

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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JASON LEOPOLD,		)	
		)	
Plaintiff,		)	
		)	
v.		)	Civil Action No. 1:13-cv-1324 (JEB)
		)	
CENTRAL INTELLIGENCE AGENCY,		)	
		)	
Defendant.		)	
		)	
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AMERICAN CIVIL LIBERTIES UNION,		)	
and AMERICAN CIVIL LIBERTIES		)	
UNION FOUNDATION,		)	
		)	
Plaintiffs,		)	Civil Action No. 1:13-cv-01870 (JEB)
		)	
v.		)	
		)	
CENTRAL INTELLIGENCE AGENCY, et		)	
al.		)	
		)	
Defendants.		)	
		)	
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**GOVERNMENT’S FOURTH MOTION FOR EXTENSION OF TIME**

The government regretfully, but of necessity, seeks a fourth extension of time to release non-exempt information in the documents at issue in these Freedom of Information Act (“FOIA”) cases. The Senate Select Committee on Intelligence (“SSCI”), which requested that the Department of Justice seek the prior extensions of time, has advised the Department that the Executive Summary, findings, and conclusions of the SSCI Report concerning the CIA’s former rendition, detention and interrogation program will not be ready for release tomorrow – the current deadline set by the Court for the release of any non-exempt information. Thus, SSCI has

asked the Department to ask this Court for one additional extension. As explained below, the requested extension will not affect the briefing schedule currently in place to brief all issues and withholdings.<sup>1</sup> In the event that SSCI has not released the Executive Summary, findings, and conclusions of its report prior to the deadline for the government's opening brief, the government will move for summary judgment on the grounds that the not-yet-finalized Executive Summary, findings, and conclusions, are not agency records subject to FOIA. In compliance with LCvR 7(m), undersigned counsel has discussed the relief requested with counsel for the plaintiffs in these cases. Jeffrey Light, counsel for Jason Leopold in *Leopold v. CIA*, 1:13-cv-1324, advises that he opposes this extension. The ACLU, counsel for plaintiffs in *ACLU v. CIA, et al.*, 1:13-cv-01870, also opposes this extension, and will file a response once they review this filing.

In further support of this motion, defendants state as follows:

1. At the October 7, 2014, status conference in this case, counsel for the government represented that defendants did not expect to move for a further extension of time for the release of any non-exempt information in these documents, and that was defendants' expectation at the time. Defendants, however, do not control the timing of the release of the SSCI Report's Executive Summary, findings, and conclusions, and SSCI has requested that defendants seek another extension in order that the processing and release of the Executive Summary, findings, and conclusions, can be completed.

2. As the government has previously explained, much of the classified information in the CIA Response (admittedly an agency record) corresponds to information contained in the Executive Summary, findings, and conclusions (not an agency record). Treatment of these

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<sup>1</sup> At the October 7, 2014, status conference, this Court set the following briefing schedule: defendants' motion for summary judgment due 12/05/2014; plaintiffs' opposition and cross-motion due 1/09/2015; defendants' opposition and reply due 1/30/2015; and plaintiffs' reply due 2/13/2015.

documents will necessarily depend upon the results of the ongoing discussions between the SSCI and Executive Branch regarding declassification of the SSCI Report's Executive Summary, findings, and conclusions. In addition, SSCI has specifically requested that the CIA Response not be released in advance of the Executive Summary, findings and conclusions.

3. This Court previously set a briefing schedule for summary judgment motions in this case. The government intends to comply with that schedule regardless of the timing of SSCI's release of the Executive Summary. In the event SSCI has not released the report by the deadline for the government's brief, the government will argue that the draft Executive Summary, findings, and conclusions, is not an agency record subject to FOIA. More broadly, briefing with respect to all the contested documents will proceed without further delay. Accordingly, plaintiffs will not be prejudiced by this extension.

Dated: October 28, 2014

Respectfully submitted,

JOYCE R. BRANDA  
Acting Assistant Attorney General

RONALD C. MACHEN, Jr.  
United States Attorney

ELIZABETH J. SHAPIRO  
Deputy Branch Director  
Civil Division

/s/ Vesper Mei  
VESPER MEI (D.C. Bar 455778)  
Senior Counsel  
United States Department of Justice  
Civil Division, Federal Programs Branch  
20 Massachusetts Ave, NW  
Washington, D.C. 20530  
Telephone: (202) 514-4686  
E-mail: vesper.mei@usdoj.gov

*Counsel for the Defendants*