

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

JAMES MADISON PROJECT,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 1:08-cv-00708 (JR)
	)	
CENTRAL INTELLIGENCE AGENCY,	)	
	)	
Defendant.	)	
_____	)	

DECLARATION OF DELORES M. NELSON  
INFORMATION AND PRIVACY COORDINATOR  
CENTRAL INTELLIGENCE AGENCY

I, DELORES M. NELSON, hereby declare and say:

1. I am the Chief of the Public Information Programs Division, Information Review and Release Group (IRRG), Information Management Services (IMS), Office of the Chief Information Officer (CIO), Central Intelligence Agency (CIA). I have served with the CIA for approximately twenty-nine years and, in addition to my current position, have held other supervisory positions with the CIA. Since 21 April 2008, I also serve as the CIA Information and Privacy Coordinator (Coordinator).

2. I make this declaration in support of the CIA's motion to dismiss, or in the alternative, CIA's motion for summary judgment.

3. In my capacities as Chief of PIPD and Coordinator, I am responsible for managing the Freedom of Information Act (FOIA), Privacy Act, and Executive Order 12958<sup>1</sup> Mandatory Declassification Review programs in the CIA. These responsibilities include directing searches of CIA records systems pursuant to public requests for records under these programs, and coordinating the reviews of any records retrieved in such searches.

4. As part of my official duties, I ensure that the Agency administratively processes FOIA and Privacy Act requests, including the search, retrieval, analysis, review, redaction, and release of documents, in accordance with the law and as efficiently as possible with the personnel and resources available.

5. Through the exercise of my official duties, I am familiar with this civil action. I make the following statements based upon my personal knowledge and the information made available to me in my official capacity.

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<sup>1</sup> Executive Order 12958 was amended by Executive Order 13292. See Exec. Order No. 13292, 68 Fed. Reg. 15,315 (Mar. 28, 2003). All citations to Executive Order 12958 are to the Order as amended by Executive Order 13292. See Exec. Order No. 12958, 3 C.F.R. 333 (1996), reprinted as amended in 50 U.S.C.A. § 435 note at 193 (West Supp. 2008).

6. This declaration describes the CIA's records systems, its procedures for responding to FOIA requests, and actions the CIA took in responding to Plaintiff's FOIA request.

**I. CIA RECORDS SYSTEMS**

7. As an intelligence agency, the CIA must take measures to protect against the unauthorized release of classified information. One way to minimize such damage is strictly to limit the amount of information to which any particular employee has access. This practice ensures that should there be a spy within the CIA, that individual will have limited access to information, and thus limits the damage that could result should that information be mishandled.

8. The CIA limits employee access to information by employing a "need-to-know" policy, which provides that an employee has access only to that information required to perform the employee's duties. The CIA implements this policy through decentralizing and compartmentalizing its records systems. In other words, all of the CIA's information is not stored in the same records system, but rather in numerous separate systems across the CIA.

9. While the counterintelligence advantage of this practice is obvious, one disadvantage is equally obvious: the inherent inefficiencies created in the records search and retrieval processes. These inefficiencies affect not only the

day-to-day activities of CIA employees trying to perform their mission, but also the process of responding to FOIA requests. Because it is often the case that numerous records systems must be searched when processing a given FOIA request, it can take a considerable amount of time to locate information potentially responsive to a FOIA request.

## II. PROCESSING OF FOIA REQUESTS

10. IMS is the initial reception point for all FOIA requests. Experienced IMS information management professionals analyze each request and determine which CIA components might reasonably be expected to possess records responsive to a particular request. IMS then transmits a copy of the request to each relevant component. When a request is broad, it is quite common for IMS to transmit the request to many components. Because the CIA's records systems are decentralized and compartmented, each component must then devise its own search strategy, which includes identifying which of its records systems to search as well as what search tools, indices, and terms to employ. The information management professionals in each component conducting FOIA searches are the same professionals searching records to support the component's daily mission.

11. Officers must review any documents located during a search to determine whether they are responsive to the FOIA



request. Because of the nature of a particular records system-- or the search tools, indices, or terms employed-- a search may locate many documents that are not responsive to the request.

12. After officers identify and remove the non-responsive documents, the Information Review Officers must then review the remaining documents to determine which, if any, FOIA exemptions apply, and whether they can reasonably segregate non-exempt information from exempt information. In evaluating responsive documents, officers must segregate exempt information to avoid the inadvertent disclosure of classified information, information concerning intelligence sources and methods, or other information protected by FOIA exemptions. This process is laborious and time-consuming.

13. In the course of reviewing documents for exempt information and segregability, a component frequently identifies information that it must coordinate with or refer to another CIA component or another agency because the other component or agency originated the information or otherwise has an equity in it.<sup>2</sup> This coordination and referral process itself can be quite time-consuming because other components and agencies have their own mission and FOIA priorities.

14. When all of the components and agencies complete their respective reviews, IMS professionals incorporate all of their

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<sup>2</sup> See Exec. Order No. 12958 § 3.6(b).

recommendations regarding exemptions, segregation, redaction, and release, resolve conflicting recommendations, and ensure that release or withholding determinations comply with the law and published CIA regulations. A review is then conducted from a corporate perspective on behalf of the entire CIA and additional exempt information that reflects overall CIA equities may be identified. A final record copy of each document is then produced and a response is provided to the requestor.

### III. PLAINTIFF'S FOIA REQUEST

15. By letter dated 18 October 2007, plaintiff submitted a FOIA request to the CIA for the following records:

"copies of all internal Central Intelligence Agency ("CIA") documents pertaining to discussions concerning the decision to initiate an internal review of the operations of the CIA's Inspector General ("IG"), John Helgerson, and of the IG's Office as a whole."

A true and correct copy of Plaintiff's 18 October 2007 letter is attached as Exhibit A hereto.

16. By letter dated 5 November 2007, the CIA acknowledged plaintiff's request and assigned it reference number F-2008-00103. In addition, the CIA also granted plaintiff's request for a fee waiver but denied plaintiff's request for expedited processing. A true and correct copy of the CIA's 5 November 2007 letter is attached as Exhibit B hereto.

17. By letter dated 3 March 2008, the CIA informed plaintiff's counsel that plaintiff's request was still being

processed, and that CIA was unable to give a definite date for completion of the request, as had been discussed via telephone with plaintiff's counsel on 21 February 2008.<sup>3</sup> A true and correct copy of CIA's 3 March 2008 letter is attached as Exhibit C hereto.

18. On 21 April 2008, plaintiff filed a Complaint asking the Court to order disclosure of the requested records and attorney's fees.

19. In early July 2008, the CIA concluded its processing of plaintiff's request. The CIA processed plaintiff's request in accordance with the procedures described above. The CIA conducted diligent searches of relevant systems of records that were reasonably calculated to discover any records concerning the decision to initiate an internal review of the operations of the CIA's Inspector General. The CIA search included the Director of Central Intelligence Agency ("DCIA") area, which includes the records systems of the DCIA Action Center ("DAC") and the independent offices of the Office of Inspector General ("OIG"), the Office of General Counsel ("OGC"), and the Office of Public Affairs ("OPA"). These offices used a variety of search terms reasonably calculated to locate information responsive to plaintiff's FOIA request, including, for example: "internal review of operations," "CIA's Inspector General,"

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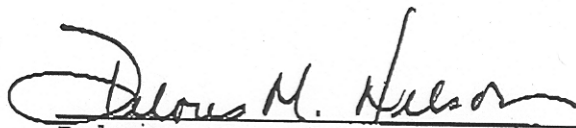
<sup>3</sup> Exhibit C states the phone call was 21 February 2007 (prior to plaintiff's request), but the call actually took place 21 February 2008.

"John L. Helgerson," "OIG," "Office of Inspector General," "OIG internal review," and "Deitz review." These diligent searches failed to locate any records concerning the decision to initiate an internal review of the operations of the CIA's Inspector General, and thus no records that were responsive to plaintiff's request have been located. By letter dated 11 July 2008, the CIA informed plaintiff's counsel that CIA was unable to locate any records responsive to plaintiff's request. A true and correct copy of CIA's 11 July 2008 letter is attached as Exhibit D hereto.

\* \* \* \*

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed this 14<sup>th</sup> day of July, 2008.



Delores M. Nelson  
Information and Privacy Coordinator  
Central Intelligence Agency