 on this list (the "remaining records"). *See* ECF No. 66.

The parties now jointly propose the following processing schedule and obligations:

- **Overall agreement.** Subject to the following more specific provisions, the government will process all of the remaining records by **January 31, 2022**.
- **Items 4 and 10.** By **August 30, 2021**, the government will determine whether it will withhold in full the records related to items 4 and 10, and it will notify Plaintiffs of this decision by letter. In the event the government determines that additional processing is required for any records related to items 4 or 10, the government will also propose a processing schedule for such records (which will not extend beyond January 31, 2022).
- **Items 5 through 9.** The government will meet the following interim processing obligations:
  - By **October 5, 2021**, the government will fully process at least 400 potentially responsive pages relating to items 5 through 9, and will produce any of those pages that are responsive and are not withheld in full.
  - By **December 7, 2021**, the government will process at least an additional 400 potentially responsive pages relating to items 5 through 9, and will

produce any of those pages that are responsive and are not withheld in full.

- **Officially disclosed records:** Plaintiffs have agreed that, to the extent any of the remaining records were previously officially disclosed by the United States government (whether through FOIA or other means), they need not be processed again. If the government identifies such records during the course of its processing, it will remove those records from its processing, notify Plaintiffs that it has identified such records, and, if applicable, provide an updated processing timeline (which will not extend beyond January 31, 2022). Any pages removed from the processing queue in this manner will not count toward the government's interim processing quotas or delay those interim processing deadlines.
- **Prioritization.** To the extent it is feasible and does not interfere with the government's ability to meet other obligations under this schedule, the government will prioritize its processing of records related to items 5 through 9 in the following order: 9, 7, 5, 6, 8.
- **Identification of records withheld in full.** When the government provides Plaintiffs with each of the notifications and productions described above, it will also identify to Plaintiffs any record it has withheld in full as well as the exemption(s) claimed as a basis for withholding—including a statement of the date, title, and number of pages for each fully withheld record—unless the government determines that such information would disclose FOIA-exempt information.

In the event this proposed schedule is acceptable to the Court, the parties respectfully request that the Court so-order this letter.

The parties further propose that, if the Court adopts this schedule, the parties will provide a joint status report by **February 25, 2022**, outlining any proposed next steps in this case.

I thank the Court for its consideration of this matter.

Respectfully,

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