

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STEVEN AFTERGOOD,)
)
 Plaintiff,)
)
 v.) Civil Action No. 01-2524 (RMU)
)
 CENTRAL INTELLIGENCE AGENCY,)
)
 Defendant.)
 _____)

DEFENDANT'S UNOPPOSED MOTION FOR ENLARGEMENT OF TIME

Defendant, by its undersigned attorneys, respectfully moves the Court, pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, for an order granting an enlargement of time in which to respond to plaintiff's Motion for Summary Judgment. This is the first time that defendant has sought such an enlargement. Plaintiff does not oppose defendant's motion.

Plaintiff commenced this action under the Freedom of Information Act (FOIA), 5 U.S.C. § 552 (2000 & West Supp. 2004), seeking the disclosure of certain intelligence budget information from 1947 through 1970. In accordance with the Court's Order of June 19, 2004, plaintiff filed a motion for summary judgment on July 21, 2004. Pursuant to that Order, defendant is scheduled to file its own dispositive motion on August 25, 2004. However, defendant respectfully suggests that due to an event that has occurred since the time that that deadline was established by the Court's June 19 Order, that deadline has become no longer a practicable one for the efficient resolution of this litigation.

In each of plaintiff's prior two FOIA cases concerning intelligence budget data, defendant's position was personally approved by, and its motion for summary judgment was supported by a declaration from, the Director of Central Intelligence, who at that time was George J. Tenet. See Decl. of George J. Tenet, Aftergood v. CIA, No. 02-1146 (D.D.C.); Decl. of George J. Tenet, Aftergood v. CIA, No. 98-2107 (D.D.C.). In accordance with that, defendant had again planned on proceeding with the Director of Central Intelligence's personal consideration of the issues presented in this case and the submission of another such declaration by him. That expectation did not change when former Director of Central Intelligence Tenet resigned effective July 11, 2004, because defendant anticipated that Mr. Tenet's interim replacement, Acting Director of Central Intelligence John E. McLaughlin, would have ample time before the August 25 deadline in which to personally consider the issues presented in this case and then submit a declaration that addresses them.

On July 22, 2004, however, the National Commission on Terrorist Attacks Upon the United States (also known as the 9/11 Commission) -- the bipartisan commission that was chartered to prepare a full and complete account of the circumstances surrounding the September 11, 2001, terrorist attacks and to provide recommendations designed to guard against future attacks -- released its final report. That report contained a number of recommendations on how to protect our nation from future

terrorist attacks by reforming the nation's intelligence community. See The National Commission on Terrorist Attacks Upon the United States, The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States (2004). Despite having been released only a few weeks ago, the 9/11 Commission's recommendations have already been, and continue to be, the subject of an extraordinary level of activity by officials at the highest levels of government -- including Acting Director of Central Intelligence McLaughlin himself. See, e.g., 9/11 Commission Report: Defense Intelligence Operations, Hearing Before the Senate Armed Services Comm., 108th Cong. (Aug. 17, 2004) (statement of John E. McLaughlin, Acting Director of Central Intelligence), available at 2004 WL 84558338.

Accordingly, defendant respectfully requests that the August 25 deadline for the filing of its motion for summary judgment be enlarged by twenty-one calendar days, to September 15, 2004. Defendant further suggests that plaintiff be permitted to file his response fourteen calendar days thereafter (i.e., by September 29), which is commensurate with the amount of time provided for such a response under the Court's June 19 Order, and the proposed order submitted herewith so provides. Finally, defendant respectfully requests that the deadline for the filing of its reply be calculated pursuant to the Federal Rules of Civil Procedure and the Court's Local Civil Rules. Such a timetable, defendant respectfully suggests, would promote the full and

efficient adjudication of the important issues involved in this litigation given these extraordinary recent developments at the highest level of the defendant agency.

Respectfully submitted,

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