IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN CIVIL LIBERTIES UNION and AMERICAN CIVIL LIBERTIES UNION FOUNDATION, Plaintiffs, v. CENTRAL INTELLIGENCE AGENCY, *et al.*, 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. ECF No. 1. In this action, the ACLU is suing those eighteen entities for failing to respond to its FOIA requests. *Id.* 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. ECF No. 21. The parties jointly moved for an extension of time, ECF No. 22, and the Court granted the motion in a Minute Order, directing the parties to file their Joint Proposed Scheduling Order by November 4, 2016.

On November 4, 2016, the parties filed a Joint Proposed Scheduling Order informing the Court of the status of the eighteen FOIA requests at issue and proposing that they file another Joint Proposed Briefing Schedule by April 7, 2017. ECF No. 23.

After receiving the parties' submission, the Court entered a Minute Order accepting the parties' proposal and ordering them to file another Joint Proposed Scheduling Order by April 7, 2017. Since filing their last Joint Proposed Scheduling Order, the parties have agreed to narrow the scope of ACLU's FOIA request and have worked cooperatively to resolve issues that have arisen as the Defendants have produced responsive, non-exempt records in response to the ACLU's request.

Pursuant to the Court's Order, the parties now 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 produced approximately 699 pages of responsive records by mail on Friday, April 7, 2017. The CIA is currently reviewing additional responsive records and anticipates that it will be able to produce all of the remaining responsive, non-exempt records by Friday, June 9.

B. DoD

The Department of Defense has completed its search and produced what it believes to be all responsive, non-exempt records.

C. DIA

The Defense Intelligence Agency has completed its search and produced what it believes to be all responsive, non-exempt records.

E. Air Force

The Department of the Air Force is in the process of searching for and reviewing potentially responsive records and anticipates that it will be able to complete its production of responsive, non-exempt records by June 1, 2017.

F. Navy

The Department of the Navy is in the process of searching for and reviewing potentially responsive records and anticipates that it will be able to complete its production of responsive, non-exempt records by May 1, 2017.

G. NGIA

The National Geospatial-Intelligence Agency has completed its search and produced what it believes to be all responsive, non-exempt records.

H. NRO

The National Reconnaissance Office has completed its search and produced what it believes to be all responsive, non-exempt records.

I. NSA

The National Security Agency produced approximately 87 pages of responsive, non-exempt records on February 3, 2017. NSA is continuing to process approximately 720 pages of potentially responsive records and anticipates that it can complete its production of responsive, non-exempt records by June 1, 2017.

J. Marines

The Marines have completed their search and produced what they believe to be all responsive, non-exempt records.

K. DOE

The Department of Energy has completed its search and produced what it believes to be all responsive, non-exempt records.

L. DHS

The Department of Homeland Security has completed its search and produced what it believes to be all responsive, non-exempt records. DHS is in the process of discussing its withholdings with counsel for the ACLU.

M. Coast Guard

The Coast Guard has completed its search and produced what it believes to be all responsive, non-exempt records.

N. DOJ

The Department of Justice has completed its search and produced what it believes to be all responsive, non-exempt records on April 7, 2017.

O. DEA

The Drug Enforcement Administration has completed its search and produced what it believes to be all responsive, non-exempt records.

P. FBI

The FBI has reviewed 1,731 pages of responsive records and produced 1,722 pages of responsive records over the course of three interim releases. The FBI has 871 pages of responsive records left to review and anticipates that it can review and produce all remaining responsive, non-exempt records by June 16, 2017.

Q. DOS

The Department of State produced responsive records on December 16, 2016, and February 16, 2017, and intends to continue producing responsive, non-exempt records approximately every two months until the production is complete. ACLU requested that the Department of State search two overseas posts for responsive records, and the Department has not completed its search. Because its search for responsive records is not yet complete, the Department is not currently able to estimate when it will complete its production.

R. DOT

The Department of the Treasury has completed its search and produced what it believes to be all responsive, non-exempt documents that did not require coordination with other agencies on April 7, 2017. The Department of the Treasury is in the process of coordinating with other agencies regarding a limited number of records and anticipates that it will be able to complete its coordination and finish its production in the next several weeks.

S. ODNI

The Office of the Director of National Intelligence has completed its search and produced what it believes to be all responsive, non-exempt records. ODNI is in the process of discussing its withholdings with counsel for the ACLU.

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 at this time, the parties propose to file another Joint Proposed Scheduling Order on June 24, 2017, to update the Court on the status of Defendants' productions and whether further litigation will be necessary.

Dated: April 7, 2017

Respectfully submitted,

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