



U.S. Department of Justice

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April 23, 2012

BY FACSIMILE

Hon. Colleen McMahon
United States District Judge
United States Courthouse
500 Pearl Street, Room 1350
New York, New York 10007

Re: New York Times v. Department of Justice
11 Civ. 9336 (CM)

ACLU v. Department of Justice
12 Civ. 794 (CM)

Dear Judge McMahon:

We write respectfully on behalf of the Department of Justice, the Department of Defense and the Central Intelligence Agency (collectively, the "Government") to seek a further extension, until May 21, 2012, of the Government's deadline to file its consolidated motion for summary judgment in these related Freedom of Information Act cases seeking records pertaining to alleged targeted lethal operations directed at U.S. citizens and others affiliated with al Qaeda or other terrorist groups. Attorney General Eric H. Holder, Jr. has personally directed us to seek this additional time to allow the Government to finalize its position with regard to the sensitive national security matters presented in this case.

We are mindful of the Court's admonition in its April 9, 2012, order that the Government not seek any further extensions of its briefing deadline, and we do not make this request lightly. Given the significance of the matters presented in this case, the Government's position is being deliberated at the highest level of the Executive Branch. It has become clear that further consultation and discussion at that level of the Executive Branch is necessary before the Government can make its submission to the Court.


We understand from the Court's April 9 order that, at this stage of the proceedings, the Court has expressed doubt about the relative complexity associated with the Government's position. It is not possible to fully inform the Court of that complexity on the public record. Accordingly, in order that the Court be fully informed as to the basis for the Government's request, we respectfully seek leave to submit for the Court's *ex parte* and *in camera* review a classified declaration by the Director of National Intelligence, James R. Clapper, Jr. A

Classified Information Security Officer will contact chambers shortly to make arrangements to make the classified declaration available.

Plaintiffs previously had objected to an extension of more than one week of the Government's initial briefing deadline.

We thank the Court for its consideration of this submission.

Respectfully,



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