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

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| AMERICAN CIVIL LIBERTIES UNION and AMERICAN CIVIL LIBERTIES UNION FOUNDATION,<br><br>Plaintiffs,<br><br>v.<br><br>CENTRAL INTELLIGENCE AGENCY, *et al.*,<br><br>Defendants. | Civil Action No. 1:16-cv-01256 (EGS) |

**JOINT PROPOSED SCHEDULING ORDER**

Plaintiffs American Civil Liberties Union and American Civil Liberties Union Foundation (ACLU) submitted identical Freedom of Information Act (FOIA) requests to eighteen different Government entities for six different categories of information related to the prepublication review process. In this action, the ACLU is suing those eighteen entities for failing to respond to its FOIA requests. On September 30, 2016, the Court entered its Standing Order for FOIA cases and directed the parties to file a Joint Proposed Scheduling Order by October 7, 2016. The parties jointly moved for an extension of time, and the Court granted the motion, directing the parties to file their Joint Proposed Scheduling Order by November 4, 2016. Pursuant to the Court's orders, the parties file this Joint Proposed Scheduling Order.

The Court's Standing Order in FOIA Cases directs parties to provide seven categories of information:

## I-III. The Status of the FOIA Requests, the Anticipated Number of Responsive Records, and the Anticipated Dates by which Responsive Information Will Be Produced

### A. CIA

The CIA estimates that is has approximately 100 potentially responsive records and anticipates that it will be able to review, process, and produce all responsive, non-exempt records by March 3, 2017.

### B. DoD

The Department of Defense (DoD) is in the process of identifying records that are potentially responsive to the ACLU's narrowed FOIA request. DoD anticipates making rolling releases and believes it can process and release all responsive, non-exempt records by March 1, 2017.

### C. DIA

The Defense Intelligence Agency has begun searching for responsive records and anticipates that it will be able to review, process and produce all responsive, non-exempt records by February 3, 2017.

### E. Air Force

The Air Force is in the process of identifying records that are potentially responsive to the ACLU's narrowed FOIA request. Air Force anticipates making rolling releases and believes it can process and release all responsive, non-exempt records by June 1, 2017.

**F. Navy**

The Navy is in the process of identifying records that are potentially responsive to the ACLU's narrowed FOIA request. Navy anticipates making rolling releases and believes it can process and release all responsive, non-exempt records by May 1, 2017.

**G. NGIA**

The National Geospatial Intelligence Agency (NGIA) has located approximately 96 pages of potentially responsive records and anticipates that it will be able to review, process, and produce the responsive, nonexempt information in those records to the ACLU by December 8, 2016. To the extent NGIA has additional responsive records, it anticipates reviewing, processing, and producing responsive, non-exempt information from those records by February 16, 2017.

**H. NRO**

The National Reconnaissance Office (NRO) is in the process of identifying records that are potentially responsive to the ACLU's narrowed FOIA request. NRO anticipates making rolling releases and believes it can process and release all responsive, non-exempt records by June 1, 2017.

**I. NSA**

NSA has completed a preliminary search and has identified 5-10 potentially responsive records totaling 25-50 pages. NSA anticipates being able to review, process and complete production of responsive, non-exempt information from these records by February 3, 2017. NSA has also identified several spreadsheets with approximately 11,250 entries containing potentially responsive information. NSA anticipates producing

records on a rolling basis and completing its production of responsive, non-exempt information from these records by June 1, 2017.

**J. Marines**

The Marines sent ACLU a final response to its FOIA request on June 24, 2016.

**K. DOE**

DOE has completed its search and identified 268 pages of potentially responsive records. DOE anticipates that it will be able to finish reviewing, processing and producing all responsive, non-exempt records by December 2, 2016.

**L. DHS**

The Department of Homeland Security sent ACLU a final response to its FOIA request on September 2, 2016.

**M. Coast Guard**

The Coast Guard has conducted a search for responsive records and anticipates that it will be able to review, process and complete its production of responsive, non-exempt records by November 18, 2016.

**N. DOJ**

The Department of Justice has conducted a preliminary search and has identified approximately 150 potentially responsive records. The Department anticipates that it will be able to review, process, and complete its production of responsive, non-exempt records by February 3, 2017.

**O. DEA**

The Drug Enforcement Administration sent ACLU a final response to its FOIA request on July 7, 2016.

**P. FBI**

The FBI has located approximately 2,602 pages of potentially responsive records and has begun making rolling productions of responsive, non-exempt records. The FBI anticipates that it will finish producing responsive, non-exempt records by February 3, 2017.

**Q. DOS**

The Department of State's search for potentially responsive records is ongoing. The Department has collected over 7,000 records that are potentially responsive to the ACLU's initial request and is still determining how many of those documents are responsive to the ACLU's narrowed request. The Department anticipates that it can complete an initial production of responsive, non-exempt documents by December 16, 2016, and can produce additional responsive, non-exempt records on a rolling basis, if necessary.

**R. DOT**

The Treasury Department estimates that it has approximately 45 responsive records and anticipates that it will be able to finish producing responsive, non-exempt records to the ACLU by January 30, 2017.

**S. ODNI**

ODNI has located and produced records responsive to Category 1 of the ACLU's request. ODNI has also located and produced some records responsive to Category 5 of the ACLU's request. ODNI anticipates that will be able to complete its search and produce all remaining responsive, non-exempt records by February 3, 2017.

**VI. Whether a motion for an Open America stay is likely in this case**

The parties do not believe that an Open America stay is likely in this case.

**V. Whether a Vaughn index will be required in this case**

At this juncture, it is unclear whether *Vaughn* indices will be required in this case.

**VI. Whether this case would benefit from referral to a magistrate judge or the District Court Mediation Program for purposes of settlement**

The parties have established open lines of communication and have worked together cooperatively to negotiate the scope of the ACLU's FOIA request. They do not, therefore, believe that the case would benefit from referral to a magistrate judge or the District Court's Mediation Program for purposes of settlement.

**VII. A proposed briefing schedule for dispositive motions, if applicable**

The parties are committed to working toward a resolution of this matter without the need for further involvement from the Court. Rather than proposing a briefing schedule for dispositive motions, the parties propose to file another Joint Proposed Scheduling Order on April 7, 2017, to update the Court on the status of Defendants' productions and whether further litigation will be necessary.

Dated: November 4, 2016

Respectfully submitted,


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