

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OPEN SOCIETY JUSTICE INITIATIVE,

Plaintiff,

-v-

CENTRAL INTELLIGENCE AGENCY, et al.,

Defendants.

19 Civ. 234 (PAE)
19 Civ. 1329 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

In its decision issued December 8, 2020, the Court ordered two defendants, the Central Intelligence Agency and the Office of the Director of National Intelligence, to produce a *Vaughn* index limited to two items, one of which was the tape of the killing of Jamal Khashoggi. *See* Dkt. 176 at 29. The basis for that decision were statements by officials that acknowledged the existence and the agencies' possession of the tape.

The Court has reviewed classified submissions filed by the Government, in connection with its motion for partial reconsideration of the December 8, 2020 decision, and conducted an *ex parte* hearing, at which the Court set out its findings with respect to those submissions. In sum—and as may properly be stated on the public record of this case—the classified submissions demonstrate that the submission of a *Vaughn* index with respect to whether or not the agencies possess a tape of the killing would reveal information pertaining to intelligence sources and methods, the disclosure of which could reasonably be expected to harm the national security of the United States. The Court accordingly hereby relieves the agencies of the obligation to file a *Vaughn* index with respect to the tape.

In light of this ruling, the Court grants the Government's motion for partial reconsideration insofar as the Government argued, on the basis of its newly filed classified submissions, that issuing a *Vaughn* index with respect to whether or not the agencies possess a tape "could cause specific and identifiable harms to national security." Dkt. 180 at 10. The Court denies the Government's motion for partial reconsideration insofar as the Government argued that the Court had erred in finding that official statements as to the agencies' possession of the tape constituted an official acknowledgment, precluding the agencies from making a *Glomar* response. *Id.* at 1. The Clerk of Court is respectfully requested to terminate the motion pending at Dkt. 179.

As previously ordered, *see* Dkt. 98, the Court will hold a telephonic status conference in this matter on March 24, 2021 at 3 p.m.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: March 9, 2021
New York, New York