U.S. Department of Justice

United States Attorney
Southern District of New York

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June 4, 2021

BY ECF
The Honorable John G. Koeltl
United States District Judge
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, New York 10007

APPLICATION GRANTED
SO ORDERED
6/7/21
John G. Koeltl, U.S.D.J.

Knight First Amendment Inst. et al. v. Dep't of State et al.,
No. 20 Civ. 4911 (JGK)

Dear Judge Koeltl:

We write respectfully on behalf of the parties in the above-referenced Freedom of Information Act ("FOIA") case to provide the Court with a status report with regard to the remaining defendants' processing of plaintiffs' FOIA request.

Department of State: State has completed processing and production of responsive, non-exempt records from unclassified records systems. The parties have met and conferred and agreed to narrow the universe of potentially responsive records residing on classified systems to records concerning publications by former National Security Adviser McMaster and former Secretary of State Kerry. This narrowed set of records numbers roughly 3,400 pages, although that figure likely includes draft manuscripts which plaintiffs have agreed to exclude. State has begun processing these records, and will continue to make rolling productions of responsive, non-exempt records.

Central Intelligence Agency: CIA has completed its processing and production of responsive, non-exempt records, with the exception of records requiring inter-agency consultation. CIA will produce any remaining non-exempt records promptly upon completion of the inter-agency consultation process. Pursuant to an agreement with plaintiffs, CIA is in the process of preparing a draft Vaughn index with regard to the records it withheld in full and a limited number of records identified by plaintiffs that were withheld in part.

Office of National Intelligence: The remaining approximately 70 responsive documents require consultation with or referral to other government agencies or entities. ODNI is actively engaged in the consultation and referral process.

National Security Agency: NSA made its final production of responsive, non-exempt records and issued a final response to plaintiffs on March 31, 2021. However, NSA recently became aware that one of the publications had a different working title than the final title identified by in the FOIA request. Accordingly, NSA is conducting a supplemental search to determine if it has any additional responsive records.

Federal Bureau of Investigation: FBI continues to make rolling productions of responsive, non-exempt records on or about the 14th day of each month. FBI has resumed processing 500 pages per month, as contemplated by the Stipulation and Order entered by the Court on September 28, 2020 (ECF No. 42).

Defendants note that their ability to process FOIA requests, including the request in this case, remains constrained by staffing restrictions necessitated by the ongoing COVID-19 public health emergency. The limitations are particularly pronounced with regard to review of records residing on classified record systems, which cannot be reviewed remotely. Defendants have nevertheless have made substantial progress in processing records responsive to the FOIA requests, and the parties continue to meet and confer as necessary to narrow the records at issue.

We thank the Court for its consideration of this letter, and propose to submit a further status report on or before September 3, 2021.

Respectfully submitted,

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