

# EXHIBIT “1-B”

**Mark S. Zaid**

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**From:** Mei, Vesper (CIV) [Vesper.Mei@usdoj.gov]  
**Sent:** Monday, June 09, 2008 1:52 PM  
**To:** Mark S. Zaid  
**Cc:** Bradley P. Moss, Esq.  
**Subject:** JMP v. CIA tapes case

Mark,

The prosecutors who are conducting the criminal investigation into the destruction of the tapes have asked us to move for a stay until the end of the investigation, which they currently anticipate will take six more months, and would seek to extend the stay if indictments and/or prosecutions follow. They have made this request because they believe that the CIA's review and processing, and any release, of the documents involved in this case would substantially interfere with their ability to conduct a complete, thorough and untainted investigation. Will you consent to this stay? I plan to file our motion today or early tomorrow.

Thanks,  
Vesper

Mark S. Zaid

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**From:** Mei, Vesper (CIV) [Vesper.Mei@usdoj.gov]  
**Sent:** Friday, March 07, 2008 4:50 PM  
**To:** mark@markzaid.com  
**Cc:** Brad Moss  
**Subject:** RE: JMP v. CIA -- Tape Destruction

Mark,

Yes, the six month period is for the review to take place and to release nonexempt documents at the end.

The CIA will likely invoke exemption 7(a) over most of the documents. As you know, doing so doesn't save the Agency any processing or review time, because the Agency still has to review the documents page by page and line by line for all of the other exemptions as well at the same time.

Vesper

-----Original Message-----  
From: mark@markzaid.com [mailto:mark@markzaid.com]  
Sent: Thursday, March 06, 2008 6:25 PM  
To: Mei, Vesper (CIV)  
Cc: Brad Moss; Office  
Subject: Re: JMP v. CIA -- Tape Destruction

Thank you vesper.

If I understand correctly the six month period is for the review to take place and at the conclusion nonexempt documents will be released. Yes?

As an initial matter, does the cia intend to invoke exemption 7a as an overarching exemption? From this proposal I hopefully presume the answer is no, but I would appreciate specific clarification.

Thanks.

Mark  
Sent via BlackBerry from T-Mobile

-----Original Message-----  
From: "Mei, Vesper (CIV)" <Vesper.Mei@usdoj.gov>  
  
Date: Thu, 6 Mar 2008 18:05:01  
To: "Mark S. Zaid" <mark@markzaid.com>  
Cc: "Brad Moss" <brad@markzaid.com>  
Subject: RE: JMP v. CIA -- Tape Destruction

Mark,

The Agency has double-checked, and 6 months is what it can do for its expedited response date. They were guessing that, in toto, they'd have to review a few thousand documents for responsiveness, then review the responsive documents within those few thousand for exemptions, segregability, etc., and six months is what they'd need.

Thanks,  
Vesper

-----Original Message-----  
From: Mark S. Zaid [mailto:mark@markzaid.com]  
Sent: Thursday, March 06, 2008 12:36 AM  
To: Mei, Vesper (CIV)

Cc: 'Brad Moss'; 'Mark S. Zaid'  
Subject: JMP v. CIA -- Tape Destruction

Vesper, surely the Agency could have arrived at a suggested date for its expedited response by now? Fortunately for the Govt I have been too busy with my trial preparation and other pressing deadlines to file the TRO, but I am back in town now (at least will be after I return from FL on Monday) and I will be able to focus on this case. If we want to avoid involving the Court, I need a proposal to consider.

Thanks.

Mark

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(202) 330-5610 fax

**Mark S. Zaid**

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**From:** Mei, Vesper (CIV) [Vesper.Mei@usdoj.gov]  
**Sent:** Thursday, February 07, 2008 1:42 PM  
**To:** Mark S. Zaid  
**Cc:** Brad Moss  
**Subject:** RE: James Madison Project v. CIA III, 07-CV-2306-RBW

Mark, I am checking with the Agency on all of this, and will let you know what I hear.

-----Original Message-----

From: Mark S. Zaid [mailto:mark@markzaid.com]  
Sent: Thursday, February 07, 2008 1:38 PM  
To: Mei, Vesper (CIV)  
Cc: 'Brad Moss'; mark@markzaid.com  
Subject: RE: James Madison Project v. CIA III, 07-CV-2306-RBW

Vesper -

Thanks for getting back to me. I would certainly prefer to negotiate a timetable, but six months seems somewhat excessive given the expedited nature of the case. Of course, I can't speak to the "large volume of records" that CIA says they have identified.

I know it is always an issue with the CIA, but I would be more amenable to agreeing to six months as the outside limit if we could agree to a partial release schedule along the way.

Also, while I recognize processing is continuing, the last thing I want to see is that we agree to a time frame for processing only to have that actually become the CIA's deadline for merely invoking various Exemptions and denying access to 99% of the responsive records. Is there any way you can provide me with some initial opinions on the likelihood of records being released?

Thanks.

Mark

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-----Original Message-----

From: Mei, Vesper (CIV) [mailto:Vesper.Mei@usdoj.gov]  
Sent: Thursday, February 07, 2008 1:10 PM  
To: mark@markzaid.com  
Cc: Brad Moss  
Subject: RE: James Madison Project v. CIA III, 07-CV-2306-RBW

Mark --

The CIA is amenable to negotiating a timetable for the expedited release of responsive records. They have been working on your request, and some components have found a large volume of records in their preliminary searches, though obviously the records have not yet all been reviewed for responsiveness. In addition, there are difficulties in copying, obtaining, and reviewing records that are the subject of ongoing criminal investigations. Given all that, the Agency thinks that they can have the records processed in 6 months.

Please let me know if that will be acceptable for you.

Thanks,  
Vesper

-----Original Message-----

From: mark@markzaid.com [mailto:mark@markzaid.com]  
Sent: Monday, February 04, 2008 5:31 PM  
To: Mei, Vesper (CIV)  
Cc: Brad Moss  
Subject: Re: James Madison Project v. CIA III, 07-CV-2306-RBW

Thanks vesper!  
Sent via BlackBerry from T-Mobile

-----Original Message-----

From: "Mei, Vesper (CIV)" <Vesper.Mei@usdoj.gov>

Date: Mon, 4 Feb 2008 17:18:37  
To: "Mark S. Zaid" <mark@markzaid.com>  
Cc: "Brad Moss" <brad@markzaid.com>  
Subject: RE: James Madison Project v. CIA III, 07-CV-2306-RBW

Thanks. I am still waiting to hear from the CIA with respect to negotiating a timetable for expedited release of responsive records.

-----Original Message-----

From: Mark S. Zaid [mailto:mark@markzaid.com]  
Sent: Friday, February 01, 2008 1:15 PM  
To: Mei, Vesper (CIV)  
Cc: 'Brad Moss'; 'Mark S. Zaid'  
Subject: RE: James Madison Project v. CIA III, 07-CV-2306-RBW

Vesper, we filed a First Amended Complaint today (presumably) adding Matthew Cole as a plaintiff and now substantively challenging the failure of the CIA to timely produce responsive records.

Do please let us know whether the CIA is amenable to negotiating a time table for expedited release of responsive records as otherwise we will likely be filing a TRO prior on or before Feb 11th.

Thanks.

Mark

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-----Original Message-----

From: Mei, Vesper (CIV) [mailto:Vesper.Mei@usdoj.gov]  
Sent: Wednesday, January 23, 2008 5:00 PM  
To: Mark S. Zaid  
Cc: Brad Moss  
Subject: RE: James Madison Project v. CIA III, 07-CV-2306-RBW

Thanks, Mark. I'm checking with the Agency for their position on negotiating a timetable for the release of the documents. I will file the motion for extension today.

-----Original Message-----

From: Mark S. Zaid [mailto:mark@markzaid.com]  
Sent: Wednesday, January 23, 2008 2:20 PM  
To: Mei, Vesper (CIV)  
Cc: 'Brad Moss'; mark@markzaid.com  
Subject: RE: James Madison Project v. CIA III, 07-CV-2306-RBW

Vesper,

There is no requirement to exhaust administrative remedies with respect to expedited processing. I believe this has already been litigated (I think by me in fact in the Al Fayed DC Cir case) and decided in favor of requestors. If you believe otherwise, please identify the case or language in the statute to support your notion and I will be happy to reconsider my position.

In any event, the CIA's response did not reach me before we filed suit, thus there was no requirement for exhaustion. This, too, has been litigated and I have prevailed on it.

JMP and Matt Cole are two different distinct clients. There is no mootness issue for the current case. At the moment it is legally and factually irrelevant that the CIA granted Cole expedited processing but denied JMP. Cole is not yet a plaintiff in the case.

Respectfully, we will not be dismissing the case. Instead, we will be amending the case to include a substantive challenge to the withholding of responsive records for both JMP and Matt Cole (which are both legally ripe to pursue since no response has been received within 20 working days), as well as to enforce expedited processing, i.e., set up a judicially imposed time table. We will also be filing a TRO to accomplish this objective. Of course, I will provide you with the appropriate notice.

I have no objection for you to seek a 2 week extension. Makes perfect sense in light of the above plans.

Notwithstanding the above, I do invite the CIA to negotiate an acceptable time table for release of documents for both requestors in order to avoid protracted litigation that will undoubtedly achieve the same result (and potentially open the doors for attorney's fees). We would happily consider any suggestions you wish to offer.

Thanks.

Mark

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-----Original Message-----

From: Mei, Vesper (CIV) [mailto:Vesper.Mei@usdoj.gov]  
Sent: Wednesday, January 23, 2008 11:24 AM  
To: mark@markzaid.com  
Cc: Brad Moss  
Subject: RE: James Madison Project v. CIA III, 07-CV-2306-RBW

Mark,

With respect to the original complaint in this suit, we believe that it is subject to a motion to dismiss because you did not exhaust the CIA's timely 12/19/07 denial of your 12/9/07 request for expedition. It is also moot, because expedition was ultimately granted, for your second, identical FOIA request on behalf of your client, Matthew Cole. We hope that you will agree to voluntarily dismiss the complaint as a result. If not, we will be seeking a two-week extension in which to respond and file our motion, and hope that you will consent.

With respect to the second request on behalf of Matthew Cole, any request for expedition would now, of course, be moot. Apart from that, a lawsuit on that request would at this point be premature because you have not yet exhausted with respect to that request, and amendment of the initial complaint to include the second request would be futile because of the failure to exhaust.

Please let me know today if you will agree to voluntarily dismiss the complaint, or alternatively, agree to the two-week extension for us to respond.

Thanks,  
Vesper

-----Original Message-----

From: mark@markzaid.com [mailto:mark@markzaid.com]  
Sent: Wednesday, January 23, 2008 9:55 AM  
To: Mei, Vesper (CIV)  
Cc: Brad Moss; Office  
Subject: Re: James Madison Project v. CIA III, 07-CV-2306-RBW

Vesper, thanks for the info.

It obviously does impact our intentions.

What date does the CIA propose for its substantive response as part of "expedited processing"? And will this be a wholesale invocation under exemption 7(a) or can we work around it?

I really need to know these answers before we can decide what to do. Perhaps we can reach and accomodation and avoid protracted litigation.

I certainly consent to a short extension of a week or so if you need time for the agency to decide these answers.

Mark  
Sent via BlackBerry from T-Mobile

-----Original Message-----

From: "Mei, Vesper (CIV)" <Vesper.Mei@usdoj.gov>  
  
Date: Wed, 23 Jan 2008 09:25:19  
To: "Mark S. Zaid" <mark@markzaid.com>



Cc:<brad@markzaid.com>

Subject: RE: James Madison Project v. CIA III, 07-CV-2306-RBW

Mark, it turns out that they granted the expedition, by letter dated January 11. I have scanned and attached it. Given that, your complaint seems to me to be moot. Please let me know how you plan to proceed, and, if you're still planning to amend, would you object to our having 30 days after you file your amendment to respond? Again, I'll need to file this motion today, so please let me know ASAP.

Thanks,  
Vesper

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From: Mark S. Zaid [mailto:mark@markzaid.com]  
Sent: Tuesday, January 22, 2008 7:44 PM  
To: Mei, Vesper (CIV)  
Cc: brad@markzaid.com; mark@markzaid.com  
Subject: RE: James Madison Project v. CIA III, 07-CV-2306-RBW

Vesper, sure, no problem. In fact, we are going to be amending the Complaint so it makes perfect sense to wait until we do so.

Can you please check with the CIA's FOIA office and query whether they granted or denied my client Matthew Cole's request for expedited processing?  
The request is attached. Their response was due January 7, 2008, but last time I checked with my office I had not yet received a reply. Their decision will determine a great deal as to how we amend the Complaint, which is ready to be filed.

Mark

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From: Mei, Vesper (CIV) [mailto:Vesper.Mei@usdoj.gov]  
Sent: Tuesday, January 22, 2008 6:44 PM  
To: mark@markzaid.com  
Cc: brad@markzaid.com  
Subject: James Madison Project v. CIA III, 07-CV-2306-RBW

Hi Mark,

CIA counsel was not assigned to this new FOIA case until January 15, and it was just assigned to me today. We currently have an answer or other response due on Monday, January 28, but I wanted to see if you would consent to a two-week extension on the answer or other response, or until Feb. 11? Please let me know ASAP, as I will need to file the motion tomorrow, opposed or not.

Thanks,

Vesper

Vesper Mei

Trial Attorney

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