



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*86 Chambers Street
New York, New York 10007*

July 24, 2015

BY ECF

Hon. Colleen McMahon
United States District Judge
Daniel P. Moynihan United States Courthouse
500 Pearl Street, Room 1640
New York, NY 10007

Re: *ACLU v. Department of Justice*, 15 Civ. 1954(CM)

Dear Judge McMahon:

We write in response to the motion of plaintiffs (the "ACLU") for clarification and modification of the Court's July 9, 2015 Order. In the July 9 Order, the Court stayed the government's obligation to respond to prongs (3) and (4) of the ACLU's FOIA request, which seek casualty information that substantially duplicates information sought from the Central Intelligence Agency ("CIA") in the ACLU's related action in the District of Columbia. As the ACLU notes, the government's request for a stay, and the ACLU's consent, was limited to defendant CIA. We believe that the broader stay granted by the Court in the July 9 Order is nevertheless appropriate because the final resolution of the related litigation is likely to further the orderly and efficient resolution of this case with respect to all defendant agencies.

It is likely that the ultimate resolution of the issues in the D.C. litigation will inform the analysis in this case not only with regard to CIA documents, but also as to documents of other defendant agencies, that are responsive to prongs (3) and (4) of the FOIA request. The agencies have determined that any additional responsive documents would likely be of a similar nature to those identified by the CIA. The D.C. District Court's decision accordingly provides support for withholding such documents on similar grounds. It thus makes sense to await a final resolution of the D.C. litigation, which will inform the Court's rulings as to a considerable number of the documents in this case, including but not limited to CIA documents. The broader stay imposed by the Court is likely to streamline proceedings, allow the parties to focus on the other records and issues presented by this case, and ultimately reduce the burdens on the Court.

We thank the Court for its consideration of this submission.

Respectfully,

BENJAMIN C. MIZER
Principal Deputy Assistant Attorney General

PREET BHARARA
United States Attorney for the
Southern District of New York

ELIZABETH J. SHAPIRO
AMY POWELL
STEPHEN ELLIOTT
Attorneys, Federal Programs Branch
Civil Division, U.S. Dept. of Justice

By: /s Sarah S. Normand
SARAH S. NORMAND
Assistant United States Attorney
Telephone: (212) 637-2709
sarah.normand@usdoj.gov

cc: Counsel of Record (by ECF)