



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

December 11, 2020

BY ECF

Hon. Lorna G. Schofield
United States District Judge
United States Courthouse
40 Foley Square
New York, New York 10007

Re: *American Civil Liberties Union et al. v. Office of the Director of National Intelligence, et al.*, 18 Civ. 12131 (LGS)

Dear Judge Schofield:

I write respectfully to request a further extension of the deadline for the Department of Justice's National Security Division ("NSD") to produce one remaining document that is responsive to plaintiffs' Freedom of Information Act ("FOIA") requests in this case. The remaining document is a complete "Semiannual Report of the Attorney General on Electronic Surveillance and Physical Search Under the Foreign Intelligence Surveillance Act," which is responsive to Category 2 of the FOIA request. On October 13, 2020, the Court extended the time for NSD to produce a set of documents that includes this remaining document. *See* Dkt. No. 56. NSD has timely processed and produced all of these documents to date, but is not able to produce this final document by the current deadline of December 15, 2020, and instead requests until **January 29, 2021**, to complete the processing and production of this complicated document.

The remaining document is highly classified and requires extensive coordination between NSD and other agencies. This coordination can occur only on secure systems that can be accessed only in secure office spaces, in-person. As a result of the COVID-19 pandemic, this coordination has been even more difficult than it would be under ordinary circumstances—especially because COVID-related in-office staffing reductions have been reinstated by one of the agencies that must review the document and a review of COVID staffing posture is under review at another agency. These staffing reductions were not anticipated at the time the December 15 deadline was set. The pandemic continues to make NSD's communication and coordination with such other agencies extremely challenging despite their previous commitments to complete processing in this matter within the current deadline. NSD can confirm, however, that it has sent out all of the consultation requests and is awaiting responses from the relevant agencies. Absent additional changes to the COVID-related protocols or unforeseen issues raised as part of the consultation process, NSD expects to conclude its processing of the document once it receives the other agencies' input—though because it cannot control those other agencies, projects the new requested completion date as its best estimate.

Plaintiffs oppose the requested extension and intend to file a short response.

The Court previously directed the parties to file a status report by January 29, 2021, regarding the need for further litigation in this matter. Should the Court grant the requested extension, the parties respectfully propose that they provide this status report by **February 26, 2021**.

I thank the Court for its consideration of this matter.

Respectfully,

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