

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

ACCURACY IN MEDIA, <i>et al.</i>	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No. 14-1589 (EGS)
	)	
UNITED STATES DEPARTMENT OF	)	
DEFENSE, <i>et al.</i>	)	
	)	
Defendants.	)	
	)	

**JOINT MOTION TO AMEND BRIEFING SCHEDULE**

As this Court is aware, the parties to this Freedom of Information Act (“FOIA”) suit<sup>1</sup> have been actively engaged in discussions aimed at determining whether the issues in this action could be narrowed and in what manner. As the parties’ prior Joint Status Reports have explained, “[t]hose discussions have been productive and have greatly assisted the parties in narrowing the issues that are being challenged in this FOIA action, which seeks records related to the September 11, 2012 attack on the [State Department diplomatic and CIA facilities] in Benghazi, Libya from four [ ] different Defendant agencies and several of their respective components.” *See, e.g.*, Joint Status Report at 1, ECF No. 60 (May 12, 2017); *see also* Joint Status Report, ECF No. 63 (Sept. 5, 2017).

For example, as part of those discussions, Defendants agreed to provide, and in fact provided, draft *Vaughn* indices to Plaintiffs in an effort to explain the bases for the

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<sup>1</sup> Plaintiffs brought this FOIA action against Defendants, the Central Intelligence Agency (“CIA”), the United States Department of Defense and several of its component departments, the Department of State, and the United States Department of Justice and its component, the Federal Bureau of Investigation (collectively, “Defendants”). *See generally* Compl., ECF No. 1 (Sept. 19, 2014).

agencies' decisions related to the withholding of those records. And after reviewing the draft *Vaughn* indices, Plaintiffs agreed to narrow further the issues that are being challenged in this FOIA litigation. The State Department also agreed to conduct a supplemental search that yielded documents responsive to one or more of Plaintiffs' FOIA requests.

As a result of the parties' discussions and diligence, they have substantially narrowed the issues that remain to be litigated in this case to the following discrete issues, which primarily focus on the agencies' decisions to withhold in full or part certain records responsive to Plaintiffs' FOIA requests:

**The United States Department of Defense**

1. Whether DOD's search for documents responsive to Plaintiffs' request for initial reports was reasonable; and
2. Whether DOD properly withheld in full or in part documents responsive to Plaintiffs' request for records reflecting the agency's readiness status, including records of maps, personnel, aircraft, including October 2011 pre-position assets, as referenced in DOD's September 19, 2014 letter to Plaintiffs' counsel.

**The State Department**

1. Whether the State Department properly withheld in full or part C05935290 (call log), C06052236 (ARB interview summary), C06052239 (ARB interview summary), C06052240 (ARB interview summary), and video footage bates labeled C05467904, C05467908,

C05467912, C05467920, C05467921, C05467910, C05467913,  
C05467914, C05467915, C05467916, C05467917, and C05467919.

**The Central Intelligence Agency**

1. Whether the CIA's *Glomar* assertion in response to Plaintiffs' request for records of "all communications generated in March 2011 regarding Colonel Muammar Gaddafi's expressed interest in a truce and possible abdication and exile out of Libya" is proper; and
2. Whether the agency properly withheld redacted information responsive to Plaintiffs' request for records reflecting "allegations that the Executive Branch personnel deleted . . . records of CIA activities in Libya in the aftermath of the . . . attacks . . . including but not limited to records in possession of the CIA Office of the Inspector General" as set forth in bates labeled document C06354620.

**The Federal Bureau of Investigation**

1. Whether the FBI's *Glomar* assertion in response to Plaintiffs' request for records reflecting survivors' accounts, including September 15 or 16 FBI 302 interview reports is proper.

**The Defense Intelligence Agency**

1. Whether the agency properly withheld in full records V-11 (an intelligence report dated September 12, 2012), V-19 (a situation report dated September 12, 2012), V-45 (an intelligence report dated September 12, 2012), and V-48 (an intelligence report dated September 12, 2012).

The parties now respectfully request the Court's permission to amend the current briefing schedule to allow the parties to brief summary judgment on these issues. Good cause exists for this request including prior work commitments for both parties' counsel, including dispositive motions that are due, and oral arguments that are scheduled during the next few months, the need for agency counsel at the various agencies to consult internally regarding the drafting of declarations and *Vaughn* indices to support defendants' summary judgment brief, and the upcoming holidays.

Accordingly, the parties respectfully propose to amend the briefing schedule as follows:

- March 9, 2018: Defendants file their motion for summary judgment;
- April 6, 2018: Plaintiffs file their opposition to Defendants' motion for summary judgment and cross-motion for summary judgment;
- April 27, 2018: Defendants file their reply in support of their motion for summary judgment and in opposition to Plaintiffs' cross-motion for summary judgment; and
- May 18, 2018: Plaintiffs file their reply in support of their cross-motion for summary judgment.

A proposed order is attached to this motion.

Dated: November 29, 2017

Respectfully submitted,

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