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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

AMERICAN CIVIL LIBERTIES UNION and  
AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION,

Plaintiffs,

v.

DEPARTMENT OF DEFENSE, CENTRAL  
INTELLIGENCE AGENCY, DEPARTMENT  
OF JUSTICE, and DEPARTMENT OF  
STATE,

Defendants.

17 Civ. 3391 (PAE)

SCHEDULING ORDER

This matter comes before the Court upon the complaint of plaintiffs the American Civil Liberties Union and the American Civil Liberties Union Foundation (together, the “ACLU” or “plaintiffs”) seeking records from defendants pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 (the “Request”). The Court, having held an initial conference with the parties on June 28, 2017, after considering the representations of the parties, hereby ORDERS as follows:

1. By July 31, 2017, the defendants shall complete all searches, or issue *Glomar* responses to the extent defendants assert such responses are applicable, in response to the ACLU’s Request.
2. By August 9, 2017, the parties will submit a joint status report that proposes:
  - a. A schedule for the defendant agencies that have not issued *Glomar* responses to complete processing of responsive records. This schedule will include a deadline for the defendant agencies to: (i) produce responsive records to the extent that the defendant agencies deem such records are not subject to FOIA exemptions, (ii) inform the plaintiffs of the number of records and pages

withheld in full, and (iii) identify to the plaintiffs the exemptions upon which the government intends to rely in withholding records in full or in part, without prejudice to the government's ability to assert additional exemptions at the time of summary judgment briefing.

- b. A deadline for the parties to meet and confer regarding any concerns identified by the plaintiffs regarding the defendant agencies' searches or withholdings based on asserted exemptions. Prior to the deadline for the parties to meet and confer, in order to help the parties to determine whether the issues in the case can be narrowed, defendants will provide the plaintiffs with general descriptions of any documents or categories of documents withheld in full, to the extent the defendant agencies deem such descriptions can be provided without revealing information that is itself exempt from disclosure. Defendants will also, to the extent feasible, describe to the plaintiffs the categories of information withheld in documents released in part, to the extent the defendant agencies deem such descriptions can be provided without revealing information that is itself exempt from disclosure.
- c. A deadline for the defendants to submit a pre-motion letter to the Court that (i) identifies for the Court any issues that the parties have resolved through negotiation, (ii) identifies the searches or withholdings that remain in dispute, and (iii) provides a summary of the bases for the defendants' anticipated motion for summary judgment.
- d. A deadline for the plaintiffs to submit a response to the defendants' pre-motion letter that provides a summary of the bases for the plaintiffs' anticipated cross-motion for summary judgment and opposition to the defendants' motion.

3. Following the filing of the parties' August 9, 2017, status report, the Court will set a date for a pre-motion conference to address the parties' anticipated cross-motions for summary judgment. Unless otherwise ordered by the Court, and according to a schedule to be set by the Court at the pre-motion conference, the defendants will first move for summary judgment; the plaintiffs will respond to the defendants' motion in an opposition and cross-motion; and each party will have the opportunity to file a reply.

SO ORDERED.

Dated: July 5, 2017

*Paul A. Engelmayer*  
HON. PAUL A. ENGELMAYER  
United States District Judge