

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

LOIS MOORE, *et al.*,)
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Plaintiffs,)
)
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v.) Civil Action No. 20cv1027 (RCL)
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UNITED STATES CENTRAL)
INTELLIGENCE AGENCY)
)
)
Defendant.)
)

**DEFENDANTS' MOTION TO VACATE COURT'S ORDER
OF JUNE 10, 2020, SETTING VAUGHN INDEX AND BRIEFING SCHEDULE**

Defendant Central Intelligence Agency (“CIA”) moves this Court to vacate its Order entered on June 10, 2020, directing Defendant to file a *Vaughn* index and dispositive motion in this Freedom of Information Act (“FOIA”) case within 30 days. As explained below, Defendant is in the process of searching and/or processing Plaintiff’s FOIA request. Accordingly, Defendant requests that a briefing be postponed, and that the parties submit regular joint status reports to the Court setting forth the progress in the processing of responsive records, and, when completed, a proposed schedule for filing a Vaughn index and dispositive motion, if necessary. As grounds for this motion, Defendant states as follows:

1. On April 28, 2020, Plaintiffs commenced this litigation against the CIA alleging that the CIA failed to respond to their FOIA request for information regarding American POWs of the Korean War being transported to China and the Soviet Union for imprisonment and interrogation. ECF No. 1 (Complaint).
2. On June 3, 2020, CIA filed an Answer to the Complaint. ECF No. 6 (Answer).
3. On June 10, 2020, this Court ordered that CIA file a *Vaughn* Index and dispositive motion in thirty days. ECF No. 7.

4. As part of the government-wide response to the COVID-19 (coronavirus) pandemic, CIA is taking precautions to reduce the likelihood of transmission or community spread of the disease within its workplace. With this in mind, CIA is prioritizing mission-critical activities, and CIA’s FOIA staffing and processing capabilities were significantly reduced and have not yet returned to normal.

5. The breadth of Plaintiffs’ requests in this case and the historical nature of the records sought complicates CIA’s processing in this matter. In addition, Plaintiffs’ FOIA request contains requests that are identical or substantially similar to a prior request in which this Court upheld the response of CIA, thereby imposing an additional layer of review to determine if any further search or review need to be conducted.

6. Moreover, any searches for and processing of responsive records would need to occur in secure Agency workspaces. DOJ’s “Guidance of Agency FOIA Administration in Light of COVID-19 Impacts” explicitly recognizes that agencies such as CIA face unique constraints—such as staffing issues, the inability to operate remotely, and records implicating classified information. Given the current unavailability of key search personnel and requisite subject matter experts and the inability of CIA’s personnel to work remotely, CIA requires additional time in which to assess Plaintiffs’ requests and estimate an appropriate timeframe for processing.

7. CIA requests that the parties file a Joint Status Report on or before August 25, 2020, so that CIA will have sufficient time to conduct its initial search of responsive records.

8. Pursuant to Local Civil Rule 7(m), counsel for the CIA contacted counsel for Plaintiffs to determine if Plaintiffs would consent to the relief requested. After substantial

discussion, counsel for Plaintiffs informed CIA's counsel that Plaintiffs oppose the relief requested.

WHEREFORE, for the foregoing reasons, because CIA is still processing Plaintiffs' FOIA request and the matter is not yet ripe for a dispositive motion, it is respectfully requested that the Court vacate its June 10, 2020 order and order the filing of a status report on or before August 25, 2020.

Dated: July 2, 2020

Respectfully submitted,

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