



U.S. Department of Justice **MEMO ENDORSED**

United States Attorney
Southern District of New York

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 3/20/12

86 Chambers Street, 3rd Floor
New York, New York 10007

March 14, 2012

BY HAND

The Honorable William H. Pauley
United States District Judge
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, NY 10007-1312

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CHAMBERS OF
WILLIAM H. PAULEY
U.S.D.J.

Re: *ACLU et al. v. FBI et al.*, 11 Civ. 07562 (WHP)

Dear Judge Pauley:

We write respectfully to request an extension of the Federal Bureau of Investigation's time to complete its processing of documents responsive to plaintiff American Civil Liberties Union's FOIA request in the above-referenced case, with a second interim production to be made on April 15, 2012, and a final production to be made on May 15, 2012. Pursuant to the Stipulation and Order, dated December 9, 2011, the Federal Bureau of Investigation ("FBI") and the Department of Justice ("DOJ") agreed to complete FOIA processing of responsive documents and produce any information not being withheld pursuant to applicable FOIA exemptions by March 15, 2012. With the exception of documents that FBI has yet to refer to DOJ, DOJ has completed its processing and will be producing any non-exempt information in accordance with this deadline. FBI has completed processing of nearly 1400 pages of documents and will be producing any non-exempt material from this first tranche of documents in accordance with this deadline. However, because the FBI could not know the total volume of responsive material until it completed its searches in February 2012, and because it found a greater volume of responsive documents than it had originally anticipated, it requires additional time to complete the processing for the remaining documents responsive to the ACLU's FOIA request.

After the FBI entered into the Stipulation and Order, it identified a significant number of additional documents potentially responsive to the ACLU's FOIA request. In addition to searching its central records database and 56 individual field offices, the FBI searched (1) the Director's Office, Office of Congressional Affairs, (2) the Office of the General Counsel's National Security Law Oversight, Compliance and Training Unit, National Security Law Branch, and (3) the Office of the General Counsel's Science and Technology Policy and Law Unit. These searches have yielded more than 2400 pages of potentially responsive documents, each page of which requires a classification review to determine whether it is currently and properly classified, as well as FOIA processing to determine whether and which FOIA exemptions apply.

Both the classification analysis and the processing for FOIA exemptions must be done on a line-by-line basis.

The FBI has been working diligently and in good faith to process these documents, and by March 15, 2012, it will have completed processing of 1,384 pages, or more than half of the responsive documents. Of these 1,384 pages, 270 pages will be released either in full or in part, and 1114 pages will be withheld in full either pursuant to applicable FOIA exemptions or because material on those pages is outside the scope of the FOIA request.

Approximately 1,000 pages remain to be processed. These remaining pages include documents that are classified Top Secret and thus cannot be handled through the FBI's regular FOIA processing systems, and include referrals and consultations to other Government agencies and components outside the FBI. Because of the volume of material, the special handling required for some of the documents, and the potential for time-consuming coordination with other Government agencies, the FBI requires until May 15, 2012, to complete the processing of this material. However, to demonstrate its good faith efforts to work through this material as quickly as possible, the FBI is prepared to make a second interim release on April 15, 2012 of all documents processed by that date, and will complete its processing of all responsive documents by May 15, 2012.

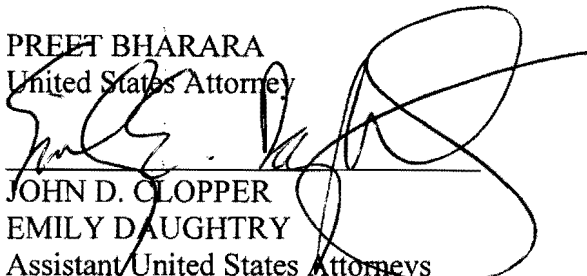
The ACLU consents to this request. The Electronic Frontier Foundation, the plaintiff in a similar FOIA suit pending in the Northern District of California with an overlapping set of responsive documents, also has consented to the FBI's request for additional time to process this very set of approximately 1,000 pages of potentially responsive documents. *See* EFF v. DOJ, Case No. 4:11-cv-05221-YGR (NDCA). This is the Government's first request for an extension of this deadline.

Thank you for your consideration of this request.

Respectfully,


PREET BHARARA
United States Attorney

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Application granted.

SO ORDERED:


WILLIAM H. PAULEY III U.S.D.J. 3/19/12

cc: Charles Sims, Esq. (by email)
Richard Haddad, Esq. (by email)
Counsel for Plaintiff