



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

October 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:

I write on behalf of the government to request an adjournment of the first interim processing date proposed by the parties' agreement and endorsed by the Court's August 6, 2021 order, ECF No. 71. This is the first request for an extension of this date. Because key personnel necessary to provide input on the government's proposal for a specific date by which to complete the first interim production were unavailable today, we respectfully propose that we advise the Court of the specific proposal by tomorrow, October 6, 2021. Plaintiffs consent to the government's request for an additional day to update the Court, but take no position on whether they will consent to or oppose any specific proposal that the government puts forward tomorrow.

Under the existing schedule, the National Security Division (NSD) of the Department of Justice must, by today, "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." ECF No. 71 at 1. That processing obligation is subject to certain additional requirements laid out in the order. *See id.* at 2.

Due to NSD's workload across all its FOIA requests, as well as the time necessary to engage in consultation with other parts of the government that hold equities in the records to be processed, the government has been unable to meet its obligation to process at least 400 potentially responsive pages by today's date. This has been due in part to difficulty in locating a sufficient number of reviewers with the requisite security clearances to review potentially responsive documents, which the government is working to address. In addition, the government has faced unforeseen limitations on staffing because some staff have become sickened by COVID-19 or have needed to quarantine.

NSD therefore respectfully requests that its October 5 interim processing date be adjourned. By tomorrow, October 6, the government will make a specific proposal for when it will process the first 400 pages.

I thank the Court for its consideration of this matter.

Respectfully,

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United States Attorney

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