

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ACCURACY IN MEDIA, INC., et al.)	
)	
Plaintiffs,)	
v.)	No. 14-CV-1589 (EGS)
)	
DEPARTMENT OF DEFENSE, et al.)	
)	
Defendants.)	
)	

DECLARATION OF ERIC F. STEIN

Pursuant to 28 U.S.C. § 1746, I, Eric F. Stein, declare and state as follows:

1. I am the Director of the Office of Information Programs and Services ("IPS") of the United States Department of State (the "Department" or "State") and have served in this capacity since January 22, 2017. Previously, I served as the Acting Director since October 16, 2016, and as the Acting Co-Director since March 21, 2016. I am the Department official immediately responsible for responding to requests for records under the Freedom of Information Act (the "FOIA"), 5 U.S.C. § 552, the Privacy Act of 1974, 5 U.S.C. § 552a, and other records access provisions. As the Director of IPS, I have original classification authority and am authorized to classify and declassify national security information. I make the following statements based upon my personal knowledge, which in turn is based upon information furnished to me in the course of my official duties. I am familiar with the efforts of Department personnel to process the subject request, and I am in charge of coordinating the agency's search and recovery efforts with respect to that request.

2. The core responsibilities of IPS include: (1) responding to records access requests made by the public (including under the Freedom of Information Act, the Privacy Act, and the mandatory declassification review requirements of Executive Order No. 13,526, governing classified national security information), by members of Congress, by other government agencies, and those made pursuant to judicial process, such as subpoenas, court orders and discovery requests; (2) records management; (3) privacy protection; (4) national security classification management and declassification review; (5) corporate records archives management; (6) research; (7) operation and management of the Department's library; and (8) technology applications that support these activities.

3. Pursuant to the stipulations in the Joint Motion to Amend Briefing Schedule, this Declaration addresses the Department's search for documents responsive to that portion of Plaintiffs' FOIA requests referenced in ¶ 116(6) of the Second Amended Complaint¹ and the FOIA exemptions applied in processing 16 records that the Plaintiffs have identified. A *Vaughn* index (Exhibit 1) provides a detailed description of the information withheld by the Department and challenged by Plaintiffs and the justifications for those withholdings.

¹ The relevant portion of the Second Amended Complaint ¶ 116(6) reads in full:

6. "All records of Secretary Clinton's actions and communications for the 24-hour period beginning when first notified that the Benghazi Consulate was under attack. Responsive records include:

- (1) All records generated by Secretary Clinton, including all emails, memoranda, or notes;
- (2) Telephone logs or bills or other statements of all of her telephone calls placed or received"

...

[Item 6(3) withdrawn]

Item 6(3) previously read "All records generated by anyone about the Secretary's actions and communications."

I. PROCESSING OF PLAINTIFFS' FOIA REQUEST

4. By letter dated February 21, 2014 (Exhibit 2), Accuracy in Media, Inc., Roger L. Aronoff, Larry W. Bailey, Kenneth Benway, Richard F. Brauer, Jr., Clare Lopez, James A. Lyons, Jr., and Kevin Michael Shipp ("Plaintiffs"), along with Wayne Simmons, by and through Counsel, submitted a 15-part FOIA request to the Department seeking various records relating to activities at the U.S. Special Mission in Benghazi, Libya. By letter dated March 21, 2014 (Exhibit 3), IPS acknowledged receipt of Plaintiffs' FOIA request and assigned it Case Control Number F-2014-03625.

5. By letter dated May 5, 2014 (Exhibit 4), Plaintiffs withdrew portions of item 1 of their FOIA request.

6. By letter dated August 5, 2014 (Exhibit 5), Plaintiffs withdrew additional portions of their original FOIA request. *See* Am. Compl. ¶¶ 116-118, ECF No. 31 (June 24, 2015) (reiterating the withdrawal of certain portions of Plaintiffs' FOIA request).

7. The Department made ten (10) productions of responsive documents to Plaintiffs by letters dated March 16, 2015; May 11, 2015; July 6, 2015; August 31, 2015; October 26, 2015; December 4, 2015; December 21, 2015; March 21, 2016²; May 5, 2016; and July 8, 2016. (*See* Exhibits 6-15).

8. On October 20, 2017, and May 7, 2018, the Department made supplemental productions of records responsive to item 6 of the FOIA request. (*See* Exhibits 16-17).

II. THE SEARCH PROCESS

9. When the Department receives a FOIA request, IPS evaluates the request to determine which offices, overseas posts, or other records systems within the Department may

² Exhibit 13 was incorrectly date-stamped March 21, 2015. The actual send date was March 21, 2016.

reasonably be expected to contain the records requested. This determination is based on the description of the records requested and requires a familiarity with the holdings of the Department's records systems, applicable records disposition schedules, and the substantive and functional mandates of numerous Department offices and Foreign Service posts and missions.

10. Each office within the Department, as well as each Foreign Service post and mission, maintains files concerning foreign policy and other functional matters related to the daily operations of that office, post, or mission. These files consist generally of working copies of documents, information copies of documents maintained in the Central Foreign Policy Records collection, and other documents prepared by or furnished to the office in connection with the performance of its official duties, as well as electronic copies of documents and e-mail messages.

11. After reviewing that portion of Plaintiffs' FOIA request referenced in 116(6) of the Second Amended Complaint seeking "records of Secretary Clinton's actions and communications for the 24-hour period beginning when first notified that the Benghazi Consulate was under attack," IPS determined that the following offices or records systems were reasonably likely to have responsive documents: the State Archiving System, the Executive Secretariat, and the Department's collection of emails sent and received by Secretary Clinton, which includes both materials provided to the Department by former Secretary Clinton and by the Federal Bureau of Investigation. IPS concluded that no other offices or records systems were reasonably likely to maintain documents responsive to Plaintiff's request. IPS then conducted a review of the retrieved material to determine responsiveness and identify non-exempt material for release to Plaintiff. Where material was found to be exempt from disclosure, IPS reviewed this material to ensure that no non-exempt, segregable information was withheld.

12. When conducting a search in response to a FOIA request, the Department relies on the knowledge and expertise of the employees of each bureau/office/post to determine the files and locations reasonably likely to house responsive records and the best means of locating such records, as these employees are in the best position to know how their files are organized. Likewise, those employees are also in the best position to determine which search terms would yield potentially responsive records, because they are most knowledgeable about the organization of the records systems in use. It should be noted that some of the searches described below were constructed to return records responsive to multiple portions of Plaintiff's original FOIA request, not solely item 6.

State Archiving System

13. The State Archiving System ("SAS") provides the capability to query over 40 million records through a single interface. These records include those documents that discuss or define foreign policy, set precedents, or require action or use by more than one office. More specifically, SAS provides search capability and access to: (a) the official record copies of almost all incoming and outgoing cables between the Department and Foreign Service posts; (b) diplomatic notes; (c) correspondence to and from the White House, members of Congress, and other federal agencies; (d) position papers and reports; (e) memoranda of conversations; and (f) interoffice memoranda. The records contained within SAS are commonly referred to as the "Central Foreign Policy Files" or "Central File." SAS generally allows the Department to conduct full-text searches of records. For all documents in the Central File that are not directly full-text searchable through SAS, including some older correspondence, SAS will search the text of a customized reference index that directs a searcher to a full copy of the document. An IPS analyst with knowledge of both the request and the records system conducted a search of SAS

using the terms “tripoli” to or from “secstate” and (“protest” or “demonstrations” or “attacks”). The time frame for this search was September 10, 2012, to September 17, 2012.

14. This search retrieved one document responsive to item 6 of the FOIA request.

The Executive Secretariat

15. The Executive Secretariat Staff (“S/ES-S”) is responsible for coordinating the work of the Department internally, serving as the liaison between the Department’s bureaus and the offices of the Secretary, the Deputy Secretary, and the Under Secretaries. S/ES-S manages the preparation of briefing materials for these Department officials and the records generated by these officials. It is generally responsible for coordinating search responses for the Office of the Secretary of State (“S”), the Office of the Deputy Secretary of State (“D”), the Office of the Under Secretary for Political Affairs (“P”), and the Counselor of the Department (“C”).

16. An S/ES-S Management Analyst, who was knowledgeable of both the FOIA request at issue and the S/ES records systems, conducted searches of the electronic records systems that were reasonably likely to contain responsive records. These systems are the Secretariat Tracking and Retrieval System (“STARS”),³ the Secretariat Telegram Processing System (“STePS”),⁴ and Top Secret (“TS”) files. The search capabilities of the enumerated

³ STARS is an automated system used to track, control, and record documents containing substantive foreign policy information passing to, from, and through the offices of the Secretary of State, the Deputy Secretaries of State, the Under Secretaries of State, and the Counselor of the Department. Original documents are indexed, scanned, and stored as images in STARS. Information in STARS covers the period 1988 to 2014. For searches of STARS, the search terms are applied to a descriptive abstract attached to each document. Each abstract is created by a Technical Information Specialist when the document is added to the database; this abstract is designed to capture the subject matter of the related document. The abstracts are the only portion of STARS database with searchable text.

⁴ STePS is designed to distribute cables among the Department’s principals. The full text of the documents in STePS is searchable.

electronic systems are wildcard-based, meaning that common variations of the keywords being searched would be retrieved (*e.g.*, a search for “directive” would also produce hits on the term “directives”). S/ES-S searched STARS and STePS using each of the following search terms: “Secretary Hillary Clinton,” or “Benghazi,” or “Libya,” or “Huma Abedin,” or “Cheryl Mills,” or “Secy-app,” or “Memcon.” The searches were designed to retrieve records created between September 11, 2012 and September 12, 2012.

17. The use of “or” between the search terms indicates that this was a disjunctive search; for example, the terms listed would have retrieved any documents containing the word “Benghazi” in the full text for STePS records, or in the abstract for STARS records, even if the document or abstract contained none of the other search terms.

18. Similarly, during the TS search, the search terms were applied to an index of TS files. Each TS index entry, along with key words and a topic description, was added by a Management Analyst into the index. This index, rather than the full text of the TS files themselves, can be searched.

19. This search retrieved three documents responsive to item 6 of the FOIA request.

S/ES Retired Electronic Files

20. An IPS Analyst, with knowledge of both the request and the relevant records systems, conducted a search of the electronic records retired by the Executive Secretariat Staff, which consist of shared electronic office folders that were available to employees within the Office of the Secretary during former Secretary Clinton’s tenure, as well as individual electronic folders of files belonging to Cheryl Mills and Jacob Sullivan. The IPS Analyst searched the retired electronic files using the following combination of search terms: (“Benghazi” or “Libya”)

AND "September w/5 2012"⁵ AND ("Clinton" or Secretary"); ("Clinton" or "Secretary") AND ("9/11/2012" OR "9/12/2012" OR "9/11/12" OR "9/12/12" OR "September 11, 2012" OR "September 12, 2012").

21. An IPS Program Analyst also manually searched the unclassified electronic shared drive folders described above for the schedules and call logs of former Secretary Clinton. Specifically, the Analyst searched the following electronic file folders: "Schedule-Final Copy/September 2012," "Mini Schedules/September 2012," "Call Grids/September 2012," "Daily Files/2012/9 September 2012/11 DC," "Daily Files/2012/9 September 2012/12 DC," and "Call Log". From this collection, documents covering the dates September 11 and September 12, 2012, were identified as responsive to this request.

22. These searches retrieved seven documents responsive to item 6 of the FOIA request.

S/ES Retired Paper Files

23. Throughout former Secretary Clinton's tenure, her staff maintained a daily calendar for the Secretary in Microsoft Outlook, containing her public and private appointments. After her tenure, S/ES-S archived a copy of the calendar and her official schedules. The archive process entailed printing the electronic files and organizing the paper copies chronologically in a box, recording the contents of the box in a manifest, and turning those documents over to State's Records Service Center, which stored them in an off-site archival records storage space. In July 2015, in connection with a separate FOIA request seeking copies of Secretary Clinton's daily calendar of appointments, phone calls, and meetings, S/ES-S provided the record location

⁵ When the text "w/5" is included in between two terms, the search will return any documents in which those two terms appear within five words of each other.

number to IPS. An IPS Analyst retrieved the retired paper calendars and manually searched them for any documents responsive to Plaintiff's FOIA request. This search was limited to documents covering the dates September 11 and September 12, 2012. This search retrieved four documents responsive to item 6 of the FOIA request.

Secretary Clinton Email Collection

24. IPS maintains a collection of emails sent to and from Secretary Clinton drawn from two sources: materials provided to the Department by Secretary Clinton in 2014, and materials provided by the Federal Bureau of Investigations ("FBI") in 2016.⁶ Although not all of these materials were in the Department's possession and control at the time this FOIA request was made, the Department voluntarily agreed to conduct searches of the information transferred from the FBI to the Department for records responsive to Plaintiff's FOIA request, in the interest of reducing any issues to be litigated. An IPS Program Analyst, who was knowledgeable of both the FOIA request and the relevant records systems and collections of materials, conducted a full-text search of both collections of emails sent and received by Secretary Clinton using the following terms: "September 11, 2012," "September 12, 2012," "9-11-12," "9-12-12," "9-11-2012," or "9-12-2012." This search retrieved 48 responsive documents.

II. FOIA EXEMPTIONS CLAIMED

FOIA Exemption 1 – Classified Information

⁶ On December 5, 2014, former Secretary Clinton provided the Department with a collection of emails in response to its request that, if former Secretaries or their representatives were "aware or [were to] become aware in the future of a federal record, such as an email sent or received on a personal email account while serving as Secretary of State, that a copy of this record be made available to State." In July and August of 2016, in response to a request from the Department that it provide any work-related emails of Secretary Clinton retrieved during the course of its investigation into the use of a private email server, the FBI provided a set of materials to the Department for its determination of whether it contained any Department records.

25. 5 U.S.C. § 552(b)(1) states that the FOIA does not apply to matters that are:

(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

26. Based upon my personal review of the documents and information furnished to me in the course of my official duties, I have determined that the information withheld under Exemption 1, 5 U.S.C. § 552(b)(1), in the Accountability Review Board (ARB) summaries, documents C06052236 and C06052339, and the video surveillance footage contained in record C05467917, continues to meet the classification criteria of E.O. 13526 and that the Department has not previously authorized or officially acknowledged public release of this information. This information includes information classified at the SECRET level. Section 1.2 of E.O. 13526 states:

“Secret” shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause serious damage to the national security that the original classification authority is able to identify or describe.

27. Section 6.1(l) of Executive Order 13526 defines “damage to the national security” as follows:

“Damage to the national security” means harm to the national defense or foreign relations of the United States from the unauthorized disclosure of information, taking into consideration such aspects of the information as the sensitivity, value, utility, and provenance of that information.

28. Information withheld in this case under Exemption 1 is properly classified pursuant to Sections 1.4(c), 1.4(d), or 1.4(g) of E.O. 13526. Section 1.4 provides:

Information shall not be considered for classification unless . . . it pertains to one or more of the following: . . .(c) intelligence activities (including covert action), intelligence sources or methods, or cryptology; (d) foreign relations or foreign activities of

the United States, including confidential sources, . . . (g) vulnerabilities or capabilities of systems, installations, infrastructures, projects, plans, or protection services relating to the national security

29. For information to be properly classified and withheld from disclosure pursuant to Exemption 1, the information must meet all of the following requirements set forth in Section 1.1(a) of E.O. 13526:

- (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 listed in section 1.4 of [E.O. 13526]; 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.

30. In my role as an original classification authority, I have determined that the information withheld pursuant to Exemption 1 is under the control of the U.S. Government, falls within one or more sections of E.O. 13526, and requires classification at the SECRET level because its unauthorized disclosure reasonably could be expected to cause serious damage to the national security.

Section 1.4(c) – Intelligence Activities and Intelligence Sources and Methods

31. The Department withheld certain information that relates directly to intelligence activities, sources, or methods on behalf of the Central Intelligence Agency (the “CIA”) in ARB interview summary C06052236 and video surveillance footage contained in C05467917. Disclosure of the intelligence information contained in ARB interview summary C06052236 could enable foreign governments or persons or entities opposed to U.S. foreign policy

objectives to identify U.S. intelligence activities, sources, or methods and to undertake countermeasures that could frustrate the ability of the U.S. Government to acquire information necessary to the formulation and implementation of U.S. foreign policy. The same is true with respect to the video surveillance footage contained in C05467917, which contains information related to U.S. intelligence activities and methods.

32. Intelligence methods include human assets, clandestine relationships, and the identity of CIA officers. Intelligence methods also include the physical security and force protection measures taken to protect CIA facilities and personnel, the CIA's security response strategies, and the tactics, techniques, and procedures used by CIA security personnel who react to threats. When a foreign intelligence service or adversary nation learns that the CIA uses certain methods to protect property and personnel, it will seek to glean from those methods what precautions the CIA took and why, how the CIA responded and why, and how the CIA could use those precautions to respond in different situations. To a hostile entity, the actions the CIA does not take in certain circumstances are just as valuable as actions the CIA takes. If foreign intelligence services or adversary nations were to discover the CIA's methods of protecting property or people, this information could be used against the CIA to thwart future intelligence operations, jeopardize ongoing human sources, and otherwise derail the CIA's intelligence activities.

33. Disclosure of the ARB interview summary and the video surveillance footage "reasonably could be expected to result in damage to the national security" and the information withheld in these documents is currently and properly classified pursuant to Section 1.4(c) of E.O. 13,526 is therefore exempt from release under Exemption 1, 5 U.S.C. § 552(b)(1).

Section 1.4(d) – Foreign Relations or Foreign Activities of the United States

34. In addition, information contained in the video surveillance footage in C05467917 is withheld in this case under Exemption 1 as properly classified under Section 1.4(d) of Executive Order 13526. Executive Order 13526 recognizes that certain information pertaining to U.S. foreign relations and foreign activities must be protected, because its disclosure has the potential to harm national security (which, in turn, is defined in the E.O. as the “national defense or foreign relations of the United States.”). The Department withheld the video surveillance footage contained in C05467917 under Section 1.4(d) on behalf of the CIA because this particular video surveillance footage contains information related to both confidential sources and sensitive aspects of U.S. foreign activities, including, in particular, activities relating to identifying potential threats to U.S. national security. Release of this classified information would expose intelligence activities and methods that took place on September 11, 2012, at the Department’s diplomatic facility, and could reasonably be expected to cause serious damage to national security. For these reasons, the Department withheld certain information in this case that is currently and properly classified at the SECRET level pursuant to Section 1.4(d) of E.O. 13526 and is therefore exempt from release under Exemption 1, 5 U.S.C. § 552(b)(1).

**Section 1.4(g) – Capabilities or Vulnerabilities of Systems,
Installations, Projects, or Plans Relating to the National Security**

35. The Department withheld certain information in ARB interview summaries C06052236 and C06052339, which relates primarily to the security of U.S. diplomatic, consular, and other facilities abroad, the release of which could reasonably be expected to reveal vulnerabilities or capabilities of U.S. overseas missions. Disclosure of this information could reasonably be expected to cause damage to the U.S. national security by endangering the physical security of our missions and personnel overseas. As a result, the information contained

in ARB interview summaries C06052236 and C06052339, is properly classified at the SECRET level pursuant to E.O. 13526, section 1.4(g), and is therefore exempt from release under Exemption 1, 5 U.S.C. § 552(b)(1).

FOIA Exemption 3 – Exempt by Statute:

36. 5 U.S.C. § 552(b)(3) states that the FOIA does not apply to matters that are:

specifically exempted from disclosure by statute (other than section 552(b) of this title), if that statute—(A)(i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld; and (B) if enacted after the date of enactment of the OPEN FOIA Act of 2009, specifically cites to this paragraph.

37. The Department withheld certain information in the ARB interview summary C06052236 and the video surveillance footage bates labeled C05467917 on behalf of the CIA under Exemption 3, as required by the National Security Act of 1947, 50 U.S.C. § 3024(i)(1) (the “National Security Act”). The National Security Act provides that the Director of National Intelligence “shall protect intelligence sources and methods from unauthorized disclosure.” 50 U.S.C. § 3024(i)(1). Accordingly, the National Security Act constitutes a federal statute which both refers to particular types of matters to be withheld, and “requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue.” 5 U.S.C. § 552(b)(3). Under the discretion of the DNI pursuant to section 102A of the National Security Act, and consistent with section 1.6(d) of Executive Order 12333, the CIA is authorized to protect information relating to CIA sources and methods from unauthorized disclosure. The CIA withheld certain information in the ARB interview summary C06052236 and the video surveillance footage C05467917, as required by the National Security Act because the information, if released, could reasonably be expected to lead to the unauthorized disclosure of

intelligence sources and methods. The withheld document and video footage contain currently and properly classified information pertaining to intelligence activities, sources and methods and foreign relations and foreign activities of the United States (*see supra*, ¶¶ 32 & 34), which is protected by statute.

38. The ARB interview summary C06052236 and September 11, 2012, video surveillance record numbered C05467917 are also withheld on behalf of the CIA under Exemption 3, as required by the Central Intelligence Agency Act of 1949, as amended, 50 U.S.C. § 3507 (the “CIA Act”), because the interview summary and video footage, if disclosed, would reveal or disclose the functions of the CIA and identities of personnel employed by the Agency. The CIA Act provides that the CIA shall be exempted from the provisions of “any other law” (which includes the FOIA) that requires “the publication or disclosure of the organization, functions, names, official titles, salaries, or number of personnel.” The CIA Act therefore constitutes a federal statute which “establishes particular criteria for withholding or refers to particular types of material to be withheld.” 5 U.S.C. § 552(b)(3). Pursuant to Section 6 of the CIA Act, the CIA withheld the identities of CIA employees and information disclosing their duties or functions, including functions related to the protection of intelligence methods. Although no harm rationale is required by exemption (b)(3), the disclosure of this information would provide sensitive information about how the organization operates, its function, and identities of the CIA workforce that would be valuable to a hostile nation, including terrorist organizations, attempting to target the CIA or learn more about its activities. The ARB interview summary C06052236 and the video surveillance record C05467917 must therefore be withheld.

FOIA Exemption 5 – Privileged Information

39. 5 U.S.C. § 552(b)(5) states that the FOIA does not apply to:

inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency....

40. Exemption 5, 5 U.S.C. § 552(b)(5), protects from disclosure information that is normally privileged in the civil discovery context, including information that is protected by the deliberative process privilege. The deliberative process privilege protects the confidentiality of candid views and advice of U.S. Government officials in their internal deliberations related to policy formulation and administrative direction. The Department withheld three draft ARB interview summaries, C06052236, C06052239, and C06052240, pursuant to the deliberative process privilege. The release of the withheld information in the three ARB interviews, which is pre-decisional and deliberative and contains a selection and analysis of facts reflecting the judgment of the author, could reasonably be expected to chill the open and frank expression of ideas, recommendations, and opinions that occur when Department officials are formulating a strategy for official action in response to an international security matter. Disclosure of this information would also impede the ability of responsible Department officials to formulate and carry out executive branch programs by inhibiting candid internal discussion and the expression of recommendations and judgments regarding a preferred course of action. The withheld information is, accordingly, exempt from release under Exemption 5, 5 U.S.C. § 552(b)(5), pursuant to the deliberative process privilege.

FOIA Exemption 6 – Personal Privacy

41. 5 U.S.C. § 552(b)(6) states that the FOIA does not apply to:

...personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy....

42. The courts have interpreted the language of FOIA Exemption 6 broadly to encompass all information that applies to an individual without regard to whether it was located in a particular type of file. As described in the *Vaughn* index, the Department has withheld the identities of Department personnel, other U.S. Government employees, contractors, and other third parties under Exemption 6.

43. Inasmuch as information withheld under FOIA Exemption 6 identifies a specific individual, a personal privacy interest exists in the information. I am required, therefore, to determine whether there exists any public interest in disclosure and, if a public interest is implicated, to weigh any such interest against the privacy interest to determine whether disclosure would constitute a clearly unwarranted invasion of personal privacy.

44. In *United States Department of Justice v. Reporters Committee for Freedom of the Press*, 489 U.S. 749 (1989), the Supreme Court described two rules for determining public interest in disclosure of information involving a privacy interest: (1) whether disclosure would serve the “core purpose” for which Congress enacted the FOIA, i.e., to show “what the government is up to,” and (2) that public interest means the interest of the public in general, not particular interests of the person or group seeking the information. Accordingly, the identity of the requester as well as the purpose for which the information is sought is irrelevant in making the disclosure determination.

45. As for the information withheld pursuant to Exemption 6 in the call log (C05935290) the ARB interview summaries (C06042236, C06042239, C06042240), and a portion of the surveillance videos (C05467910, C05467913, C05467914, C05467915, C05467916, C05467917), I have concluded that (1) disclosure of the information withheld would result in a clearly unwarranted invasion of personal privacy; and (2) disclosure of the information

would not serve the “core purpose” of the FOIA, i.e., it would not disclose information about “what the government is up to.” Accordingly, I have determined that the privacy interests clearly outweigh any public interest in disclosure of such personal information. As a result, release of this information would constitute a clearly unwarranted invasion of personal privacy; it is therefore exempt from release under FOIA Exemption 6, 5 U.S.C. § 552(b)(6).

FOIA Exemption 7 – Law Enforcement Information

Exemption 7 Threshold – Compiled for Law Enforcement Purposes

46. Exemption 7 protections are available to all “records or information compiled for law enforcement purposes” the disclosure of which could be expected to cause one of the six harms outlined in the Exemption’s subparts. *See* 5 U.S.C. § 552(b)(7). The law to be enforced for Exemption 7 purposes includes administrative, regulatory, civil, and criminal law. Records pertaining to routine agency activities can qualify for Exemption 7 protection when those activities involve a law enforcement purpose. Although the records must be created for a law enforcement purpose, there is no requirement that the matter culminate in actual administrative, regulatory, civil, or criminal enforcement proceedings.

47. Before an agency can invoke any of the harms enumerated in Exemption 7, it must first demonstrate that the records or information at issue were compiled for law enforcement purposes. The Bureau of Diplomatic Security (“DS”) is the law enforcement arm of the Department and is responsible for providing a safe and secure environment for the conduct of U.S. foreign policy.⁷ Generally, DS’s statutory authorities are found in the Omnibus Diplomatic Security and Antiterrorism Act of 1986, 22 U.S.C. § 4801 et seq., as well as in Section 37 of the

⁷ A comprehensive list of the Bureau of Diplomatic Security’s investigative authorities can be found at <http://www.gpo.gov/fdsys/pkg/FR-2013-05-09/html/2013-11094.htm>.

State Department Basic Authorities Act of 1956, 22 U.S.C. § 2709, as amended. The Bureau of Diplomatic Security has a broad scope of global responsibilities, including the protection of people, information, and property as its top priorities. Every diplomatic mission in the world operates under a security program designed and maintained by the Bureau of Diplomatic Security, including the diplomatic mission that was attacked on September 11, 2012, in Benghazi, Libya. With respect to its overseas duties, the Bureau of Diplomatic Security develops and implements effective security programs to safeguard all personnel who work in every U.S. diplomatic mission around the world, including the mission in Benghazi, Libya, that is the focus of Plaintiff's FOIA request. As part of these responsibilities, in some cases DS maintains surveillance footage for security purposes, including the security footage described in the attached *Vaughn* Index. In the United States, DS protects the Secretary of State, the U.S. Ambassador to the United Nations, and foreign dignitaries below the head-of-state level who visit the United States. Additionally, DS develops and implements security programs to protect all domestic Department facilities as well as the residence of the Secretary of State.

48. In addition to protective responsibilities, DS has other law enforcement responsibilities, including investigating passport and visa fraud and conducting counterintelligence investigations. DS also trains foreign civilian law enforcement officers in disciplines designed to reduce the threat and repercussions of terrorism throughout the world. Finally, DS conducts investigations independent of and/or dependent on investigations run by other government agencies, including the Federal Bureau of Investigation ("FBI").

49. The surveillance videos (C05467904, C05467908, C05467910, C05467912, C05467913, C05467914, C05467915, C05467916, C05467917, C05467919, C05467920, C05467921) withheld under Exemption 7 were created by the Department either for a protective

security purpose or for a law enforcement investigation by DS and FBI, or both. As discussed in more detail below, the harms that could reasonably be expected to result from disclosure of this information concern interference with pending or prospective law enforcement investigations related to the September 11, 2012, attack of the Department's diplomatic facility in Benghazi, Libya, the invasion of personal privacy of witnesses and/or Department personnel, revealing sensitive law enforcement techniques and procedures with respect to the Department's security of its diplomatic mission in Benghazi, Libya, or endangering the life or physical safety of an individual.

50. Following the attack on U.S. Government facilities in Benghazi, Libya, DS began an investigation pursuant to its law enforcement responsibilities. Three other of responsive records are withheld in full (C06052236, C06052239, and C06052240) because they were compiled for DS's investigation of the September 11, 2012, Benghazi attack DS's investigation remains ongoing and DS is also supporting the FBI's ongoing investigations of the attack.

51. The FBI currently has multiple active investigations into the Benghazi attack. The FBI's declaration sets forth under what authority the FBI is investigating the attack. *See* April 26, 2018, Declaration of David M. Hardy ("Hardy Decl."), at ¶¶ 7-9. The Department, in addition to conducting its own investigation, is collaborating with the FBI in its investigations. All twelve videos withheld in full (C05467904, C05467908, C05467910, C05467912, C05467913, C05467914, C05467915, C05467916, C05467917, C05467919, C05467920, and C05467921) are also part of the FBI's investigations of the September 11, 2012, attack. *See* Hardy Decl. ¶5, n.1; ¶9.

52. All of the withheld video recordings were also created prior to and during the attack in connection with DS's protective security responsibilities at its mission in Benghazi, Libya.

FOIA Exemption 7(A) – Pending Law Enforcement Proceedings

53. 5 U.S.C. § 552(b)(7) states that the FOIA does not apply to:

records or information compiled for law enforcement purposes, but only to the extent that the production of such records or information ... (A) could reasonably be expected to interfere with enforcement proceedings ...

54. In this case, the Department has withheld twelve Department-originated surveillance videos (C05467904, C05467908, C05467910, C05467912, C05467913, C05467914, C05467915, C05467916, C05467917, C05467919, C05467920, and C05467921) that, if released, could reasonably be expected to interfere with current law enforcement activities of DS and the FBI. The information withheld under FOIA Exemption 7(A) relates to ongoing investigations by the FBI and DS into the September 11, 2012, attack of the Department's diplomatic facility in Benghazi, Libya. The release of this information would interfere with DS's and the FBI's active investigations by revealing critical evidence and leads vital to ongoing investigative operations and continuing efforts to develop cases for criminal prosecution including revealing suspects, the scope of the investigation, and the evidence collected to date. Because the videos show activity at the compound before and during the attacks, including the identities and movements of specific individuals, disclosure could further interfere with successful investigation and prosecution by revealing the images of potential witnesses to the crimes committed, including foreign nationals, and enabling them to be identified and intimidated prior to offering needed testimony. In addition, the FBI requested that the Department withhold this information because its release would interfere with the FBI's

ongoing investigation into the attacks. *See* Hardy Decl. ¶¶ 10-13. There is no information that implicates DS law enforcement equities that does not also implicate FBI law enforcement equities.

FOIA Exemptions 7(C) - Personal Privacy

55. When withholding information pursuant to Exemption 7(C),⁸ the Department is required to balance the privacy interests of the individuals whose information appears in the records against any public interest in disclosure. In asserting this exemption, the Department examined each video to determine the degree and nature of the privacy interest of the individuals whose likenesses appear in them. The public interest in disclosure of this information is determined by the extent to which information in question would inform the general public about the Department's performance of its mission.

56. In six of the videos (C05467910, C05467913, C05467914, C05467915, C05467916, and C05467917), the Department withheld information that is protected under FOIA Exemption 7(C), 5 U.S.C. § 552(b)(7)(C). In these records the Department withheld the images and identities of DS agents, government contractors, and local forces assisting in the protection of the Benghazi facility. Release of the images and information regarding these individuals could reasonably be expected to subject them to harassment and/or intimidation, which would constitute an unwarranted invasion of privacy. DS agents and support personnel conduct protective security operations for the U.S. Government, and it is possible for them to be targeted by individuals hostile to their mission. Some of these individuals may currently be serving at

⁸ 5 U.S.C. § 552(b)(7)(C) states that the FOIA does not apply to records or information compiled for law enforcement purposes, "but only to the extent that the production of such records or information . . . (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy."

other missions abroad where their identification as U.S. Government law enforcement agents would put them at particular risk. In addition, non-Americans currently living abroad who are identified as having aided the United States during the attacks are especially vulnerable to being targeted and harmed. Finally, the association of these individuals with a sensitive, ongoing investigation, through such a disclosure could itself result in intimidation or unsolicited and unwanted attention. As a result, these individuals maintain a substantial privacy interest in not having their images disclosed. After establishing this substantial privacy interest, I considered the public interest in disclosure and determined that because this identifying information would not shed light on the operations and activities of the Department and that the privacy interest of the individuals shown in the footage outweighed any interest the public may have in the disclosure of these records.

FOIA Exemption 7(E) – Investigative Techniques

57. On its own behalf and on behalf of the Federal Bureau of Investigation (the “FBI”) the Department withheld information in the 12 surveillance videos (C05467904, C05467908, C05467910, C05467912, C05467913, C05467914, C05467915, C05467916, C05467917, C05467919, C05467920, and C05467921) under Exemption 7(E) to protect against the disclosure of law enforcement “...techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law.” 5 U.S.C. § 552(b)(7)(E). The Department also exerted Exemption 7(E) to protect the written descriptions of security measures and techniques employed at the facility that appear in ARB interview notes C06052239, C06052240.

58. For all 12 of the surveillance videos, the Department has asserted Exemption 7(E) on the FBI's behalf to protect non-public investigative techniques and procedures used by the FBI to pursue its law enforcement and intelligence gathering missions, and also to protect non-public details about techniques and procedures that are otherwise known to the public. *See* Hardy Decl. ¶¶ 14-17.

59. The Department also asserted Exemption 7(E) on its own behalf to prevent circumvention of the law. The surveillance videos contain hours of synchronized footage from every camera angle available recording the Benghazi facility. This footage displays security measures and procedures, defensive capabilities, and counter-measures in place at the Benghazi facility, that are indicative of the protections currently in place at other current State Department facilities in other locations around the world. These include, for example, particular technologies or physical features in place, methods for covering an overall facility with camera surveillance, movements and responsive tactics of security personnel, and evacuation methods for such facilities. Analysis of the videos, especially when compared side by side with additional synchronized camera angles, would reveal the strategies utilized to protect diplomatic compounds, enabling future attempts to circumvent these techniques and procedures. The same concerns apply to the written descriptions of security measures and techniques employed at the facility that appear in ARB interview notes C06052239, C06052240, the disclosure of which would allow circumvention of those measures.

FOIA Exemption 7(F) – Physical Safety

60. Exemption 7(F) permits the withholding of law enforcement related information necessary to protect the physical safety of any individual when the disclosure could reasonably be expected to endanger their life or physical safety. Unlike Exemption 7(C), there is no

balancing of the need to protect the individual from harm against public interest in the information. Exemption 7(F) can be invoked as long as the risk of harm is reasonable.

61. The Department asserted Exemption 7(F), 5 U.S.C. § 552(b)(7)(F), on behalf of the FBI in all 12 of the surveillance videos (C05467904, C05467908, C05467910, C05467912, C05467913, C05467914, C05467915, C05467916, C05467917, C05467919, C05467920, and C0546792). *See* Hardy Decl. ¶¶ 18-19.

62. The Department asserted Exemption 7(F) on its own behalf with regard to six of the surveillance videos (C05467910, C05467913, C05467914, C05467915, C05467916, C05467917, C05467919) in order to protect DS agents, government contractors and local forces assisting in the protection of the Benghazi facility, as well as other third party individuals, including potential bystanders witnessing the September 11, 2012, attack. DS agents whose identities are revealed, some of whom are currently serving at posts abroad where identification as a U.S. law enforcement official may be particularly dangerous, may be targeted by individuals hostile to their mission. In addition, the release of the identities of non-Americans appearing in the footage could expose them to serious bodily harm or death due to perceived association with either the U.S. Government or local militias. The circumstances of the underlying subject matter in this case factually support the real risk of grave harm coming to any individual positively identified in these records. Libya has an unstable security environment and it is reasonable to expect that individuals identified as working for or against the U.S. Government could be targeted for retribution.

IV. CONCLUSION

63. In summary, the Department has carefully reviewed all of the documents addressed herein for reasonable segregation of non-exempt information and has implemented

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 10th day of May 2018, Washington, D.C.

A handwritten signature in black ink, appearing to read "Eric F. Stein", written over a horizontal line.

Eric F. Stein

Exhibit 1

Exhibit 1

Department of State *Vaughn* Index

Accuracy in Media, Inc., et al. v. Department of State, et al. (No. 1:14-cv-01589)

<u>Doc No.</u>	<u>Doc. Type</u>	<u>Pages</u>	<u>Date/Date Range</u>	<u>From/To</u>	<u>Review Result</u>	<u>Exemptions Claimed</u>
C05935290	Call Log	1	Sept. 12, 2012	Department of State	Released in Part ("RIP")	(b)(6)
DESCRIPTION: This document is a telephone log noting the time of calls and persons conversing with Secretary Clinton on September 12, 2012. It is currently designated UNCLASSIFIED. The Department withheld the names of two family members of victims of the Benghazi attacks under Exemption 6, 5 U.S.C. § 552(b)(6), because release of this information could subject the individuals to harassment, unwanted attention, or unsolicited communications and would not shed light on the operations of the U.S. Government. As a result, release of this information would constitute an unwarranted invasion of personal privacy and the information is exempt from disclosure under FOIA Exemption 6, 5 U.S.C. § 552(b)(6). The Department conducted a thorough review of the document and determined that there is no additional meaningful, non-exempt information that may be reasonably segregated and released.						
C06052236	Draft Interview Summary	3	Dec. 3, 2012	Accountability Review Board Interview Summary	Denied in Full ("DIF")	(b)(1), 1.4(c), (g); (b)(3) National Security Act 50 U.S.C. § 3024(i)(1), Central Intelligence Agency Act 50 U.S.C. §3507; (b)(5) DPP, (b)(6)

<u>Doc No.</u>	<u>Doc. Type</u>	<u>Pages</u>	<u>Date/Date Range</u>	<u>From/To</u>	<u>Review Result</u>	<u>Exemptions Claimed</u>
<p>DESCRIPTION: This document is a draft summary of an interview conducted on December 3, 2012, by the Accountability Review Board (ARB), a group convened to analyze the facts and circumstance of the attack on the U.S. facilities in Benghazi, Libya, identify procedural vulnerabilities that allowed the attacks to occur, and recommend policy changes to prevent future similar events. It is marked “draft – pre-decisional and deliberative.”</p> <p>The Department withheld this document in full under FOIA Exemption 5, 5 U.S.C. § 552(b)(5), pursuant to the deliberative process privilege, because release of these interview notes, which contain a selection and analysis of facts reflecting the judgment of the author, and are pre-decisional and deliberative, could reasonably be expected to chill the open and frank expression of ideas, recommendations, and opinions that occur when Department officials are formulating a strategy for official action on an international security matter. The notes also reflect deliberative comments by the interviewee concerning the security measures or tactics that would be advisable at a diplomatic facility. Recommendations and impressions collected through the ARB interviews are pre-decisional with respect to the ARB’s determination of factors contributing to the attacks and recommendations for policy changes to address identified security vulnerabilities as well as the ultimate decisions by Department leadership concerning which recommendations to adopt. Disclosure of this information would impede the ability of responsible Department officials to formulate and carry out executive branch programs by inhibiting candid internal discussion and the expression of recommendations and judgments regarding a preferred course of action.</p> <p>The Department also withheld portions of this document under FOIA Exemption 1, 5 U.S.C. § 552(b)(1), on its own behalf and on behalf of the CIA, pursuant to E.O. 13526 sections 1.4(c) and (g), which pertain to intelligence activities (including covert action), intelligence sources or methods, or cryptology and vulnerabilities or capabilities of systems, installations, infrastructures, projects, plans, or protection services relating to the national security. This material was originally and is currently classified SECRET//NOFORN. Release of this material could compromise intelligence sources or methods by revealing the identities of CIA personnel who responded to the attacks, how they did or did not move or travel, the methods that they used in their response, and the nature and extent of their capabilities. Revealing this information would provide adversaries valuable insights into the CIA’s past overt and clandestine relationships with personnel, physical security and force protection measures, and security strategies, all of which could be exploited to reduce the effectiveness of the CIA’s ongoing intelligence operations. It could also reveal the capabilities or vulnerabilities of U.S. overseas missions, which could be exploited, endangering the physical security of those missions and personnel overseas.</p>						

<u>Doc No.</u>	<u>Doc. Type</u>	<u>Pages</u>	<u>Date/Date Range</u>	<u>From/To</u>	<u>Review Result</u>	<u>Exemptions Claimed</u>
<p>Portions of this document were also withheld under 5 U.S.C. § 552(b)(3) at the request of the CIA, pursuant to National Security Act, 50 U.S.C. § 3024(i)(1), because it contains information about intelligence sources and methods, and the Central Intelligence Agency Act, 50 U.S.C. § 3507, because it contains information disclosing the identities of CIA employees and their duties or functions, including functions related to the protection of intelligence methods.</p> <p>The names of CIA employees were also withheld under Exemption 6, 5 U.S.C. § 552(b)(6), because release of this information could subject the individuals to harassment, unwanted attention, and unsolicited communications, and would not shed light on the operations of the U.S. Government. As a result, release of this information would constitute an unwarranted invasion of personal privacy, and the information is exempt from disclosure under FOIA Exemption 6, 5 U.S.C. § 552(b)(6).</p>						
C06052239	Draft Interview Summary	4	Oct. 12, 2012	Accountability Review Board Interview Summary	DIF	(b)(1), 1.4(g); (b)(5) DPP, (b)(6), (b)(7)(C), (b)(7)(E)
<p>DESCRIPTION: This document is a draft summary of an interview conducted on October 12, 2012, by the ARB, a group convened to analyze the facts and circumstance of the attack on the U.S. facilities in Benghazi, Libya, identify procedural vulnerabilities that allowed the attacks to occur, and recommend policy changes to prevent future similar events. It is marked “draft – pre-decisional and deliberative.”</p> <p>The Department withheld this document in full under FOIA Exemption 5, 5 U.S.C. § 552(b)(5), pursuant to the deliberative process privilege, because release of these interview notes, which contain a selection and analysis of facts reflecting the judgment of the author, and are pre-decisional and deliberative, could reasonably be expected to chill the open and frank expression of ideas, recommendations, and opinions that occur when Department officials are formulating a strategy for official action on an international security matter. The notes also reflect deliberative comments by the interviewee concerning the security measures or tactics that would be advisable at a diplomatic facility. Recommendations and impressions collected through the ARB interviews are pre-decisional with respect to the ARB’s determination of factors contributing to the attacks and recommendations for policy changes to address identified security vulnerabilities as well as the ultimate decisions by Department leadership concerning which recommendations to adopt. Disclosure of this information would impede the ability of responsible Department officials to formulate and carry out executive</p>						

<u>Doc No.</u>	<u>Doc. Type</u>	<u>Pages</u>	<u>Date/Date Range</u>	<u>From/To</u>	<u>Review Result</u>	<u>Exemptions Claimed</u>
<p>branch programs by inhibiting candid internal discussion and the expression of recommendations and judgments regarding a preferred course of action.</p> <p>The Department also withheld certain descriptions of the security measures and techniques employed at the facility under FOIA Exemption 7(E), 5 U.S.C. § 552(b)(7)(E) because security measures and procedures, defensive capabilities, and counter-measures that were in place at the Benghazi facility are indicative of the protections currently in place at other current State Department facilities in other locations around the world. If released, this information could be exploited to circumvent security measures at Department facilities.</p> <p>The Department also withheld portions of the document under FOIA Exemption 1, 5 U.S.C. § 552(b)(1), pursuant to E.O. 13526 section 1.4(g), which pertains to vulnerabilities or capabilities of systems, installations, infrastructures, projects, plans, or protection services relating to the national security. This material was originally and is currently classified SECRET//NOFORN. Release of this material could reveal the capabilities or vulnerabilities of U.S. overseas missions, which could be exploited, endangering the physical security of those missions and personnel overseas.</p> <p>In addition, the Department withheld information revealing the identities of diplomatic security (DS) agents in these documents under FOIA Exemptions 6 and 7(C), 5 U.S.C. §§ 552(b)(6), (b)(7)(C), because the disclosure of this information would be reasonably likely to result in harassment and/or intimidation or other targeting of the individuals revealed due to their involvement in law enforcement or relationship to the controversial attacks. This information would not shed light on the operations of the U.S. Government and its release would constitute an unwarranted invasion of personal privacy.</p>						
C06052240	Draft Interview Summary	4	Oct. 12, 2012	Accountability Review Board Interview Summary	DIF	(b)(5) DPP, (b)(6), (b)(7)(C), (b)(7)(E)
<p>DESCRIPTION: This document is a draft summary of an interview conducted on October 12, 2012, by the ARB, a group convened to analyze the facts and circumstance of the attack on the U.S. facilities in Benghazi, Libya, identify procedural vulnerabilities that allowed the attacks to occur, and recommend policy changes to prevent future similar events. It is marked “draft – pre-decisional and deliberative.”</p>						

<u>Doc No.</u>	<u>Doc. Type</u>	<u>Pages</u>	<u>Date/Date Range</u>	<u>From/To</u>	<u>Review Result</u>	<u>Exemptions Claimed</u>
<p>The Department withheld this document in full under FOIA Exemption 5, 5 U.S.C. § 552(b)(5), pursuant to the deliberative process privilege, because release of these interview notes, which contain a selection and analysis of facts reflecting the judgment of the author, and are pre-decisional and deliberative, could reasonably be expected to chill the open and frank expression of ideas, recommendations, and opinions that occur when Department officials are formulating a strategy for official action on an international security matter. The notes also reflect deliberative comments by the interviewee concerning the security measures or tactics that would be advisable at a diplomatic facility. Recommendations and impressions collected through the ARB interviews are pre-decisional with respect to the ARB's determination of factors contributing to the attacks and recommendations for policy changes to address identified security vulnerabilities as well as the ultimate decisions by Department leadership concerning which recommendations to adopt. Disclosure of this information would impede the ability of responsible Department officials to formulate and carry out executive branch programs by inhibiting candid internal discussion and the expression of recommendations and judgments regarding a preferred course of action.</p> <p>The Department also withheld certain descriptions of the security measures and techniques employed at the facility under FOIA Exemption 7(E), 5 U.S.C. § 552(b)(7)(E) because security measures and procedures, defensive capabilities, and counter-measures that were in place at the Benghazi facility are indicative of the protections currently in place at other current State Department facilities in other locations around the world. If released, this information could be exploited to circumvent security measures at Department facilities.</p> <p>In addition, the Department withheld information revealing the identities of diplomatic security (DS) agents in these documents under FOIA Exemptions 6 and 7(C), 5 U.S.C. §§ 552(b)(6), (b)(7)(C), because the disclosure of this information would be reasonably likely to result in harassment and/or intimidation or other targeting of the individuals revealed due to their involvement in law enforcement or relationship to the controversial attacks. This information would not shed light on the operations of the U.S. Government and its release would constitute an unwarranted invasion of personal privacy.</p>						
C05467904 C05467908 C05467912 C05467919 C05467920	Video		Sept. 11-12, 2012	U.S. Special Mission in Benghazi	DIF	(b)(7)(A), (7)(E), (7)(F)

<u>Doc No.</u>	<u>Doc. Type</u>	<u>Pages</u>	<u>Date/Date Range</u>	<u>From/To</u>	<u>Review Result</u>	<u>Exemptions Claimed</u>
C05467921						
<p>DESCRIPTION: These records are surveillance video recordings containing sets of video feeds recorded at the State Department's facility in Benghazi, Libya between September 11 and September 12, 2012. They are currently designated SENSITIVE BUT UNCLASSIFIED. The Department withheld these videos in full on its own behalf under FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A), because the premature disclosure of the surveillance video feeds would interfere with the active FBI and DS investigations by identifying suspects, the scope of the investigation, and the evidence collected to date, which would jeopardize the investigations. Disclosure could further interfere with successful investigation and prosecution by revealing the images of potential witnesses to the crimes committed, including foreign nationals, and enabling them to be identified and intimidated prior to offering needed testimony.</p> <p>The Department also withheld these records under FOIA Exemption 7(E), 5 U.S.C. § 552(b)(7)(E) because the videos indicate security measures and procedures, defensive capabilities, and counter-measures, in place at the Benghazi facility, that are indicative of the protections currently in place at other current State Department facilities in other locations around the world. These include, for example, particular technologies or physical features in place, methods for covering an overall facility with camera surveillance, movements and responsive tactics of security personnel, and evacuation methods for such facilities. Analysis of the videos, especially comparing the synchronized camera angles side by side, would reveal the strategies utilized to protect diplomatic compounds, enabling future attempts to circumvent these techniques and procedures.</p> <p>Furthermore, the FBI determined these records to be exempt from disclosure pursuant to FOIA Exemptions 7(A), 7(E), and 7(F), 5 U.S.C. §§ 552(b)(7)(A), (b)(7)(E), and (b)(7)(F). <i>See Hardy Decl.</i> ¶¶ 10-19. The Department, in consultation with the FBI, conducted a thorough review of the documents and determined that there is no meaningful, non-exempt information that may be reasonably segregated and released.</p>						
C05467910 C05467913 C05467914 C05467915 C05467916	Video		Sept. 11-12, 2012	U.S. Special Mission in Benghazi	DIF	(b)(6), (b)(7)(A), (7)(C), (7)(E), (7)(F)

<u>Doc No.</u>	<u>Doc. Type</u>	<u>Pages</u>	<u>Date/Date Range</u>	<u>From/To</u>	<u>Review Result</u>	<u>Exemptions Claimed</u>
<p>DESCRIPTION: These records are surveillance video recordings containing sets of surveillance video feeds recorded at the State Department's facility in Benghazi, Libya between September 11 and September 12, 2012. They are currently designated SENSITIVE BUT UNCLASSIFIED.</p> <p>The Department withheld these videos in full on its own behalf under FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A) because the premature disclosure of the surveillance video feeds would interfere with the active FBI and DS investigations by identifying suspects, the scope of the investigation, and the evidence collected to date, which would jeopardize the investigations. Disclosure could further interfere with successful investigation and prosecution by revealing the images of potential witnesses to the crimes committed, including foreign nationals, and enabling them to be identified and intimidated prior to offering needed testimony.</p> <p>The Department also withheld these records on its own behalf under FOIA Exemption 7(E), 5 U.S.C. § 552(b)(7)(E) because the videos indicate security measures and procedures, defensive capabilities, and counter-measures, in place at the Benghazi facility, that are indicative of the protections currently in place at other current State Department facilities in other locations around the world. These include, for example, particular technologies or physical features in place, methods for covering an overall facility with camera surveillance, movements and responsive tactics of security personnel, and evacuation methods for such facilities. Analysis of the videos, especially comparing the synchronized camera angles side by side, would reveal the strategies utilized to protect diplomatic compounds, enabling future attempts to circumvent these techniques and procedures. The FBI also determined these records to be exempt from disclosure pursuant to FOIA Exemptions 7(A) and 7(E), 5 U.S.C. §§ 552(b)(7)(A) and (b)(7)(E). <i>See Hardy Decl.</i> ¶¶ 10-17.</p> <p>In addition, the Department withheld certain information in these documents under FOIA Exemptions 6, 7(C), and 7(F), 5 U.S.C. §§ 552(b)(6), (b)(7)(C), and (b)(7)(F), because the disclosure of the identities of DS agents, contractors, other employees, and third parties, including foreign nationals, that are contained in the surveillance video feeds are reasonably likely to result in harassment and/or intimidation and physical harm to the individuals pictured due to their involvement in law enforcement or relationship to the controversial attacks. Some of the DS agents or other employees pictured may currently be placed at State Department posts abroad where their identification as U.S. Government law enforcement agents would place them at particular risk. In addition, non-Americans currently living abroad who are identified as having aided the United States during the attacks are especially vulnerable to being targeted and harmed. The FBI also determined these records to be exempt from disclosure pursuant to FOIA Exemption 7(F), 5 U.S.C. § 552(b)(7)(F). <i>See Hardy Decl.</i> ¶¶ 18-19.</p>						

<u>Doc No.</u>	<u>Doc. Type</u>	<u>Pages</u>	<u>Date/Date Range</u>	<u>From/To</u>	<u>Review Result</u>	<u>Exemptions Claimed</u>
The Department, in consultation with the FBI, conducted a thorough review of the documents and determined that there is no meaningful, non-exempt information that may be reasonably segregated and released.						
C05467917	Video		Sept. 11-12, 2012	U.S. Special Mission in Benghazi	DIF	(b)(1) 1.4(c), (d), (b)(3) National Security Act 50 U.S.C. § 3024(i)(1), Central Intelligence Agency Act 50 U.S.C. §3507, (b)(6), (b)(7)(A), (7)(C), (7)(E), (7)(F)
<p>DESCRIPTION: This record is a surveillance video recording containing sets of video feeds recorded at the State Department's facility in Benghazi, Libya between September 11 and September 12, 2012. It was originally designated SENSITIVE BUT UNCLASSIFIED and has subsequently been classified at the SECRET level by the CIA in accordance with Section 1.7(d) of E.O. 13526.</p> <p>The Department withheld these videos in full on its own behalf under FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A), because the premature disclosure of the surveillance video feeds would interfere with the active FBI and DS investigations by identifying suspects, the scope of the investigation, and the evidence collected to date, which would jeopardize the investigations. Disclosure could further interfere with successful investigation and prosecution by revealing the images of potential witnesses to the crimes committed, including foreign nationals, and enabling them to be identified and intimidated prior to offering needed testimony.</p>						

<u>Doc No.</u>	<u>Doc. Type</u>	<u>Pages</u>	<u>Date/Date Range</u>	<u>From/To</u>	<u>Review Result</u>	<u>Exemptions Claimed</u>
<p>The Department also withheld these records on its own behalf under FOIA Exemption 7(E), 5 U.S.C. § 552(b)(7)(E) because the videos indicate security measures and procedures, defensive capabilities, and counter-measures, in place at the Benghazi facility, that are indicative of the protections currently in place at other current State Department facilities in other locations around the world. These include, for example, particular technologies or physical features in place, methods for covering an overall facility with camera surveillance, movements and responsive tactics of security personnel, and evacuation methods for such facilities. Analysis of the videos, especially comparing the synchronized camera angles side by side, would reveal the strategies utilized to protect diplomatic compounds, enabling future attempts to circumvent these techniques and procedures. The FBI also determined these records to be exempt from disclosure pursuant to FOIA Exemptions 7(A), and 7(E), 5 U.S.C. §§ 552(b)(7)(A) and (b)(7)(E). <i>See Hardy Decl.</i> ¶¶ 10-17.</p> <p>In addition, the Department withheld certain information in these videos under FOIA Exemptions 6, 7(C), and 7(F), 5 U.S.C. §§ 552(b)(6), (b)(7)(C), and (b)(7)(F) because the disclosure of the identities of DS agents, contractors, other employees, and third parties, including foreign nationals, that are contained in the surveillance video feeds are reasonably likely to result in harassment and/or intimidation and physical harm to the individuals pictured due to their involvement in law enforcement or relationship to the controversial attacks. Some of the DS agents or other employees pictured may currently be placed at State Department posts abroad where their identification as U.S. Government law enforcement agents would place them at particular risk. In addition, non-Americans currently living abroad who are identified as having aided the United States during the attacks are especially vulnerable to being targeted and harmed. The FBI also determined these records to be exempt from disclosure pursuant to FOIA Exemption 7(F), 5 U.S.C. § 552(b)(7)(F). <i>See Hardy Decl.</i> ¶¶ 18-19.</p> <p>Finally, the Department also withheld certain information in these surveillance video record on behalf of CIA under FOIA Exemptions 1 and 3. The CIA requested withholding of this set of recordings under 5 U.S.C. § 552(b)(1), pursuant to E.O. 13526 sections 1.4(c), intelligence sources or methods, and (d), foreign relations or foreign activities of the United States, including confidential sources. Release of this material could compromise intelligence sources and methods by revealing the identities of CIA personnel who responded to the attacks, how they did or did not move or travel, the methods that they used in their response, and the nature and extent of their capabilities. Revealing this information would provide adversaries valuable insights into the CIA's past overt and clandestine relationships with personnel, physical security and force protection measures, and security strategies, all of which could be exploited to reduce the effectiveness of the CIA's ongoing intelligence operations.</p>						

<u>Doc No.</u>	<u>Doc. Type</u>	<u>Pages</u>	<u>Date/Date Range</u>	<u>From/To</u>	<u>Review Result</u>	<u>Exemptions Claimed</u>
This information was also withheld under 5 U.S.C. § 552(b)(3) at the request of the CIA, pursuant to National Security Act, 50 U.S.C. § 3024(i)(1), because it contains information about intelligence sources and methods, and the Central Intelligence Agency Act, 50 U.S.C. § 3507, because it contains information disclosing the identities of CIA employees and their duties or functions, including functions related to the protection of intelligence methods. The Department, in consultation with the FBI and the CIA, conducted a thorough review of the documents and determined that there is no meaningful, non-exempt information that may be reasonably segregated and released.						

Exhibit 2

Law Office
John H. Clarke
1629 K Street, NW
Suite 300
Washington, DC 20006
(202) 332-3030
JohnHClarke@earthlink.net

Also Admitted in Virginia
and Maryland

FAX: (202) 332-3030
CELL: (202) 344-0776

February 21, 2014

By Certified Mail — Return receipt Requested
Article Number 7010 3090 0000 0316 6505

FOIA REQUEST

Office of Information Programs and Services
A/GIS/IPS/RL
US DEPARTMENT OF STATE, SA-2
Washington, DC 20522-8100

Dear Ladies and Gentlemen:

This is a request for production of records under the Freedom of Information Act, 5 USC § 552, the "FOIA."

FOIA Requesters. I write on behalf of my clients, Accuracy in Media, Inc., a District of Columbia 501(c)(3) non-profit corporation, as well as the following seven individuals, all of whom serve as members of the "Citizens' Commission on Benghazi," an unincorporated, informal association of individuals, all working with Accuracy in Media. They are (1) Roger Aronoff, (2) Larry Bailey, (3) Kenneth Benway, (4) Dick Brauer, (4) Clare Lopez, (5) James A. Lyons, Jr., (5) Kevin Shipp, and (7) Wayne Simmons.

FOIA Requests. These requests are for the following records of activities in Libya, in the care, custody or control of the State Department, regardless of the source of the records:

1. All records of whatsoever nature regarding (1) the Benghazi consulate and (2) its CIA Annex, for the time period of January 1st, 2011, through September 30th, 2012. This request is all-inclusive for all records, however recorded, including emails, reports, memoranda, correspondence, teletypes, telephone calls, text messages, and audio and video recordings, regarding all uses of the Benghazi consulate and CIA Annex. Responsive records include those that disclose:

Stein Declaration
Civil Action No. 1:14-cv-01589
Exhibit 2

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- (1) The comings and goings of all persons, whether civilian, military, American or foreign, including any non-US personnel questioned, interrogated, detained, or transported through, the CIA Annex and Benghazi consulate;
 - (2) The descriptions and inventories of all weapons brought into the Annex;
 - (3) The sources of all such weapons;
 - (4) The descriptions and inventories of all weapons removed from the Annex;
 - (5) The intended destinations and recipients of all such weaponry, including
 - (i) All transfers of arms and equipment to Libyan resistance fighters, both before or after the United Nations recognized the National Transitional Council as the legal representative of Libya;
 - (ii) Transportation of arms and equipment from Libya into Turkey; and
 - (iii) US Government supply of weapons into Syria.
 - (6) All communication and cryptographic equipment at the CIA Annex and Benghazi consulate;
 - (7) The weaponry, communication, and cryptographic equipment, that may have been left in the Annex and Benghazi consulate when US personnel abandoned these facilities on September 11th and 12th, 2012;
 - (8) Information about the weapons recovered from fallen attackers at the Ambassador's compound as well as the CIA Annex during and after the attacks;
 - (9) Information about the identities and affiliations of any of those fallen fighters as well as the disposition of their bodies, alive or dead; and
 - (10) CIA situation reports, or "sitreps," sent, including on September 11th, 12th, and 13th.
2. Any and all videos depicting the United States Consulate in Benghazi, Libya (including the Special Mission Compound and the Annex) between September 10, 2012 and September 12, 2012. This request includes, but is not limited to (1) all videos and photographs obtained, transmitted, or recorded via any unmanned aerial vehicles (UAVs), and (2) video of closed-circuit television monitor at the Benghazi Mission facility's Tactical Operations Center on September 11th and 12th, 2013.

3. NEA All records generated between September 11, 2012 and the present, by survivors of the September 11th and 12th attacks on the Benghazi mission and the Benghazi CIA Annex, or by any person regarding the survivors' accounts of the attack.
4. VS All records of radio communications emanating from the Compound's Tactical Operations Center (TOC), on September 11th and 12th, 2012, whether made by Regional Security Officer (RSO) Alec Henderson or any other person.
5. NEA All records of Secretary Panetta's actions and communications for the 24-hour period beginning when first notified that the Benghazi Consulate was under attack. Responsive records include:
 - (1) All records generated by Secretary Panetta, including all emails, memoranda, or notes;
 - (2) Telephone logs or bills or other statements of all of his telephone calls placed or received; and
 - (3) All records generated by anyone about the Secretary's actions and communications
6. NEA
S/S All records of Secretary Clinton's actions and communications for the 24-hour period beginning when first notified that the Benghazi Consulate was under attack. Responsive records include:
 - (1) All records generated by Secretary Clinton, including all emails, memoranda, or notes;
 - (2) Telephone logs or bills or other statements of all of her telephone calls placed or received; and
 - (3) All records generated by anyone about the Secretary's actions and communications.
7. NEA Any records reflecting the time, and substance, of the President's first notification that the Benghazi Consulate was under attack, and his actions, and communications, for the next 24 hours.
8. NEA All calendars, day books, journals, notes, memoranda, or other records reflecting Ambassador Stevens' schedule on September 11, 2012, including the Ambassador's diary, and all correspondence to or from the Ambassador regarding his meetings that day, including with the Turkish Consul General.
9. NEA All records of the purpose of Ambassador Stevens' meetings on September 11, 2012, including analysis or assessments of those meetings, whether written before or after September 11, 2012.

NEA 10. All correspondence to or from Ambassador Stevens on September 10th and 11th, 2012.

NEA 11. All notes, memoranda, and correspondence generated between January of 2007 and September 11, 2012, regarding meetings between Christopher Stevens or any other Tripoli Embassy official, and one or more of the following individuals:

- **Ahmed Abu Khattala**, a commander of the Libyan Ansar al-Shariah militia group
- **Mustafa Abdul Jalil**, Chairman of the Libyan National Transitional Council from 5 March 2011-8 August 2012
- **Mahmoud Jibril**, Interim Prime Minister of Libya and Chair of the Executive Board of the National Transitional Council from 5 March-23 October 2011
- **Wissam bin Hamid**, a Libya Shield Brigade commander, supporter of the Libyan Muslim Brotherhood Justice & Construction Party, and veteran jihad fighter of Iraq & Afghanistan, who provided security for US representatives in Benghazi and was tentatively identified by the Library of Congress as the head of al-Qa'eda in Libya
- **Abdelhakim Belhadj** (aka Abdallah al Sadeq), veteran jihad fighter of Iraq & Afghanistan, commander of the AQ franchise militia, Libyan Islamic Fighting Group (LIFG) (aka Libyan Islamic Movement for Change), post-revolution military commander of Tripoli, and Libyan delegation leader to the Syrian Free Army in late 2011
- **Ismael al-Sallabi** (brother of Ali), commander of the Al-Qa'eda-linked al-Sahati Brigade during the revolution, and Benghazi Military Council commander afterwards, close ally of Abdelhakim Belhadj and Mustafa Jalil
- **Ali al-Sallabi** (brother of Ismael), called the 'spiritual leader' of the Libyan revolution, Muslim Brotherhood links, led effort with Seif al-Qaddafi and US Embassy Tripoli to gain release of jihadi detainees from Libyan jails
- **Mohammad al-Sallabi**, father of Ali and Ismael, among the founders of the Libyan Muslim Brotherhood in the 1960s
- **Abu Sufian bin Qumu**, veteran jihad fighter in Afghanistan from Derna, Libya, captured in 2001, detained at GITMO, sent back to Libyan jail, released in 2010, led jihad vs Qaddafi in 2011, and led Benghazi Mission attack in Sep 2012.

12. For the period of February 15th, 2011, through December 31st, 2012, all DOD and CIA or other intelligence community records, shared with members of Congress, regarding collection, storage, transportation of arms and equipment in Libya. H
13. For the period of February 15th, 2011, through December 31st, 2012, all DOD and CIA or other intelligence community records of Congressional approval for CIA transport of arms to Syrian rebel forces. INR
14. All records regarding Deputy National Security Adviser for Homeland Security and Counter-terrorism John Brennan's recommendations regarding the overthrow of Libyan leader Muammar Gaddafi. NCA
15. Records of the names, and titles, of individuals identified only as "Senior State Department Official Number One" and "Senior State Department Official Number Two" during the October 9, 2012, Background Briefing on Libya, given by the Office of the Spokesperson, the transcript of which was publicly disclosed, titled, "Background Conference Call With Senior State Department Officials." PA

Electronic Format. Kindly produce these records in electronic format. *See* e-FOIA amendment 5 U.S.C. § 552 (a)(3)(B), as amended, requiring Agency to "provide the record in any form or format requested . . . if the record is readily reproducible by the agency in that form or format." *See generally* FOIA Update Vol. XVII, No. 4, 1996.

Request for Waiver of Search and Review Fees. As a representatives of the news media, Accuracy in Media, Inc. ("AIM"), submits that it is entitled to a waiver of any fees associated with the search and review of records responsive to these FOIA Requests, under 5 U.S.C. § 552 (a)(4)(A)(ii)(II). AIM is organized and operated to publish or broadcast news to the public.

Kindly consider the six factors identified in 22 CFR 171.11(o), which, collectively, establish AIM's entitlement to "Representative of the News Media" status. First, the subject matter of the FOIA requests concern the operations or activities of the Department of State. Second, the requested information is not in the public domain.

Third, upon disclosure of the records sought, AIM has concrete plans to make the information public. Its ability and intent to disseminate the information requested, is beyond question. Accuracy in Media Articles on the subject include "The MSM and Benghazi: Will Their Coverage Harm Obama Administration?," "Shameful Media Coverage of Benghazi Scandal and Cover-up," "Media Embrace Obama's Controversial Picks for National Security Team," "New York Times Attempts to Blur Benghazi Scandal," "McClatchy Reporter Changes Tune on Benghazi," "CBS in Damage Control Over Error-Filled Benghazi Report," "'60 Minutes' Reveals Little New in Benghazi Exposé," "The Left's Continued Assault on the Truth About Benghazi," "Media Coverage of Benghazi Leans Toward Political Theater," "Conservative Leaders Call on Speaker Boehner: Form a Select Committee on Benghazi," "Further Proof That Obama Knew the Truth About Benghazi," "Blaming the Victim in Benghaziigate," "Obama and His Media Loyalists Still Spinning Benghazi," and "Does Navy Map Alter the Benghazi Narrative?"

Fourth, several of the individual requesters have published articles about the matter, demonstrating, *inter alia*, the background, experience, and expertise of the FOIA requesters in the subject area of the requests. See, for examples, "Navy SEAL: 'There's guilt in this administration,'" by Captain Larry Bailey, published in WND.com in April of 2013; two articles by Clare Lopez appearing in Pundicity.com in October of 2012, "Benghazi: The Set-Up and the Cover-Up," and "Did Turkey Play a Role in Benghazi Attack?;" and Admiral James Lyons' pieces appearing in the Washington Times, "Obama's Chain of Command Unravels Over Benghazi (October 2012), "Obama needs to come clean on what happened in Benghazi" (October 2012), "The Key Benghazi Questions Still Unanswered" (January 2013), "A hard slog to get Benghazi answers" (January 2013), and "A call to Courage over Benghazi" (May 2013).

Fifth, AIM, as well as the individual FOIA requesters, intend to use the requested information in scholarly or other analytic work, for dissemination. Lastly, neither AIM nor the individuals identified above have any "commercial interest" that would be furthered by the disclosure of the requested information, as that term has been interpreted by the courts under 5 U.S.C. § 552 (a)(4)(A)(ii)(II).

Public Interest Fee Waiver. 5 U.S.C. § 552(a)(4)(A)(iii) provides that "[d]ocuments shall be furnished without any charge or at a charge reduced... if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." Here, the FOIA requesters do not have a commercial interest in the disclosure. Their purpose is to inform the public. The subject of the requested records concerns the operations or activities of the United States Government. The information sought is directed at finding out what information the government has about its failure to timely respond when its facilities came under attack. These FOIA Requests also concern what information the government did not provide to the public, as well as congressional investigators.

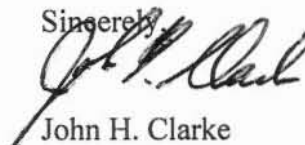
Upon disclosure of the records sought, AIM, as well as other several of the individual requesters, has concrete plans to make the information public, in accordance with AIM's news dissemination function. The information sought would be likely to contribute to an understanding of United States Government operations or activities, and disclosure will enhance public understanding of the Benghazi incident as compared with awareness prior to the disclosure. The interest of enhancing the public's understanding of the operations or activities of the U.S. Government is clear, and the records' connection to these government activities is direct.

Release of the information will contribute to an understanding of government operations or activities regarding the Benghazi issue, as compared with awareness prior to the disclosure. Thus, the requesters provide an adequate showing of their concrete plans to disseminate the requested information, and adequately demonstrate how disclosure of the requested documents meets the requirements for a public interest fee waiver.

Expeditious Handling. Because the information is urgently needed by an entity primarily engaged in publicizing information, in order to inform the public concerning actual or alleged government activity, the Requesters seek expeditious handling, in accordance with 22 CFR 171.12(b).

Reply to Accuracy in Media. If you have any questions about handling this request, please ask via email, to JohnHClarke@earthlink.net. Otherwise, kindly respond, and produce records, to Accuracy in Media, 4350 East West Highway, Suite 555, Bethesda, MD 20814-4582.

Sincerely,



John H. Clarke

cc: Accuracy in Media, Inc.
Roger Aronoff
Larry Bailey
Kenneth Benway
Dick Brauer
Clare Lopez
James A. Lyons, Jr.
Kevin Shipp
Wayne Simmons

Exhibit 3



United States Department of State

Washington, D.C. 20520

MAR 21 2014

Dear Requester,

RE: Benghazi records 11/11 - 9/30/12

This is in response to your request dated 2/21/14. We have assigned Case Control Number F-2014-03625 and will begin the processing of your request based upon the information provided in your communication.

The cut-off date is the date the search is initiated unless you have provided a specific timeframe.

We have considered your request for a fee waiver. Based upon the information provided in your letter, your request for a fee waiver has been granted; therefore, your request will be processed at no charge to you.

Unusual circumstances (including the number and location of Department components involved in responding to your request, the volume of requested records, etc.) may arise that would require additional time to process your request.

Our published regulations regarding expedition, 22 C.F.R. § 171.12(b), require a specific showing of a compelling need. **Expedited processing is granted only in the following situations:** (1) *imminent threat to the life or physical safety of an individual*; (2) *urgently needed by an individual primarily engaged in disseminating information in order to inform the public concerning actual or alleged Federal Government activity and the information is urgently needed in that a particular value of the information would be lost if not disseminated quickly*; (3) *substantial humanitarian reasons*; and (4) *loss of substantial due process rights*. Your request does not meet any of the established criteria. Regrettably, I must advise that you have not provided adequate justification for expedition. However, you may be assured that we will make every effort to process your request in as timely a manner as possible. For your convenience, I have enclosed a copy of the Department's expedited processing criteria.

If you wish to appeal the denial of expedition, you may write to the Requester Liaison Division, at the address below, within 30 days of receipt of this letter.

We will notify you as soon as responsive material has been retrieved and reviewed.

Should you want to contact us, you may call our FOIA Requester Service Center on (202) 261-8484 or send an email to FOIAstatus@state.gov. Please refer to the Case Control Number in any communication.

Sincerely,

Requester Communications Branch
Office of Information Programs & Services

Stein Declaration
Civil Action No. 1:14-cv-01589
Exhibit 3

Expeditious Processing Information Sheet

Expedited processing shall be granted to a requester after the requester requests such and demonstrates a compelling need for the information. A compelling need is deemed to exist where the requester can demonstrate one of the following:

1. **A Compelling Need** means that the failure to obtain the records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual.
2. **A Compelling Need** means that the information is urgently needed by an individual primarily engaged in disseminating information in order to inform the public concerning actual or alleged Federal Government activity. An individual primarily engaged in disseminating information to the public. Representatives of the news media would normally qualify; however, other persons must demonstrate that their primary activity involves publishing or otherwise disseminating information to the public, not just to a particular segment or group.
 - (a) **Urgently Needed** means that the information has a particular value that will be lost if not disseminated quickly. Ordinarily this means a breaking news story of historical interest only, or information sought for litigation or commercial activities would not qualify nor would a news media publication or broadcast deadline unrelated to the news breaking nature of the information.
 - (b) **Actual or Alleged Federal Government Activity.** The information concerns some actions taken, contemplated, or alleged by or about the Government of the United States, or one of its components or agencies, including the Congress.
3. **Substantial Due Process** rights of the requester would be impaired by the failure to process immediately; or
4. **Substantial Humanitarian** concerns would be harmed by the failure to process immediately.

A demonstration of compelling need by a requester shall be made by a statement certified by the requester to be true and correct to the best of their knowledge.

Exhibit 4

Law Office
John H. Clarke
1629 K Street, NW
Suite 300
Washington, DC 20006
(202) 332-3030
JohnHClarke@earthlink.net

Also Admitted in Virginia
and Maryland

FAX: (202) 332-3030
CELL: (202) 344-0776

May 5, 2014

By email: PerlowHT@state.gov

Mr. Howard Perlow
US DEPARTMENT OF STATE

Re: FOIA Request to the Department of State: F-2014-03625

Dear Mr. Perlow:

Thank you for your April 25 email regarding the captioned FOIA request. I look forward to reviewing the new State Department website where relevant unclassified, declassified, and fully or partially released documents will be posted.

I appreciate your suggestion that I narrow the request, and for including examples of where State is not the correct agency from which to seek documents. To answer to your question, yes, I have sought disclosure from other U.S. government agencies where many of the particular records originated.

I understand that records in State's custody that originated from the CIA may need to be referred to the CIA, and that State may need to coordinate with CIA where State records contain CIA information. But I will not be narrowing the request to exclude these records because we seek records that disclose the relationship between the Benghazi compound and the CIA annex, particularly records that show State's knowledge of these CIA activities.

Stein Declaration
Civil Action No. 1:14-cv-01589
Exhibit 4

I do, however, eliminate some records sought in the first item of the request. Request number one as currently written begins:

All records of whatsoever nature regarding (1) the Benghazi consulate and (2) its CIA Annex, for the time period of January 1st, 2011, through September 30th, 2012. This request is all-inclusive for all records, however recorded, including emails, reports, memoranda, correspondence, teletypes, telephone calls, text messages, and audio and video recordings, regarding all uses of the Benghazi consulate and CIA Annex. Responsive records include those that disclose...

Please note that we hereby narrow this item to exclude any records "regarding (1) the Benghazi consulate," leaving only records in State's custody regarding (2), the CIA annex. Thus, full disclosure under this item will still reveal the relationship between State and CIA activities at the annex, but will eliminate the necessity to produce numerous other records. Kindly forward this letter as necessary.

All other items remain requested as submitted. If you have any questions, please ask via email. As we noted in the FOIA request letters, we ask that State please produce records in electronic format, to Accuracy in Media, 4350 East West Highway, Suite 555, Bethesda, MD 20814-4582.

Sincerely,

/s/

John H. Clarke

cc: Accuracy in Media, Inc.
Roger Aronoff
Larry Bailey
Kenneth Benway
Dick Brauer
Clare Lopez
James A. Lyons, Jr.
Kevin Shipp
Wayne Simmons

Exhibit 5

Law Office
John H. Clarke
1629 K Street, NW
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Washington, DC 20006
(202) 332-3030

JohnHClarke@earthlink.net

Also Admitted in Virginia
and Maryland

FAX: (202) 332-3030
CELL: (202) 344-0776

August 5, 2014

Office of Information Programs and Services
A/GIS/IPS/RL
US DEPARTMENT OF STATE, SA-2
Washington, DC 20522-8100

And by email to Mr. Howard Perlow
PerlowHT@state.gov

Re: February 21, 2014 FOIA Request
State Department Case Control No. F-2014-03625

Dear Mr. Perlow:

This letter narrows the captioned request, by withdrawing eight of the requesters' initial 15 FOIA Requests. By May 5, 2014, letter, the requesters narrowed Request No. 1.


Please note that we further narrow the requests, and withdraw Request Nos. 1(10), 5, 7, 8, 10, 12, 13, and 14. Request 1(10) sought CIA situation reports. Request 5 sought "records of Secretary Panetta's actions and communications..." Request 7 asked for disclosure of records of "the President's first notification that the Benghazi Consulate was under attack..." Request 8 sought disclosure of records reflecting Ambassador Stevens' schedule on September 11, 2012. Request 10 sought disclosure Ambassador Stevens correspondence on September 10th and 11th, 2012. Request 12 sought "DOD and CIA... records shared with members of Congress regarding... collection, storage, transportation of arms and equipment in Libya." Request 13 asked that "DOD and CIA... records of Congressional approval for CIA transport of arms to Syrian rebel forces" be disclosed. Request 14 sought "records regarding Deputy National Security Adviser for Homeland Security and Counter-terrorism John Brennan's recommendations regarding the overthrow of Libyan leader Muammar Gaddafi."

14 AUG 12 PM 2:44

Stein Declaration
Civil Action No. 1:14-cv-01589
Exhibit 5

Thank you.

Sincerely



John H Clarke

cc: Accuracy in Media, Inc.
Roger Aronoff
Larry Bailey
Kenneth Benway
Dick Brauer
Clare Lopez
James A. Lyons, Jr.
Kevin Shipp
Wayne Simmons

Exhibit 6



United States Department of State

Washington, D.C. 20520

MAR 16 2015

Case No.: F-2014-03625

Segment: EAN-0005

John H. Clarke, Esq.
1629 K Street, N.W., Suite 300
Washington, D.C. 20006

Dear Mr. Clarke:

In response to your request dated February 21, 2014, under the Freedom of Information Act (Title 5 USC Section 552), and your subsequent narrowing of the request in correspondence dated May 5, 2014, and August 5, 2014, we conducted searches of the following Department of State record systems: the Central Foreign Policy Records (the principal record system of the Department of State), the files of the Bureau of Near Eastern Affairs, the files of the Bureau of Diplomatic Security, the files of the Bureau of Intelligence and Research, the files of the Bureau of Public Affairs, the files of the Bureau of Political-Military Affairs, the files of the Office of Logistics Management, and the files of the Office of the Executive Secretariat.

The search of the records of the Central Foreign Policy Records is partially complete and has resulted in the retrieval of 45 documents responsive to your request. After reviewing these 45 documents we have determined that 7 may be released in part, 4 must be withheld in full, and that 34 documents either originated in, or require consultation with, other U.S. Government agencies. We have referred the latter 34 documents to the relevant agencies with a request to respond upon making a determination as to releasability. All released material is enclosed.

Where documents are released to you in part, all non-exempt material that is reasonably segregable from the exempt material has been released. Where we have made excisions, the applicable exemptions are marked on each document. Of the information withheld, all was withheld under FOIA Exemption 1,

Stein Declaration
Civil Action No. 1:14-cv-01589
Exhibit 6

- 2 -

5 U.S.C. § 552(b)(1). An enclosure provides information on FOIA exemptions and other grounds for withholding material.

We will keep you advised as your case progresses. If you have any questions, please contact Trial Attorney Megan Crowley at (202) 305-0754 or at Megan.A.Crowley@usdoj.gov.

Sincerely,

A handwritten signature in dark ink, appearing to read "Susan A. Weism". To the right of the signature is a small, handwritten "for".

John F. Hackett, Acting Director
Office of Information Programs and Services

Enclosures: As stated

Exhibit 7



United States Department of State

Washington, D.C. 20520

MAY 11 2015

Case No.: F-2014-03625

Segment: EAN-0001, EAN-0003, EAN-0004,
& EAN-0005

John H. Clarke, Esq.
1629 K Street, N.W., Suite 300
Washington, D.C. 20006

Dear Mr. Clarke:

I refer you to our letter dated March 10, 2015, regarding the release of certain Department of State material under the Freedom of Information Act (the "FOIA"), 5 U.S.C. §552.

The search of the Central Foreign Policy Records is partially complete and has resulted in the retrieval of eight documents responsive to your request. After reviewing these eight documents we have determined that five may be released in full and that three documents may be released in part. All released material is enclosed.

Where documents are released to you in part, all non-exempt material that is reasonably segregable from the exempt material has been released. Where we have made excisions, the applicable exemptions are marked on each document. An enclosure provides information on FOIA exemptions and other grounds for withholding material.

We will keep you advised as your case progresses. If you have any questions, please contact Trial Attorney Megan Crowley at (202) 305-0754 or at Megan.A.Crowley@usdoj.gov.

Sincerely,

Swan? Weir for

John F. Hackett, Acting Director
Office of Information Programs and Services

Enclosures: As stated

Stein Declaration
Civil Action No. 1:14-cv-01589
Exhibit 7

Exhibit 8



United States Department of State

Washington, D.C. 20520

JUL - 6 2015

Case No.: F-2014-03625

Segment: EAN-0006 & EAN-0008

John H. Clarke, Esq.
1629 K Street, N.W., Suite 300
Washington, D.C. 20006

Dear Mr. Clarke:

I refer you to our letter dated May 11, 2015, regarding the release of certain Department of State material under the Freedom of Information Act (the "FOIA"), 5 U.S.C. §552.

The search of the records of the Central Foreign Policy Records is partially complete and has resulted in the retrieval of 14 documents responsive to your request. After reviewing these 14 documents we have determined that 7 may be released in full, 1 may be released in part, and that 6 documents either originated in, or require consultation with, other U.S. Government agencies. We have referred the latter six documents to the relevant agencies with a request to respond upon making a determination as to releasability. All released material is enclosed.

Where documents are released to you in part, all non-exempt material that is reasonably segregable from the exempt material has been released. Where we have made excisions, the applicable exemptions are marked on each document. An enclosure provides information on FOIA exemptions and other grounds for withholding material.

We will keep you advised as your case progresses. If you have any questions, please contact Trial Attorney Megan Crowley at (202) 305-0754 or at Megan.A.Crowley@usdoj.gov.

Sincerely,

John F. Hackett, Director
Office of Information Programs and Services

Enclosures: As stated

Stein Declaration
Civil Action No. 1:14-cv-01589
Exhibit 8

Exhibit 9



United States Department of State

Washington, D.C. 20520

AUG 31 2015

Case No.: F-2014-03625

Segment: EAN-0006 & EAN-0007

John H. Clarke, Esq.
1629 K Street, N.W., Suite 300
Washington, D.C. 20006

Dear Mr. Clarke:

I refer you to our letter dated July 6, 2015, regarding the release of certain Department of State material under the Freedom of Information Act (the "FOIA"), 5 U.S.C. §552.

The search of the records of the Central Foreign Policy Records is partially complete and has resulted in the retrieval of 10 documents responsive to your request. After reviewing these 10 documents we have determined that 3 may be released in full and that 7 may be released in part. All released material is enclosed.

Where documents are released to you in part, all non-exempt material that is reasonably segregable from the exempt material has been released. Where we have made excisions, the applicable exemptions are marked on each document. An enclosure provides information on FOIA exemptions and other grounds for withholding material.

We will keep you advised as your case progresses. If you have any questions, please contact Trial Attorney Megan Crowley at (202) 305-0754 or at Megan.A.Crowley@usdoj.gov.

Sincerely,

Karen M. Finnegan for
John F. Hackett, Director
Office of Information Programs and Services

Enclosures: As stated

Stein Declaration
Civil Action No. 1:14-cv-01589
Exhibit 9

Exhibit 10



United States Department of State

Washington, D.C. 20520

OCT 26 2015

Case No.: F-2014-03625

Segment: EAN-0009, EAN-0010, EAN-0011,
& NEA-0001

John H. Clarke, Esq.
1629 K Street, N.W., Suite 300
Washington, D.C. 20006

Dear Mr. Clarke:

I refer you to our letter dated August 31, 2015, regarding the release of certain Department of State material under the Freedom of Information Act (the "FOIA"), 5 U.S.C. §552.

The search of the records of the Central Foreign Policy Records and the Bureau of Near Eastern Affairs is partially complete and has resulted in the retrieval of 86 documents responsive to your request. After reviewing these 86 documents we have determined that 12 may be released in full, 3 may be released in part, 2 must be withheld in full, and that 69 documents either originated in, or require consultation with, other U.S. Government agencies. We have referred the latter 69 documents to the relevant agencies with a request to respond to you directly or to advise the Department of State of any impediments to release. All released material is enclosed.

Where documents are released to you in part, all non-exempt material that is reasonably segregable from the exempt material has been released. Where we have made excisions, the applicable exemptions are marked on each document. An enclosure provides information on FOIA exemptions and other grounds for withholding material.

We will keep you advised as your case progresses. If you have any questions, please contact Trial Attorney Megan Crowley at (202) 305-0754 or at Megan.A.Crowley@usdoj.gov.

Sincerely,

John F. Hackett, Director
Office of Information Programs and Services

Stein Declaration
Civil Action No. 1:14-cv-01589
Exhibit 10

- 2 -

Enclosures: As stated

Exhibit 11



United States Department of State
Washington, D.C. 20520

DEC - 4 2015

Case No.: F-2014-03625
Segment: EAN-0012, NEA-0002,
& A/LM/AQM-0001

John H. Clarke, Esq.
1629 K Street, N.W., Suite 300
Washington, D.C. 20006

Dear Mr. Clarke:

I refer you to our letter dated October 26, 2015, regarding the release of certain Department of State material under the Freedom of Information Act (the "FOIA"), 5 U.S.C. § 552.

The search of the Central Foreign Policy Records, the files of the Bureau of Near Eastern Affairs, and the files of the Office of Logistics Management is partially complete and has resulted in the retrieval of six documents responsive to your request. After reviewing these six documents we have determined that three may be released in full and three may be released in part. All released material is enclosed.

Where documents are released to you in part, all non-exempt material that is reasonably segregable from the exempt material has been released. Where we have made excisions, the applicable exemptions are marked on each document. An enclosure provides information on FOIA exemptions and other grounds for withholding material.

Stein Declaration
Civil Action No. 1:14-cv-01589
Exhibit 11

- 2 -

We will keep you advised as your case progresses. If you have any questions, please contact Trial Attorney Megan Crowley at (202) 305-0754 or at Megan.A.Crowley@usdoj.gov.

Sincerely,

A handwritten signature in dark ink, appearing to read "Susan C. Weimer" followed by a stylized flourish or initials.

John F. Hackett, Director
Office of Information Programs and Services

Enclosures: As stated

Exhibit 12



United States Department of State
Washington, D.C. 20520

DEC 21 2015

Case No.: F-2014-03625

Segment: EAN-0003, EAN-0004,
EAN-0006, EAN-0011, EAN-
0012, NEA-0001, NEA-0002, &
S/ES-0001

John H. Clarke, Esq.
1629 K Street, N.W., Suite 300
Washington, D.C. 20006

Dear Mr. Clarke:

I refer you to our letter dated December 4, 2015, regarding the release of certain Department of State material under the Freedom of Information Act (the "FOIA"), 5 U.S.C. § 552.

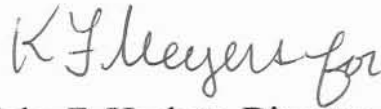
The search of the Central Foreign Policy Records, the files of the Bureau of Near Eastern Affairs, and the files of the Office of the Executive Secretariat is partially complete and has resulted in the retrieval of 25 documents responsive to your request.¹ After reviewing these 25 documents we have determined that 1 may be released in full, 10 may be released in part, 5 must be withheld in full, and that 9 documents either originated in, or require consultation with, other U.S. Government agencies. We have referred the latter nine documents to the relevant agencies with a request to respond upon making a determination as to releasability. All released material is enclosed.

¹ As noted in the Department's December 21, 2015 Unopposed Motion for Extension of Final Production Deadline, State has very recently located a source of potentially-responsive documents that has not previously been searched. State will file a status report on January 22, 2016, in which it will provide the Court with an update on the status of the search and production of any responsive, non-exempt documents from this new source.

Where documents are released to you in part, all non-exempt material that is reasonably segregable from the exempt material has been released. Where we have made excisions, the applicable exemptions are marked on each document. Of the information withheld in full, all was withheld under FOIA Exemptions 1 and 5, 5 U.S.C. § 552(b)(1) and § 552(b)(5) . An enclosure provides information on FOIA exemptions and other grounds for withholding material.

We will keep you advised as your case progresses. If you have any questions, please contact Trial Attorney Megan Crowley at (202) 305-0754 or at Megan.A.Crowley@usdoj.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "J. Hackett for".

John F. Hackett, Director
Office of Information Programs and Services

Enclosures: As stated

Exhibit 13



United States Department of State

Washington, D.C. 20520

MAR 2 2015

Case No.: F-2014-03625

Segment: S/ES-0002, S/ES-0003, &
S/ES-0004

John H. Clarke, Esq.
1629 K Street, N.W., Suite 300
Washington, D.C. 20006

Dear Mr. Clarke:

I refer you to our letter dated December 21, 2015, regarding the release of certain Department of State material under the Freedom of Information Act (the "FOIA"), 5 U.S.C. § 552.

The search of the files of the Office of the Executive Secretariat has been completed and thus far resulted in the retrieval of seven documents responsive to your request. After reviewing these seven documents we have determined that one may be released in part and that six must be withheld in full. All released material is enclosed.

Where we have made excisions, the applicable exemptions are marked on each document. Where the information was withheld in full, all was withheld under FOIA Exemption 5, 5 U.S.C. § 552(b)(5). An enclosure provides information on the FOIA exemptions and other grounds for withholding material.

We will keep you advised as your case progresses. If you have any questions, please contact Trial Attorney Megan Crowley at (202) 305-0754 or at Megan.A.Crowley@usdoj.gov.

Sincerely,

Eric F. Stein for

Eric F. Stein, Acting Co-Director
Office of Information Programs and Services

Enclosures: As stated

Stein Declaration
Civil Action No. 1:14-cv-01589
Exhibit 13

Exhibit 14



United States Department of State

Washington, D.C. 20520

May 5, 2016

Case No.: F-2014-03625

Segment: S/ES-0007

John H. Clarke, Esq.
1629 K Street, N.W., Suite 300
Washington, D.C. 20006

Dear Mr. Clarke:

I refer you to our letter dated March 21, 2016, regarding the release of certain Department of State material under the Freedom of Information Act (the "FOIA"), 5 U.S.C. §552.

Eleven additional documents responsive to your request have been retrieved. After reviewing these 11 documents we have determined that 2 may be released in full, 5 may be released in part, 2 must be withheld in full, and 2 documents originated in other U.S. Government agencies. We have referred the latter two documents to the relevant agencies with a request to respond to you directly. All released material is enclosed.

Where documents are released to you in part, all non-exempt material that is reasonably segregable from the exempt material has been released. Where we have made excisions, the applicable exemptions are marked on each document. Where the information was withheld in full, all was withheld under FOIA Exemptions 1, 2, 3, 5, 6, and 7, 5 U.S.C. §§ 552(b)(1), (b)(2), (b)(3), (b)(5), (b)(6), and (b)(7). An enclosure provides information on the FOIA exemptions and other grounds for withholding material.

Stein Declaration
Civil Action No. 1:14-cv-01589
Exhibit 14

- 2 -

We will keep you advised as your case progresses. If you have any questions, please contact Trial Attorney Megan Crowley at (202) 305-0754 or at Megan.A.Crowley@usdoj.gov.

Sincerely,

Susan P. Weimer for

Eric F. Stein, Acting Co-Director
Office of Information Programs and Services

Enclosures: As stated

Exhibit 15



United States Department of State

Washington, D.C. 20520

July 8, 2016

Case No.: F-2014-03625

Segment: M/PRI-0001-M/PRI-0005

John H. Clarke, Esq.
1629 K Street, N.W., Suite 300
Washington, D.C. 20006

Dear Mr. Clarke,

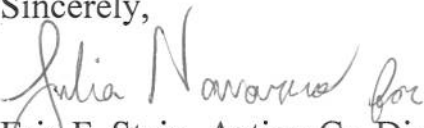
I refer you to our letter dated May 5, 2016, regarding the release of certain Department of State material under the Freedom of Information Act (the "FOIA"), 5 U.S.C. § 552.

The search of the files of the Office of Management Policy, Rightsizing, and Innovation is complete and has resulted in the retrieval of 31 records responsive to your request. After reviewing these 31 records, we have determined that 2 may be released in full, 1 may be released in part, 21 must be withheld in full, and 7 originated in another U.S. Government agency. We have referred the latter seven documents to the relevant agency with a request to respond to you directly. All released material is enclosed.

Where documents are released to you in part, all non-exempt material that is reasonably segregable from the exempt material has been released. Where we have made excisions, the applicable exemptions are marked on each document. Of the information withheld in full, all was withheld under FOIA Exemptions 1, 3, 5, 6, and 7, 5 U.S.C. §§ 552(b)(1), (b)(3), (b)(5), (b)(6), and (b)(7). An enclosure provides information on FOIA exemptions and other grounds for withholding material.

The Department has now completed its processing of your request. If you have any questions, your attorney may contact Trial Attorney Megan Crowley at (202) 305-0754 or at Megan.A.Crowley@usdoj.gov.

Sincerely,


Eric F. Stein, Acting Co-Director
Office of Information Programs and Services

Enclosures: As stated

Stein Declaration
Civil Action No. 1:14-cv-01589
Exhibit 15

Exhibit 16



United States Department of State

Washington, D.C. 20520

October 20, 2017

Case No.: F-2014-03625

John H. Clarke, Esq.
1629 K Street, N.W., Suite 300
Washington, D.C. 20006

Dear Mr. Clarke,

I refer you to our letter dated September 1, 2017, regarding the release of certain Department of State material under the Freedom of Information Act (the "FOIA"), 5 U.S.C. § 552.

The Department has identified 60 additional documents responsive to your request, of which 31 have been released in part and 29 have been released in full. The vast majority of these documents have been previously released to the public under FOIA pursuant to other recent FOIA litigation cases, and most are available in the Department's online reading room of FOIA documents at <https://foia.state.gov/search>. However, for your convenience, we are enclosing all of the additional responsive documents here.

Where documents are released in part, all non-exempt material that is reasonably segregable from the exempt material has been released. Where we have made excisions, the applicable exemptions are marked on each document. An enclosure provides information on FOIA exemptions and other grounds for withholding material.

If you have any questions, your attorney may contact Trial Attorney Tamra Moore at (202) 305-8628 or at Tamra.Moore@usdoj.gov.

Sincerely,

Susan C. Weimer *for*

Eric F. Stein, Director
Office of Information Programs and Services

Enclosures: As stated

Stein Declaration
Civil Action No. 1:14-cv-01589
Exhibit 16

Exhibit 17



United States Department of State

Washington, D.C. 20520

May 7, 2018

Case No.: F-2014-03625

John H. Clarke, Esq.
1629 K Street, N.W., Suite 300
Washington, D.C. 20006

Dear Mr. Clarke,

I refer you to our letter dated October 20, 2017, regarding the release of certain Department of State material under the Freedom of Information Act (the "FOIA"), 5 U.S.C. § 552.

The Department has identified two additional documents responsive to your request, both of which may be released in full. In addition, upon further review, the Department has decided to make a discretionary release of information previously withheld in two documents. All released material is enclosed.

Where documents are released in part, all non-exempt material that is reasonably segregable from the exempt material has been released. Where we have made excisions, the applicable exemptions are marked on each document. An enclosure provides information on FOIA exemptions and other grounds for withholding material.

If you have any questions, you may contact Trial Attorney Tamra Moore at (202) 305-8628 or at Tamra.Moore@usdoj.gov.

Sincerely,

A handwritten signature in black ink that reads "Eric F. Stein" followed by a stylized flourish.

Eric F. Stein, Director
Office of Information Programs and Services

Enclosures: As stated

Stein Declaration
Civil Action No. 1:14-cv-01589
Exhibit 17