

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

CHELSEA MANNING,

Plaintiff,

v.

U.S. DEPARTMENT OF JUSTICE and the  
FEDERAL BUREAU OF INVESTIGATION,

Defendants.

Case No. 1:15-cv-01654-APM

**JOINT STATUS REPORT AND PROPOSED SCHEDULE**

On October 8, 2015, Plaintiff filed a Complaint against the Department of Justice and the Federal Bureau of Investigation for alleged violations of the Freedom of Information Act (“FOIA”). On November 25, 2015, Defendants filed their Answer. In response to the Court’s December 1, 2015, order, the parties hereby submit this Joint Status Report.

The FBI has categorically denied Plaintiff’s FOIA request pursuant to Exemption 7(A), which exempts information compiled for law enforcement purposes the disclosure of which would reasonably be expected to interfere with a law enforcement investigation. Plaintiff appealed the denial to the Office of Information Policy, which affirmed the FBI’s action. Plaintiff then requested assistance from the Office of Government Information Services, which provided further information on the denial and closed the case. The documents Plaintiff requests are part of a sensitive, ongoing law enforcement proceeding into the Wikileaks matter.

The parties jointly propose bifurcated summary judgment proceedings that would first litigate the applicability of Exemption 7(A).<sup>1</sup> Through bifurcation, the parties can avoid the delay that would occur were the FBI required to process the records for all underlying exemptions before moving for summary judgment. If the government prevails on the validity of Exemption 7(A), there will be no need for further briefing. Should Exemption 7(A) be held inapplicable or unavailable in whole or in part, the parties will meet and confer to propose appropriate next steps regarding additional review and processing associated with Plaintiff's FOIA request, including whether the government will brief the applicability of other FOIA exemptions.

The parties propose the following briefing schedule for dispositive motions for Summary Judgment based on the applicability of 5 U.S.C. § 552(b)(7)(A):

<u>Defendants' Motion for Summary Judgment:</u>	March 15, 2016
<u>Plaintiff's Opposition and Cross-Motion for Summary Judgment:</u>	April 15, 2016
<u>Defendants' Reply and Opposition:</u>	May 3, 2016
<u>Plaintiff's Reply:</u>	May 20, 2016

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<sup>1</sup> See *Maydak v. U.S. Dep't of Justice*, 218 F.3d 760, 764 (D.C. Cir. 2000). Under *Maydak*, courts generally require that all exemptions be taken and briefed in a single motion for summary judgment. Frequently, however, courts permit the parties to bifurcate proceedings to avoid potentially unnecessary work for the government and unnecessary delay for the requester. See e.g., *Accuracy in Media, Inc. v. Dep't of Defense*, No. 1:14cv1589 (EGS), Minute Order (D.D.C. June 23, 2015) (granting defendant's request to move for summary judgment on Exemption 7(A) without waiving any allegation that records are exempt from release under other FOIA exemptions); *Pub. Investors Arbitration Bar Ass's v. SEC*, No. 1:11cv2285 (BAH), Minute Order (D.D.C. July 16, 2012) (granting defendant's request to move for summary judgment on Exemption 8 without waiving any allegation that records are exempt from release under other FOIA exemptions); *Ciralsky v. CIA*, No. 1:00cv1709 (RWR), Minute Order (D.D.C. Aug. 8, 2005) (granting defendant's request to move for summary judgment on Exemption (b)(1) without waiving any allegation that records are exempt from release under other FOIA exemptions).

Dated: December 15, 2015.

/s/ Nancy Hollander

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/s/ Aimee W. Brown

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