

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ACCURACY IN MEDIA, INC., et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 14-1589 (EGS)
)	
DEPARTMENT OF DEFENSE, et al.,)	
)	
Defendants.)	
_____)	

PLAINTIFFS' MOTION FOR LEAVE TO AMEND COMPLAINT

COME NOW plaintiffs Accuracy in Media, Inc., Roger L. Aronoff, Captain Larry W. Bailey, USN (Ret.), Lieutenant Colonel Kenneth Benway, USA (Ret.), Colonel Richard F. Brauer, Jr., USA (Ret.), Clare M. Lopez, Admiral James A. Lyons, Jr., USN, (Ret.), and Kevin Michael Shipp, by counsel, and respectfully move this Court, under Rule 15(a) of the Federal Rules of Civil Procedure, for leave to amend their Complaint. Defendants oppose this relief.

The proposed Amended Complaint, attached hereto, narrows the scope of the records at issue by striking 12 items from plaintiffs' January 12 Supplemental Complaint (Docket No. 14).

Date: May 26, 2015.

Respectfully submitted,

_____/s/_____
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MEMORANDUM OF POINTS & AUTHORITIES IN SUPPORT
OF PLAINTIFFS' MOTION FOR LEAVE TO AMEND COMPLAINT

1. In this FOIA action, plaintiffs seek disclosure of records from the Department of Defense, the State Department, the FBI, and the CIA, regarding the September 11, 2012 attacks on State Department and CIA facilities in Benghazi, Libya.
2. Defendants filed their Answer to plaintiffs' supplemental complaint on January 23, 2015 (ECF No. 12), and, on March 23, 2015, plaintiffs submitted the parties' proposed scheduling order. ECF No. 20.
3. Since that time, plaintiffs have narrowed their requests by withdrawing seven items that they had sought from the State Department,¹ one item

¹ Amended Complaint omits request for:

- Records "regarding... the CIA Annex, for the time period of January 1st, 2011, through September 30th, 2012" (¶ 116(1));
- "[R]ecords generated by anyone about the Secretary's actions and communications" in the first 24 hours of being notified (¶ 116 (6)(3));
- "Records of the purpose of Ambassador Stevens' meetings on September 11, 2012, including analysis or assessments of those meetings, whether written before or after September 11, 2012" (¶ 116(9))
- Disclosure of "the names, and titles, of individuals identified only as 'Senior

that they had sought from the Department of Defense,² and four items that they had sought from the FBI.³

4. Defendants will suffer no prejudice by the requested relief.

Narrowing items at issue will conserve resources. The government's preparation of its Answer will be a simple matter, as all language in the Complaint, including paragraph numbers, remain the same, except for the 12 stricken, and itemized, subparagraphs.

5. Rule 15(a) of the Federal Rules of Civil Procedure, AMENDMENTS BEFORE TRIAL, provides that "a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires."

Date: May 26, 2015.

State Department Official Number[s] One and... Two" during the October 9, 2012, Background Briefing..." (§ 116(15));

- Records of "Secretary Clinton's office regarding the need for a 'permanent constituent post' in Benghazi... [and her] decision to continue operations in Benghazi..." 122(3);
 - Records "identifying DoD assets pre-positioned off the coast of Tripoli when Secretary Clinton visited Libya in October of 2011" (§ 122(4)); and
 - "Secretary Clinton's... requests for help" U.S. allies (§122 (5)).
- ² Plaintiffs' proposed Complaint omits §§ 33 and 105(3), which sought from the Defense Intelligence Agency, "2012 records of the threat to U.S. personnel because of... belligerent build-up in Benghazi."
- ³ Four withdrawn items to FBI:
- Records of "the purpose, scope, jurisdiction, and power of the FBI's investigation" (§126 (1));
 - "Bureau's findings in its investigation" (§126 (2));
 - "Ambassador Stevens' meetings on September 11, 2012" (§ 126 (7)); and
 - Autopsy Reports, (§ 126 (10)).

Respectfully submitted,

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