

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THE JAMES MADISON PROJECT,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:07cv01154 (RMU)
)	
CENTRAL INTELLIGENCE AGENCY,)	
)	
Defendant.)	
_____)	

**DECLARATION OF JOSEPH W. LAMBERT,
DIRECTOR, INFORMATION MANAGEMENT SERVICES, OFFICE
OF THE CHIEF INFORMATION OFFICER, CENTRAL INTELLIGENCE AGENCY**

I, JOSEPH W. LAMBERT, hereby declare and say:

1. I am the Director of Information Management Services ("IMS") within the Office of the Chief Information Officer of the Central Intelligence Agency ("CIA"). I was selected for this position on 7 December 2007. I have held several senior, operational, and administrative positions in the CIA since 1984.

2. IMS's mission is to administer the CIA's information management program, which includes information and records management, classification management, declassification review and, when authorized and appropriate, the release of CIA information to the public. The Regulatory Services Branch, a component of IMS, is responsible for publishing and maintaining all CIA regulations.

3. As Director of IMS, I am responsible for management of the CIA's information review and release functions. Further,

since the Regulatory Services Branch is a component of IMS, I have overall responsibility for the CIA's regulatory process. As Director of IMS, I must therefore approve the public disclosure of any CIA regulations.

4. As a senior CIA official and under a written delegation of authority pursuant to section 1.3(c) of Executive Order 12958, as amended,¹ I hold original classification authority at the TOP SECRET level. Accordingly, I am authorized to conduct classification reviews and make original classification and declassification decisions.

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 information made available to me in my official capacity.

6. The purpose of this declaration is to describe, to the extent possible on the public record: a) the CIA's search for records responsive to Plaintiff The James Madison Project's FOIA request; b) the responsive records the CIA located; and c) the FOIA exemptions upon which the CIA relied to withhold exempt information contained in the records responsive to Plaintiff's FOIA request.

¹ Executive Order 12958 was amended by Executive Order 13292. See Exec. Order No. 13,292, 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. 12,958, 60 Fed. Reg. 19,825 (Apr. 20, 1995), reprinted as amended in 50 U.S.C. § 435 note (Supp. V 2005).

7. Plaintiff's FOIA request seeks the release of all internal CIA regulations pertaining to several identified categories of information, including but not limited to, CIA personnel procedures, internal CIA organizational units, CIA functions, and CIA security procedures. Due to the unique mission and authorities of the CIA, a request for the public disclosure of internal CIA regulations raises policy concerns of an extraordinary nature which Congress specifically anticipated early in the CIA's history. As I will describe further in this declaration, Congress specifically intended to protect the CIA from the risks of such public disclosure.

8. The CIA, an independent federal agency, was created by the National Security Act of 1947 ("National Security Act") to serve as a unique entity within the United States Government. Designed as a *secret* intelligence agency, the CIA was created to support national policymakers by collecting, analyzing, producing, and disseminating foreign intelligence information, using clandestine means; and conducting special activities as authorized by the President. In recognition that the CIA could conduct its national security mission most effectively in secret, Congress enacted the Central Intelligence Agency Act of 1949 ("CIA Act")--which shields information related to the CIA's organization, functions, and employees from the provisions of any law requiring public disclosure. Specifically, section 6

provides the CIA "shall be exempted" from the provisions of any law which require the "publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency."²

9. A wholesale request for the public release of internal CIA regulations--particularly where such a request could be repeated over time to develop an evolving picture of CIA organizational behavior priorities, systems, procedures, and methods--presents unique risks to the CIA's operational effectiveness which Congress anticipated and against which it explicitly protected the CIA by statute.

10. For the Court's convenience, I divided this declaration into six parts: a) Plaintiff's FOIA request; b) the procedural history of this case, including the CIA's search for records responsive to Plaintiff's FOIA request; c) background on the CIA's regulations; d) background on the CIA's records systems; e) the FOIA exemptions applicable to the information withheld from records responsive to Plaintiff's FOIA request; and f) conclusion. Attached as Exhibit A to this declaration, and incorporated by reference herein, is a Vaughn Index which: a) describes the responsive records challenged by Plaintiff; b) identifies the FOIA exemptions applicable to the responsive records challenged by Plaintiff; and c) explains why the

² 50 U.S.C. § 403g (Supp. V 2005).

applicable FOIA exemptions justify withholding information from the responsive records challenged by Plaintiff.

I. PLAINTIFF'S FOIA REQUEST

11. Plaintiff submitted its initial FOIA request by letter dated 18 May 2000. See Letter from Zaid to Dyer of 5/18/00, attached as Exhibit B. Plaintiff's request sought copies of all internal CIA regulations on or pertaining to:

- (1) personnel issues;
- (2) the granting or revocation of security clearances;
- (3) grievance procedures;
- (4) disciplinary procedures;
- (5) the Prepublication Review Board;
- (6) declassification of information;
- (7) the Historical Advisory Board; and
- (8) the implementation of the Freedom of Information and Privacy Acts.

The CIA determined that Plaintiff's FOIA request sought information within the nondisclosure provisions of the CIA Act. As noted above, the CIA Act specifically exempts information regarding CIA organization, functions, names, official titles, salaries, or numbers of personnel employed by the CIA from the provisions of any law requiring public disclosure.

12. By way of background, Paragraphs 20 through 30 below provide the Court with a factual description of the CIA's search procedures and decentralized recordkeeping system. In this case, however, Plaintiff's request was sufficiently specific to enable the CIA to locate responsive records with a search

focusing on the relevant record systems that the CIA reasonably believed would contain internal CIA regulations.

II. PROCEDURAL HISTORY

13. On 26 July 2002, the CIA sent Plaintiff a letter denying Plaintiff's FOIA request. See Letter from Dyer to Zaid of 7/26/02, attached as Exhibit C. Therein, the CIA cited FOIA exemption (b)(3) as its legal authority for withholding all previously unreleased internal CIA regulations responsive to Plaintiff's FOIA request. See id. On 8 August 2002, Plaintiff appealed the CIA's decision to withhold records responsive to Plaintiff's FOIA request. See Letter from Zaid to Dyer of 8/8/02, attached as Exhibit D. On 20 August 2002, the CIA accepted and acknowledged Plaintiff's appeal. See Letter from Dyer to Zaid of 8/20/02, attached as Exhibit E. Therein, the CIA advised Plaintiff that a backlog of approximately 360 FOIA appeals would likely delay Plaintiff's appeal. See id.

14. Plaintiff filed the instant action on 27 June 2007. The CIA filed its Answer on 24 August 2007. Pursuant to this Court's order, the parties filed a Joint Status Report on 24 September 2007. See J. Status Report, attached as Exhibit F. Therein, the parties agreed, *inter alia*: a) to limit the scope of Plaintiff's FOIA request to the version of the requested CIA regulations in effect as of 27 June 2007; and b) that the CIA would process and release any non-exempt documents or portions

of documents responsive to Plaintiff's request by 11 January 2008. See id.

15. The CIA conducted a reasonable and adequate search for records responsive to Plaintiff's FOIA request. The CIA maintains its regulations in a searchable records system. CIA personnel reasonably calculated this records system would contain the records responsive to Plaintiff's FOIA request. Pursuant to the parties' agreement, the CIA limited its search to the version of the requested regulations in effect as of 27 June 2007. The CIA did not search for earlier versions of the requested regulations. The CIA located seventy-six regulations responsive to Plaintiff's FOIA request.

16. IMS personnel, in the ordinary course of their information management responsibilities, reviewed the responsive regulations to determine whether any FOIA exemptions applied and whether any non-exempt information was reasonably segregable from exempt information. I reviewed their determinations in my capacity as Director of IMS. I determined the CIA could release fifty-three of the seventy-six internal CIA regulations responsive to Plaintiff's FOIA request after the segregable, exempt information in these records was withheld from disclosure under applicable FOIA exemptions. I refer to these released-in-part ("RIP") records as "RIP documents." I further determined that twenty-three of the internal CIA regulations responsive to

Plaintiff's FOIA request were wholly exempt from disclosure under applicable FOIA exemptions. I refer to these denied-in-full ("DIF") records as "DIF documents." In my capacity as Director of IMS, I determined the DIF documents did not contain segregable, non-exempt information. Through the exercise of my official duties, I determined the withheld information contained in the RIP and DIF documents is exempt from disclosure pursuant to FOIA exemptions (b)(1), (b)(2), and (b)(3).

17. Pursuant to the parties' agreement, the CIA produced the fifty-three RIP documents to Plaintiff on 10 January 2008. See Letter from Koch to Zaid of 1/10/08, attached as Exhibit G.

18. On or about 31 January 2008, Plaintiff advised the CIA that it challenged the CIA's determination to withhold segregable, exempt information in the following twenty-five RIP documents:

- | | | |
|------------|------------|----------------|
| • 1511250, | • 1511268, | • 1511286, |
| • 1511253, | • 1511270, | • 1511287, |
| • 1511256, | • 1511271, | • 1511288, |
| • 1511259, | • 1511272, | • 1511293, |
| • 1511261, | • 1511274, | • 1511294, |
| • 1511262, | • 1511275, | • 1511295, |
| • 1511264, | • 1511281, | • 1511296, |
| • 1511266, | • 1511283, | • 1511297, and |
| | | • 1511300. |

I understand Plaintiff also challenges the CIA's decision to withhold the twenty-three DIF documents:

- 1511367,
- 1511368,
- 1511369,
- 1511370,
- 1511371,
- 1511372,
- 1511373,
- 1511374,
- 1511375,
- 1511376,
- 1511377,
- 1511378,
- 1511379,
- 1511380,
- 1511381,
- 1511382,³
- 1511383,
- 1511384,
- 1511385,
- 1511386,
- 1511387,
- 1511388, and
- 1511389.

I understand Plaintiff does not challenge the CIA's determination to withhold segregable, exempt information from disclosure in the remaining twenty-eight RIP documents.⁴ Accordingly, this declaration and the accompanying Vaughn Index discuss the documents and related FOIA exemptions challenged by Plaintiff. This declaration and accompanying Vaughn Index do not address the twenty-eight uncontested RIP documents.

19. Since its initial production of documents on 10 January 2008, the CIA has revisited its decision to deny document number 1511382 in its entirety. In my capacity as Director of IMS, I reconsidered the previous determination to withhold the entire regulation and determined nonexempt information can reasonably be segregated from the exempt information and released. I approved both the release of the

³ As I explain in Paragraph 19 below, the CIA revisited its decision to deny document number 1511382 in full and produces a redacted version of this document as document number 1528474.

⁴ Specifically, Plaintiff does not challenge the CIA's determination to withhold exempt information from release in the following twenty-eight (28) documents: 1511251, 1511252, 1511254, 1511255, 1511257, 1511258, 1511260, 1511263, 1511265, 1511267, 1511269, 1511273, 1511276, 1511277, 1511278, 1511279, 1511280, 1511282, 1511284, 1511285, 1511289, 1511290, 1511291, 1511292, 1511298, 1511299, 1511301, and 1511302.

segregable, non-exempt information in document number 1511382, as well as the withholding of non-segregable, exempt information in document number 1511382. The CIA relies upon FOIA exemptions (b)(2) (including both high (b)(2) and low (b)(2)) and (b)(3) to withhold the non-segregable, exempt information in this document. The CIA attaches a copy of the revised document number 1511382, numbered 1528474, to this declaration.

IV. BACKGROUND ON THE CIA'S INTERNAL REGULATIONS

20. Plaintiff requested CIA regulations on eight specific topics: a) personnel issues; b) the granting or revocation of security clearances; c) grievance procedures; d) disciplinary procedures; e) the Prepublication Review Board; f) declassification of information; g) the Historical Advisory Board; and h) the implementation of the Freedom of Information and Privacy Acts.

21. While many of the regulations may seem innocuous on their face, all of these documents contain sensitive information regarding the internal workings of a clandestine intelligence agency. While the disclosure of a single regulation or part of a regulation may appear harmless, such information may be very valuable as part of a "mosaic" of information gleaned from various sources, including regulations or pieces of regulations, collected over time. Though one datum may appear harmless when taken out of context and by itself, one cannot determine the

potential harm of releasing a single piece of information merely by examining it out of context or even within a review of the document from which it came.

22. Foreign intelligence services specialize in collecting information from many sources and drawing conclusions from all of the information gathered. Known as the "mosaic theory," this process is a theory in name only. It is one of the primary methods employed by all intelligence services. The CIA's Directorate of Intelligence, for example, is itself dedicated to collecting seemingly disparate pieces of information and assembling them into a coherent picture of foreign intelligence targets' activities and intentions. Information contained in the CIA's internal regulations that seems innocuous on its face can provide the pieces necessary to complete a puzzle and expose CIA sources, methods, organization, or functions, including but not limited to, the CIA's internal personnel and security procedures and the CIA's internal procedures used to conceal the affiliation between the CIA and its covert officers. Disclosure of this information would help foreign intelligence services, *inter alia*, circumvent the CIA's security procedures, identify the CIA's covert officers, and, possibly, infiltrate the CIA.

23. Significantly, redacting the requested regulations does not resolve the problem. Rather, disclosure of even heavily redacted regulations will begin a process of disclosing

ever greater amounts of information contained in the regulations as a series. As the withheld information in many of the regulations at issue appears harmless in isolation, the decision to disclose this information presents the danger that the same analysis will be applied repeatedly to pieces of individual regulations responsive to future disclosure requests. Indeed, when one analyzes the majority of the withheld information in piecemeal fashion, there does not appear to be a principled point at which to stop disclosure of additional regulations in the future as each piece of information appears individually harmless. The result will be a detailed mosaic of the CIA's intelligence sources and methods, organization, and functions being made available to entities hostile to the United States.

VI. THE CIA'S RECORD SYSTEMS AND PROCESSING OF FOIA REQUESTS

24. The CIA continually faces the risk that there may be a spy within its ranks. Prudence dictates the CIA take appropriate counterintelligence and security precautions to minimize the potential damage to national security that could result from a spy in the agency's midst. One way to minimize such damage is to limit the amount of information to which any particular employee has access. This policy provides an employee access only to that information required to perform the employee's duties. The CIA implements this policy through decentralizing and compartmenting its records systems.

25. The CIA Information and Privacy Coordinator in the IMS is the initial reception point for all FOIA requests. Under the direction and supervision of the CIA Information and Privacy Coordinator, experienced IMS information management professionals analyze each FOIA 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 devise its own search strategy. Each component identifies which of its record systems it will search as well as what search tools, indices, and/or terms it will employ during the search. The information management professionals conducting FOIA searches in each component are the same professionals searching records to support the component's daily mission.

26. After a tasked component locates documents that may potentially be responsive to a FOIA request, information review and management personnel review the documents to determine, based on their experience with the FOIA review process, whether the documents are responsive to the request. Because of the nature of a particular records system and the search tools,

indices or terms employed during the search, a search may locate many documents that are not responsive to the request.

27. After removing the non-responsive documents, Information Review Officers review the remaining documents to determine which, if any, FOIA exemptions apply to the information contained therein, and whether they reasonably can segregate non-exempt information from exempt information. This process is laborious and time-consuming, but essential to avoid the inadvertent release of information the CIA must withhold from public disclosure in order to protect the effectiveness of its operations.

28. 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.⁵ This coordination and referral process itself can be quite time-consuming because other components and agencies have their own mission and FOIA procedures.

29. When all of the components and agencies complete their respective reviews, IMS professionals, under my direction and supervision, consolidate their various recommendations regarding

⁵ See Exec. Order No. 12,958 § 3.6(b), 60 Fed. Reg. 19,825 (Apr. 20, 1995), reprinted as amended in 50 U.S.C. § 435 note (Supp. V 2005).

exemption, segregation, redaction, and release. These IMS professionals then conduct a review from a corporate perspective on behalf of the entire CIA. This corporate perspective is critical to assess individual items of information that may initially appear releasable, but which, when aggregated with other responsive documents, reveal information that would be legally exempt from disclosure. For this reason, the CIA cannot make final release determinations with respect to any particular document until it completes a review of all responsive documents. Moreover, as the CIA previously has released some segregable, non-exempt portions of regulations in the past, the CIA must consider this FOIA request in the context of earlier, regulation-related, FOIA requests. While a single FOIA request for regulations may appear insignificant on its own, the request can become critically important when viewed in conjunction with several other regulation-related FOIA requests. This consideration is particularly exigent in the present case where the Plaintiff asked for the wholesale release of internal CIA regulations. Taken together with earlier regulation-related FOIA requests, Plaintiff's FOIA request could provide unique insights into the mission, priorities, function, and organizational behavior of the CIA.

30. IMS personnel ensure that any withholding determinations are grounded in appropriate, applicable FOIA

exemptions and that any release or withholding determinations comply with applicable law and published CIA regulations. With respect to CIA regulations, I am the final approving official for releasing regulations outside the CIA. Ultimately, IMS personnel produce a final record copy of each document and prepare a response to the FOIA requestor.

VI. APPLICABLE FOIA EXEMPTIONS

31. I determined the information withheld from disclosure in this case is exempt from disclosure based upon three FOIA exemptions: (b)(1), (b)(2) (including both high (b)(2) and low (b)(2)), and (b)(3).

32. As is explained in detail below, FOIA exemption (b)(1) exempts the classified information contained in several of the RIP and DIF documents from release to the public.

33. FOIA exemption (b)(3) applies to all of the regulations and, through its well-established incorporation of the specific nondisclosure provisions of the CIA Act, authorizes the CIA to withhold any information in any of the responsive records that discloses CIA organization, functions, names, official titles, salaries, or numbers of personnel employed by the CIA. Independent of FOIA exemption (b)(2), FOIA exemption (b)(3) also provides the CIA with authority to withhold certain administrative information (i.e., employee telephone numbers, employee position titles, etc.) from disclosure.

34. Information that is purely administrative, trivial in nature, unrelated to any legitimate public interest, has been withheld from disclosure pursuant to the low (b)(2) FOIA exemption.

35. Internal regulations also have been withheld from disclosure in both full and in part under the high (b)(2) exemption, where, in the context of other regulations released in whole and in part, disclosure of the internal personnel information would render the CIA's procedures vulnerable and, thus, enable circumvention of the internal procedures and disrupt CIA functions and activities.

A. FOIA Exemption (b)(1)

36. FOIA exemption (b)(1) provides FOIA does not require disclosure of information that is: "(A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order."⁶

37. The authority to classify information is derived from a succession of Executive orders, the most recent of which is Executive Order 12958. I reviewed the records responsive to Plaintiff's FOIA request under the criteria established by Executive Order 12958, as amended, and determined the

⁶ 5 U.S.C. § 552(b)(1) (2000).

information withheld from disclosure under FOIA exemption (b)(1) is in fact properly classified.

38. Section 6.1(h) of Executive Order 12958, as amended, defines "classified national security information" or "classified information" as "information that has been determined pursuant to this order or any predecessor order to require protection against unauthorized disclosure and is marked to indicate its classified status when in documentary form."⁷ Section 6.1(y) of Executive Order 12958, as amended, defines "national security" as the "national defense or foreign relations of the United States."⁸ Section 1.2(a) of Executive Order 12958, as amended, establishes three levels of classification for national security information. Information shall be classified TOP SECRET if its unauthorized disclosure reasonably could be expected to result in *extremely grave damage* to the national security; SECRET if its unauthorized disclosure reasonably could be expected to result in *serious damage* to the national security; and CONFIDENTIAL if its unauthorized disclosure reasonably could be expected to result in *damage* to the national security.

39. Section 1.1(a) of Executive Order 12958, as amended, provides information may be originally classified under the

⁷ Exec. Order No. 12,958, 60 Fed. Reg. 19,825 (Apr. 20, 1995), reprinted as amended in 50 U.S.C. § 435 note (Supp. V 2005).

⁸ Id.

terms of this Executive Order only if all of the following conditions are met:

- (1) an original classification authority is classifying the information;
- (2) the information is owned by, produced by or for, or is under the control of the United States Government;
- (3) the information falls within one or more of the categories of information listed in Section 1.4 of this order; and
- (4) the original classification authority determines that the unauthorized disclosure of the information reasonably could be expected to result in damage to the national security, which includes defense against transnational terrorism, and the original classification authority is able to identify or describe the damage.⁹

1. Original Classification Authority

40. Section 1.3(a) of Executive Order 12958, as amended, provides the authority to classify information originally may be exercised only by the President and, in the performance of executive duties, the Vice President; agency heads and officials designated by the President in the Federal Register; and U.S. Government officials delegated this authority pursuant to section 1.3(c) of Executive Order 12958, as amended.¹⁰ Section 1.3(c)(2) provides TOP SECRET original classification authority may be delegated only by the President; in the performance of

⁹ Id.

¹⁰ See id.

executive duties, the Vice President; or an agency head or official designated pursuant to section 1.3(a)(2) of Executive Order 12958, as amended.¹¹

41. In accordance with section 1.3(a)(2), the President designated the Director of the CIA as an official who may classify information originally as TOP SECRET.¹² Under the authority of section 1.3(c)(2), the Director of the CIA delegated original TOP SECRET classification authority to me. Section 1.3(b) of the Executive Order provides original TOP SECRET classification authority includes the authority to classify information originally as SECRET and CONFIDENTIAL.¹³ With respect to the challenged information for which the CIA asserts FOIA exemption (b)(1) in this case, as indicated in the attached Vaughn Index, I reviewed the documents and determined they contain information that is currently and properly classified SECRET and CONFIDENTIAL by an original classification authority.

¹¹ See id.

¹² See Presidential Order of April 21, 2005, Designation under Executive Order 12958, 70 Fed. Reg. 21,609 (Apr. 26, 2005), reprinted in 50 U.S.C. § 435 note (Supp. V 2005). Similarly, the Presidential Order of 13 October 1995 designates the Director of the CIA as an official authorized to classify information originally as TOP SECRET. See Presidential Order of Oct. 13, 1995, 60 Fed. Reg. 53,845 (Oct. 17, 1995), reprinted in 50 U.S.C. § 435 note (2000).

¹³ Exec. Order No. 12,958, 60 Fed. Reg. 19,825 (Apr. 20, 1995), reprinted as amended in 50 U.S.C. § 435 note (Supp. V 2005).

2. U.S. Government Information

42. Information may be originally classified only if the information is owned by, produced by or for, or is under the control of the U.S. Government. With respect to the challenged information for which the CIA asserts FOIA exemption (b)(1) in this case, as indicated in the attached Vaughn Index, I reviewed the internal CIA regulations and determined the regulations and the information contained therein are owned by the U.S. Government, produced by the U.S. Government and under the control of the U.S. Government.

3. Categories of Information Listed in Section 1.4 of Executive Order 12958

43. Executive Order 12958, as amended, addresses classification of information relating to intelligence and national security. Section 1.4 provides information shall be classified only when it includes, *inter alia*, information concerning "intelligence activities (including special activities), intelligence sources or methods, or cryptology." With respect to the challenged information for which the CIA asserts FOIA exemption (b)(1) in this case, as indicated in the attached Vaughn Index, I reviewed the documents and determined they contain information concerning the CIA's intelligence activities, sources, or methods.

44. *Intelligence Activities* - Intelligence activities lie at the core of the CIA's functions. Information regarding specific intelligence activities reveals the interests and capabilities of the CIA. This information could be used by foreign intelligence services and others who have interests opposed to those of the United States. These parties search constantly for information regarding the activities of the CIA and are able to gather information from myriad sources, analyze this information, and create ways to defeat CIA activities from seemingly disparate pieces of information.

45. *Intelligence Sources* - The primary mission of the CIA is the collection of foreign intelligence through clandestine human sources. To collect useful intelligence, the CIA must often depend upon information that can only be gathered from knowledgeable human sources under an arrangement of absolute, lasting secrecy. This secrecy extends both to the existence of the source's relationship with the CIA and to the kind of information or type of operational assistance the source is supplying. Intelligence sources include individual human sources, foreign intelligence and security services, and foreign governments generally.

46. Intelligence sources can be expected to furnish information only when confident they are protected from harm, retribution, or embarrassment by the absolute secrecy

surrounding their CIA relationship. The safety and welfare of the source, his family and even his associates could be jeopardized if the CIA disclosed information that might compromise the source's identity or affiliation with the CIA. This sort of compromise can occur if the CIA reveals its internal regulations for handling clandestine human sources. A compromise can also occur if the CIA releases regulations that allow foreign intelligence services to associate a CIA officer with a particular human source. Such information could include information that would allow a foreign intelligence service to identify the CIA's covert officers.

47. Any compromise of the information about a source could also hamper future cooperation with sources and damage ongoing intelligence efforts. If the U.S. Government breached the trust and confidentiality upon which those relationships are formed, current and potential sources across the globe could surmise the U.S. Government is unable or unwilling to maintain confidentiality and that further cooperation with our government is ill-advised. If the compromise of a particular source becomes known, it would likely discourage other sources from cooperating with the CIA at a time when international cooperation is critical to combating terrorism. Thus, protection of information concerning intelligence sources is

among the most important responsibilities charged to the Director of the CIA.

48. *Intelligence Methods* - Intelligence methods are the means by which an intelligence agency accomplishes its objectives. Intelligence methods include the basic business practices and methodological "tools," contained in the regulations, and used by the CIA to accomplish its mission. Each intelligence method must be protected from disclosure in every situation where a certain intelligence interest, capability, or technique is unknown to those groups that could take countermeasures to nullify its effectiveness. Once the nature of an intelligence method or the fact of its use in a certain situation is discovered, its usefulness in that situation is neutralized and the CIA's ability to apply that method in other situations is significantly degraded. In fact, detailed knowledge of each intelligence method must be protected from disclosure because such knowledge would be of material assistance to those who seek to detect, prevent, or damage U.S. intelligence operations. Moreover, once an intelligence method or its use is discovered, the method may eventually be used against the CIA.

49. The term "intelligence methods" is not limited to sophisticated techniques and electronic devices. Rather, "intelligence methods" also include the special internal

practices and procedures of an intelligence agency. One example of a method involves the means, contained in the regulations, by which the CIA assesses, evaluates, hires, and fires its employees. These processes are comprised of many different phases which, when employed together, enable the CIA to determine the suitability of an applicant for service as a CIA employee. Knowledge of, or insights into, such practices would be of invaluable assistance to those who wish to detect, penetrate, counter, or evaluate CIA activities in ways inimical to U.S. security.

4. Damage to the National Security

50. With respect to the challenged CONFIDENTIAL information for which the CIA asserts FOIA exemption (b)(1) in this case, as indicated in the attached Vaughn Index, I reviewed the documents and determined disclosure of this information reasonably could be expected to cause damage to the national security. With respect to the challenged SECRET information for which the CIA asserts FOIA exemption (b)(1) in this case, as indicated in the attached Vaughn Index, I reviewed the documents and determined disclosure of this information reasonably could be expected to cause serious damage to the national security. I further describe this classified information and its relation to intelligence sources and methods in Paragraphs 54 and 55 below.

5. Proper Purpose

51. With respect to the challenged information for which the CIA asserts FOIA exemption (b)(1) in this case, as indicated in the attached Vaughn Index, I reviewed the documents and determined that no information has been classified in order to conceal violations of law; inefficiency or administrative error; prevent embarrassment to a person, organization or agency; restrain competition; or prevent or delay the release of information that does not require protection in the interests of national security.

6. Marking

52. With respect to the challenged information for which the CIA asserts FOIA exemption (b)(1) in this case, as indicated in the attached Vaughn Index, I reviewed the documents and determined they are properly marked in accordance with section 1.6 of Executive Order 12958, as amended. Each of these documents bears on its face one of the three classification levels defined in section 1.2 of Executive Order 12958, as amended; the identity, by name or personal identifier and position, of the original classification authority; the agency and office of origin, if not otherwise evident; declassification instructions; and a concise reason for classification that, at a minimum, cites the applicable classification categories of section 1.4.

7. Proper Classification

53. With respect to the challenged information for which the CIA asserts FOIA exemption (b)(1) in this case, as indicated in the attached Vaughn Index, I reviewed the documents and determined the information withheld from disclosure is currently and properly classified in accordance with the substantive and procedural requirements of Executive Order 12958, as amended.

8. Classified Regulations at Issue in this Case

54. With respect to the challenged information for which the CIA asserts FOIA exemption (b)(1) in this case, as indicated in the attached Vaughn Index, I reviewed the documents and determined that twelve documents are classified CONFIDENTIAL because the unauthorized disclosure of these documents reasonably could be expected to result in damage to national security. I further determined that nine documents are classified SECRET because the unauthorized disclosure of these documents reasonably could be expected to result in serious damage to national security.

55. As noted above, the disclosure of the withheld information in these records would reveal classified information regarding the CIA's intelligence activities, sources, and/or methods. Specifically, disclosure would provide foreign intelligence services with valuable insights into, *inter alia*:

- the various categories of CIA personnel;

- the CIA's internal security policies and procedures, including those related specifically to the CIA's covert employees;
- the CIA's covert officers, including but not limited to, cover mechanisms used, the different types of CIA covert officers, how the CIA manages its covert employees, and how the CIA processes inquiries related to its covert employees;
- the CIA's engagement and management of clandestine human intelligence sources;
- certain responsibilities of the CIA's station chiefs; and
- the CIA's staffing procedures and the size and capabilities of the CIA's workforce.

Significantly, the release of the classified information withheld from disclosure also would reveal classified details regarding the CIA's collection, use, retention, and management of classified human intelligence sources; the organization, management, and objectives of the CIA's military reserve program; and the training received by CIA employees, including language training.

B. FOIA Exemption (b)(3)

56. The regulations at issue in this case also contain information disclosing CIA organization, functions, employee names, official titles, intelligence sources and/or intelligence methods. This information is exempt from disclosure under FOIA

exemption (b)(3). FOIA exemption (b)(3) provides FOIA does not require disclosure of information that is:

specifically exempted from disclosure by statute (other than section 552b of this title) provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld.¹⁴

I reviewed the documents responsive to Plaintiff's FOIA request and determined the National Security Act, as amended, and the CIA Act, as amended, are the withholding statutes applicable to this case.

1. National Security Act of 1947

57. Section 102A(i)(1) of the National Security Act, 50 U.S.C. § 403-1(i)(1), as amended, provides the Director of National Intelligence ("DNI") "shall protect intelligence sources and methods from unauthorized disclosure." I reviewed the RIP and DIF documents in this case and determined disclosure of certain information withheld from these documents would reveal intelligence sources and methods. For this reason, the DNI authorized the DCIA to take all necessary and appropriate measures in this case to ensure that intelligence sources and methods are protected from disclosure. Accordingly, the CIA

¹⁴ 5 U.S.C. § 552(b)(3) (2000).

relies on the National Security Act to withhold any information that would reveal intelligence sources and methods.

58. As noted in Paragraph 49 above, the definition of "intelligence methods" is not limited to sophisticated techniques and electronic devices. Rather, "intelligence methods" include the special practices and procedures of an intelligence agency. The National Security Act exempts the information withheld from regulations in this case where disclosure of that information would reveal the CIA's intelligence sources and methods.

59. In contrast to Executive Order 12958, as amended, the National Security Act's statutory requirement to protect intelligence methods does not require the CIA to identify or describe the damage to national security that reasonably could be expected to result from their unauthorized disclosure.

2. Central Intelligence Agency Act of 1949

60. Section 6 of the CIA Act, 50 U.S.C. § 403g, as amended, provides:

In the interests of the security of the foreign intelligence activities of the United States and in order to further implement section 403-1(i) of this title that the Director of National Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure, the . . . [CIA] shall be exempted from . . . the provisions of any other law which require the publication or disclosure of the

organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency.

As the CIA's primary function is to collect intelligence through human sources and by other appropriate methods, section 6 of the CIA Act authorizes the CIA to withhold "intelligence sources" and "intelligence methods" that are related to the CIA's core function. Moreover, CIA employees' names and personal identifiers (e.g., employee signatures, employee numbers, or initials), titles, file numbers, and internal organizational data are specifically and absolutely protected from disclosure by the CIA Act.

61. In contrast to Executive Order 12958, as amended, the CIA Act's statutory requirement to further protect intelligence sources and methods by protecting CIA organization and functions does not require the CIA to identify or describe the damage to national security that reasonably could be expected to result from their unauthorized disclosure.

62. The CIA properly determined to withhold exempt information and documents, including the CIA's special practices and procedures, from release under FOIA exemption (b)(3) where the disclosure of that information would reveal CIA sources, methods, organization, and functions. Pursuant to FOIA exemption (b)(3), and also under FOIA exemption (b)(2), the CIA withheld, for example, employee identification numbers, official

titles, employee telephone numbers, agency regulation numbers, and internal CIA organizational information. On the basis of the CIA Act, section 6 and, thus, under FOIA exemption (b)(3), this information is absolutely protected from disclosure by law. Section 6 requires no showing of harm.

63. Similarly, every CIA regulation is a piece of a mosaic of information reflecting the CIA's overall organization and function. I described the nature of this mosaic earlier in this declaration. The disclosure of CIA regulations--even in part--will assist foreign intelligence services develop a clearer picture of the CIA's methods, organization, and function.

64. Any evaluation of whether the CIA should release a regulation must be done with awareness that any released information will be analyzed in light of other information (i.e., other pieces of the "mosaic") and, thus, potentially lead to the exposure of the CIA's intelligence sources, intelligence methods, organization, or functions. As noted earlier, even portions of CIA regulations may provide insights as to the CIA's capabilities, accomplishments, methodologies, and judgments over time. As a result, CIA regulations provide a framework for any "mosaic" that a hostile entity might assemble to use against the United States. I determined the CIA properly identified and withheld information, under FOIA exemption (b)(3), from release to Plaintiff where that information discloses the CIA's sources,

methods, organization, and functions. Pursuant to the National Security Act and section 6 of the CIA Act, that information is exempt from disclosure under FOIA exemption (b)(3).

C. FOIA Exemption (b)(2)

65. FOIA exemption (b)(2) exempts from disclosure information that is "related solely to the internal personnel rules and practices of an agency."¹⁵ FOIA exemption (b)(2) encompasses two distinct categories of information: a) internal information of a less significant nature, such as administrative routing notations and agency rules and practices, sometimes referred to as "low (b)(2)" information; and b) internal information, the disclosure of which may risk circumvention of agency regulation, sometimes referred to as "high (b)(2)" information.

1. High (b)(2) Information

66. The high (b)(2) exemption applies in this case to exempt from disclosure internal information, the disclosure of which may facilitate circumvention of CIA regulations. The information withheld from disclosure pursuant to high (b)(2) is internal information which does not purport to regulate the general public's activities. These regulations do not set standards that CIA personnel must follow when deciding whether

¹⁵ 5 U.S.C. § 552(b)(2) (2000).

to proceed against or to take action affecting members of the public.

67. As previously observed, information exempted under low (b)(2) and high (b)(2) also may be exempt from disclosure pursuant to a separate FOIA exemption. The Vaughn Index explains which specific exemption is applicable to which document, but in general, high (b)(2) information withheld from disclosure includes internal security policies and procedures associated with CIA employees and foreign nationals. The disclosure of this information could both affect the behavior of the foreign nationals addressed in the regulation and provide foreign intelligence services with keen insights on how to circumvent the CIA's security regulations. Other RIP and DIF documents contain high (b)(2) information relating to the training procedures for a specific category of CIA employees. If disclosed, this information would allow adversaries keen insights into the CIA's operational and training methods. Similarly, information revealing security clearance procedures and policies has been withheld under the high (b)(2) exemption where disclosure of the information could render those procedures vulnerable and weaken their effectiveness.

68. Significantly, disclosure of the high (b)(2) information contained in the RIP and DIF documents also could risk circumvention of these regulations through a "mosaic"

approach. As noted above, information that may seem innocuous on its face can nonetheless be combined with similar information and used to circumvent CIA regulations. Information withheld from disclosure in the RIP and DIF documents could, when combined with other information that has been released to the public, provide foreign intelligence services with specific insights into the CIA's sources, methods, security procedures, organization, and functions.

2. Low (b) (2) Information

69. As noted in the attached Vaughn Index, the CIA invoked FOIA exemption (b) (2) to withhold low (b) (2) information from disclosure. The low (b) (2) information withheld from these documents is internal information and not of any genuine public interest. Information that CIA has withheld from disclosure under the low (b) (2) exemption does not purport to regulate the public's activities or set standards CIA personnel must follow when deciding whether to proceed against or take action affecting members of the public. The specific application of the low (b) (2) exemption to particular documents is detailed in the Vaughn Index accompanying this declaration. However, information withheld under the low (b) (2) exemption relating to personnel includes: job titles, employee grievance procedures, procedures for performance evaluations, occupational codes, grades, reassignment procedures, guidelines for Exceptional

Performance Awards, and eligibility criteria for benefits specific to CIA employees and their families. Other personnel information withheld from disclosure under the low (b)(2) exemption includes policies on employment of uniformed service members, employee health and life insurance policies, child care policies, income tax withholding and reporting procedures, dispute resolution procedures for employee-related internal disputes, and internal procedures for employment-related complaints. The CIA has marked several of these regulations with the internal dissemination control "Administrative - Internal Use Only" or "AIUO" to indicate they pertain solely to internal CIA matters.

70. Where the procedures relate solely to internal CIA personnel practices, internal information concerning procedures for CIA employees which the CIA uses to administer its declassification and release policy has also been withheld under (b)(2). Segregable non-exempt information concerning policies for actions affecting the public in these regulations has been provided to Plaintiff.

71. The CIA also withheld under low FOIA exemption (b)(2) the names and position titles of CIA employees with original classification authority. There is no genuine public interest in disclosure of the names or position titles of individual CIA employees.

72. Similarly, several of the Office of Security regulations at issue in this case contain exempt information concerning internal agency personnel policies for employees and managers to resolve security-related issues, and related tracking and recordkeeping information associated with those functions. This information has been properly withheld on the basis of low (b)(2)--administrative matters associated with record tracking and filing in which the public has no legitimate interest and high (b)(2)--internal information concerning security practices which, if disclosed, would enable members of the public to disrupt or circumvent the CIA's security procedures.

73. The same information may fall under more than one FOIA exemption for disclosure. For example, official titles of individuals delegated original classification authorities are exempt under both (b)(2) and (b)(3).

74. Although I have discussed the general categories of information withheld under FOIA exemptions in this case, this declaration should be reviewed in tandem with the Vaughn Index, which identifies the particular FOIA exemptions relevant to particular documents or information withheld from release.

D. Segregability

75. The CIA conducted a line-by-line review of all documents at issue, individually and as a whole, to determine

whether meaningful, reasonably segregable, non-exempt portions of documents could be released. The CIA released any information that was segregable and not otherwise exempt.

76. Regarding the DIF documents, the CIA determined no meaningful, non-exempt portion of those documents reasonably could be segregated for release. The CIA made this determination of segregability based upon a careful review of the DIF documents in this case, both individually, and as a whole. The CIA determined that any non-exempt information is so inextricably intertwined with the exempt information that there are no meaningful, reasonably segregable, non-exempt portions.

V. CONCLUSION

77. Congress was acutely aware of the importance of secrecy to the effective operation of an intelligence agency. In the National Security Act and the CIA Act, Congress took affirmative steps to protect what it knew to be the confidential nature of the CIA's organizational structure and functions, to maximize the CIA's foreign intelligence collection capabilities in the interest of our national security. The statutory scheme which Congress created to protect the organization, functions, and activities of the CIA is essential to enable the CIA to conduct its foreign intelligence mission. Congress intended that the CIA should shield its organizational structure, employees, functions, intelligence methods, and activities from

public view because of its unique mission and authority to operate in secret.

78. Through exemption (b)(3), FOIA explicitly incorporated the nondisclosure provisions contained in other federal statutes. The CIA Act is well established as a nondisclosure statute incorporated under section 3. In addition, Congress enacted FOIA exemption (b)(2) to exempt federal agencies from mandatory FOIA disclosure of internal information in which there is no genuine public interest, as well as internal information which, if disclosed, would facilitate the circumvention of the CIA's regulations. Plaintiff's request for the wholesale release of *internal* CIA regulations pertaining to CIA personnel and procedures would provide a unique insight into the CIA's confidential operations, raising significant concerns anticipated by Congress in both the CIA Act and in exemptions (b)(3), (b)(2), and (b)(1) to the FOIA.

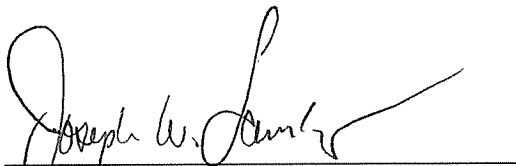
79. In my capacity as the final approving authority for the release of CIA regulations, I reviewed the information and documents withheld from release pursuant to Plaintiff's request, and I concluded the CIA has properly withheld information responsive to Plaintiff's request under FOIA exemptions (b)(3), (b)(2), and (b)(1). Regarding FOIA exemption (b)(3), the CIA properly withheld information that would disclose the CIA's intelligence sources, methods, activities, organization,

functions, and/or names or official titles of CIA personnel. Pursuant to FOIA exemption (b)(2), the CIA properly withheld internal information exempted by both the "high" and "low" (b)(2) exemption. Under FOIA exemption (b)(1), the CIA properly withheld information that is currently and properly classified. The disclosure of this information reasonably could be likely to damage or seriously damage the national security or foreign policy of the United States.

* * * *

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

Executed this 24th day of April, 2008.

A handwritten signature in black ink, appearing to read "Joseph W. Lambert", is written over a horizontal line.

Joseph W. Lambert
Director
Information Management Services
Office of the Chief Information
Central Intelligence Agency