

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

US RIGHT TO KNOW,

Plaintiff,

v.

OFFICE OF THE DIRECTOR OF
NATIONAL INTELLIGENCE,

Defendant.

Civil Action No. 25-2164 (TNM)

JOINT STATUS REPORT

Pursuant to the Order made during the May 8, 2026, hearing, Plaintiff US Right to Know and Defendant Office of the Director of National Intelligence, by and through undersigned counsel, hereby respectfully submit this Joint Status Report (“JSR”).

PLAINTIFF’S POSITION

Plaintiff continues to assert that resources of the parties and this Court would be economized if Defendant were to produce evidence supporting its withholdings and search adequacy, which is its burden under FOIA to carry, prior to dispositive briefing, if any. Plaintiff further asserts that this would allow parties to potentially narrow or eliminate disputes. Plaintiff previously requested that this Court order Defendant to produce such evidence. *See* ECF 14. However, Plaintiff cannot unilaterally force Defendant to produce that evidence, and Defendant has been adamant about its right to provide such evidence only as part of its opening dispositive brief. In short, if the Government wishes to fight for its right to be wasteful and inefficient, there is little Plaintiff alone can do to stop this. Plaintiff, however, then makes three uncontroversial statements that follow logically from this: (1) that since Defendant asserts that it completed

production already on June 16, 2026 (ECF 14), a production Defendant asserts comprises a mere 23 pages of records, that forcing Plaintiff to wait a further ninety days, or in total approximately five months for such evidence arguably comprises a constructive withholding under FOIA¹; (2) that Defendant's opening brief and/or supporting evidence should come due much earlier than November 11, 2026; (3) that Plaintiff has no idea absent that evidence, how it will respond, if at all, to Defendant's dispositive briefs and/or such evidence.

Thus, if Defendant is unwilling to provide evidence supporting its withholdings and search adequacy prior to dispositive briefing, Plaintiff thus proposes the following briefing schedule: Defendant shall file its motion for summary judgment on September 21, 2026; Plaintiff will file its opposition (if any) and cross motion (if any) by November 2, 2026; Defendant will file its reply (if any) by November 23, 2026; Plaintiff will file its reply (if any) by December 14, 2026.

DEFENDANT'S POSITION

Defendant has reached out to the numerous other government agencies that have equities in the production. After discussion with those other government agencies, Defendant has determined it will take 90 days to draft the relevant declarations and/or *Vaughn* indices in part because the records contain classified information.

Accordingly, Defendant requests that the Court enter a briefing schedule under which Defendant will file its motion for summary judgment on Wednesday, November 11, 2026; Plaintiff will file its opposition and cross-motion on Friday, December 11, 2026; Defendant will file its reply in support of its motion and opposition to Plaintiff's cross-motion on Friday, January 8, 2027; and Plaintiff will file its reply on Friday, February 5, 2027.

¹ See *McGehee v. C.I.A.*, 697 F.2d 1095, 1110 (D.C. Cir.), *on reh'g sub nom. McGehee v. Cent. Intel. Agency*, 711 F.2d 1076 (D.C. Cir. 1983)

In Plaintiff's position above, Plaintiff makes clear that speed is Plaintiff's primary consideration because Plaintiff pays no heed to how long it would take the numerous agencies to draft declarations and/or indices with respect to this material, which is often classified. Instead, Plaintiff demands Defendant file at an arbitrary, earlier time and seemingly argues that there is a constructive withholding of agency declarations. Because of the time it would take draft the necessary declarations and because of Plaintiff's statements here and throughout the litigation, Defendant believes that it would be more efficient to proceed to summary judgment. If the Court prefers the parties discuss the declarations and indices in advance of summary judgment, Defendant requests that they be ordered to provide the declarations and indices no earlier than ninety days after the Court's order.

Dated: August 7, 2026

Respectfully submitted,

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