

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

DECLARATION OF ALESIA Y. WILLIAMS IN SUPPORT OF DEFENDANTS'

MOTION FOR SUMMARY JUDGMENT

I, Alesia Williams, do hereby declare the following to be true and correct:

1. I am the Chief of the Freedom of Information Act (FOIA) and Declassification Services Office for the Defense Intelligence Agency (DIA), Department of Defense (DoD). I have served as the Chief of the FOIA Office since June 2014. I previously served as the Chief, FOIA Services Section (an element within the DIA FOIA Office), from January 2008 to June 2014. Prior to that I was an administrative officer processing FOIA requests at DIA from November 2006 to December 2007, and I was a contractor assigned to DIA as a FOIA Senior Document Reviewer from January to November 2006. Prior to coming to DIA, throughout my career in the United States Air Force ("USAF"), one of my duties was to process FOIA requests. I also spent over five years supervising two USAF FOIA offices.

2. As Chief of the FOIA Office, I have been designated by the DIA Director as a declassification authority pursuant to Executive Order 13526 § 3.1. This authority extends to all

information that is classified by, originated by, or that is otherwise under the declassification purview of DIA. I have also been designated by the Director as the Initial Denial Authority for responses to FOIA requests. My administrative duties include the management of day-to-day operations of DIA's FOIA program. The FOIA Office receives, processes, and responds to requests for DIA records under the FOIA and the Privacy Act. At my direction, DIA personnel are tasked to search Agency records systems under their control to identify records and other information which may be responsive to individual requests. They forward any potentially responsive records that are located to my office, which in turn determines whether responsive records should be withheld in whole or in part under any applicable statutory FOIA or Privacy Act exemptions. The activities of my staff are governed by the "DOD Freedom of Information Act Program Regulation," found at 32 C.F.R. Part 286, as supplemented by the "Defense Intelligence Agency (DIA) Freedom of Information Act" regulation, found at 32 C.F.R. Part 292.

3. In the course of my official duties at DIA, I have become personally familiar with the FOIA requests submitted by Accuracy in Media, Inc., ("AIM"). The statements made herein are based upon my personal knowledge, upon information made available to me in my official capacity, and upon determinations made by me in accordance therewith.

4. DIA's mission is to collect, analyze, and provide intelligence on the military capabilities of foreign military forces to the Secretary of Defense, the Joint Chiefs of Staff, and other DOD components. DIA also manages the Defense Attaché System for DOD. The DIA's organization and mission are more fully set out at 32 C.F.R. Part 385, "Defense Intelligence Agency." Because of its mission to collect, analyze, and provide foreign intelligence, the vast

majority of Agency records are classified in the interests of national security in accordance with Executive Order 13,526, "Classified National Security Information."

5. By letter dated April 7, 2014, AIM submitted a FOIA request to DIA for records of (1) maps depicting all assets within fifteen hundred miles of Benghazi, Libya on September 11 and 12, 2012; (2) DOD assets that were pre-positioned off the coast of Tripoli on October 18, 2011; and (3) records in calendar year 2012 of the threat to U.S. personnel because of al-Qaida or Ansar al-Shariah or other belligerent build-up in Benghazi.

6. By letter dated May 28, 2014, AIM submitted a Second FOIA request to DIA for records pertaining to (1) OPREP-3 PINNACLE report(s) used to provide any DOD division with notification of, or information about, the September 11 and 12 2012 attacks on U.S. facilities in Benghazi, Libya; and (2) for the period of July 1, 2012, through September 30, 2012, records of all directives, orders, and other communications regarding the readiness status of United States armed forces on the anniversary of the September 11, 2001 attacks on the World Trade Center, to or from: U.S. European Command; U.S. Central Command; U.S. Africa Command; U.S. Special Operations Command; Office of the Secretary of Defense and the Joint Staff; Naval Air Station Sigonella, Sicily; Spanish naval base Naval Station Rota, Spain; Aviano Air Base, Italy; and U.S. Special Operations Forces.

7. In response to AIM's FOIA requests, the DIA initiated a search for records responsive to AIM's requests. On June 30, 2016, DIA notified AIM that it had identified 148 records responsive to its FOIA requests and that, of those records, 92 were referred to other government agencies for their review and direct response to AIM. Of the remaining 56 records, DIA notified AIM that one record was a duplicate of a previously processed record, 25 records

were withheld in part and 30 were withheld in full pursuant to the authority of specific FOIA exemptions and Executive Order (E.O.) 13,526.

8. With respect to DIA, it is my understanding that AIM challenges only DIA's decision to withhold in full the records identified as V-11, V-19, V-45, and V-48 in DIA's *Vaughn* Index.¹ See Joint Mot. to Amend Briefing Schedule at 6, ECF No. 65. Accordingly, this declaration explains the DIA's basis for withholding information in these four records under FOIA Exemptions (b)(1) and (b)(3).

Portions of V-11, V-19, V-45, and V-48 Were Withheld Under 5 U.S.C. § 552 (b)(1), Which Allows the Withholding of Records Required By Executive Order to Be Kept Secret

9. The current basis for classification of national security information is found in E.O. 13,526. Section 1.1 of E.O. 13,526 authorizes an Original Classification Authority (OCA) to classify information owned, produced, or controlled by the United States government if it falls within one of the following eight classification categories specified in Section 1.4 of E.O. 13,526:

- (a) military plans, weapons systems, or operations;
- (b) foreign government information;
- (c) intelligence activities (including special activities), intelligence sources or methods, or cryptology;

¹ DIA also received several referrals from other government agencies in connection with AIM's related FOIA requests to those agencies. Since AIM is not challenging DIA's handling of these records, I have not addressed them in this declaration.

- (d) foreign relations or foreign activities of the United States, including confidential sources;
- (e) scientific, technological, or economic matters relating to the national security;
- (f) United States government programs for safeguarding nuclear materials or facilities;
- (g) vulnerabilities or capabilities of systems, installations, infrastructures, projects, plans, or protection services relating to national security; or
- (h) the development, production, or use of weapons of mass destruction.

10. Section 1.2 of E.O. 13,526 provides that information covered by one or more of these classification categories may be classified at one of three classification levels - Top Secret (TS), Secret (S) or Confidential (C) - depending on the degree of harm that would result from the unauthorized disclosure of such information. Information is classified at the Confidential level if unauthorized disclosure could reasonably be expected to cause damage to national security. Information is classified at the Secret level if its release could reasonably be expected to cause serious damage to the national security. Classification at the Top Secret level is maintained if its release could reasonably be expected to cause grave damage to national security.

11. Exercising the declassification authority delegated to me by the Director of DIA and pursuant to E.O. 13,526, I have determined that certain information within V-11, V-19, V-45, and V-48 remains currently and properly classified at the TOP SECRET and SECRET levels under E.O. 13,526 and that it is appropriately withheld under FOIA Exemption 1. Section 552(b)(1) of the FOIA statute allows for withholding of information required by Executive Order to be kept secret in the interest of national defense or foreign policy where that information is

properly classified. In this case, the withheld information in V-11, V-19, V-45, and V-48 is properly classified under E.O. 13,526 because certain information in these four records references intelligence sources and methods and/or relates to foreign relations/activities. This determination is within my authority as a declassification review official and is further supported by the opinions of the subject matter experts within DIA with knowledge of the national security topics covered who have reviewed these records.

1.4(c) -- Intelligence Sources and Methods

12. DIA withheld certain information in V-11, V-19, V-45, and V-48 under Exemption (b)(1) because the information contained in the withheld records relates to intelligence sources and methods, the disclosure of which could reasonably be expected to cause either serious damage or exceptionally grave damage to national security, and thus properly classified as Secret or Top Secret under Section 1.4(c) of E.O. 13,526. Section 1.4(c) recognizes that the disclosure of intelligence sources may cause damage to the national security. Intelligence sources may include individuals, foreign or American, foreign entities, and the intelligence and security services of foreign governments. Willing intelligence sources may be expected to furnish information only when confident that they are protected from retribution by the absolute secrecy surrounding their relationship to the United States government. Sources that are compromised become extremely vulnerable to retaliation from a variety of entities including their own governments or others having a stake in the confidentiality of the information provided by the source. In certain parts of the world, the consequences of public disclosure of the identity of an individual that has served as a U.S. source are often swift and far reaching, from economic reprisals to possible harassment, imprisonment, or even death.

13. Section 1.4(c) of E.O. 13,526 also recognizes that the release of intelligence methods may cause damage to the United States' national security. Intelligence methods are the means by which (or the manner in which) an intelligence agency collects information to support military operations, assist in national policymaking, assess military threats, or otherwise accomplish its mission. Detailed knowledge of the methods and practices of an intelligence agency must be protected from disclosure because such knowledge would be of material assistance to those who would seek to penetrate, detect, prevent, avoid, or damage the intelligence operations of the United States.

14. Finally, disclosure of the intelligence sources or methods the U.S. government implements could reasonably be expected to enable persons and groups hostile to the United States to identify U.S. intelligence activities, methods or sources, and to design countermeasures to them. This would damage the ability of the U.S. government to acquire information that is often critical to the formulation of strategic plans and missions designed to safeguard the United States against our enemies. Based on the information provided to me in the course of my official duties, V-11, V-19, V-45, and V-48 contain information concerning intelligence sources and methods that must be protected:²

- V-11 is a finished intelligence product prepared by an analytic component of DIA. The product is an in-depth analysis related to the Benghazi consulate attack which is based on information obtained from classified sources and methods. In addition, this intelligence product contains a detailed statement summarizing the

² Because of the highly sensitive and classified nature of the withheld records, I am unable to disclose on the public record additional detail or information concerning any of these records without compromising information DIA has protected pursuant to its asserted exemptions.

sources upon which its analyses and assessments are based, and areas of intelligence gaps.

- V-19 is a finished intelligence product prepared by an analytic component of DIA providing analysis of multiple topics and regions. The responsive portion of this intelligence record contains information and analyses related to the Benghazi consulate attack which is based on classified sources and methods.³
- V-45 and V-48 are intelligence reports classified at the TOP SECRET level. The two intelligence reports contain information responsive to AIM's FOIA request. However, the release of the information in V-45 and V-48 would reveal specific areas of intelligence interest to the Intelligence Community and specific details about the sources and methods associated with obtaining the reported intelligence information.

15. DIA has not released intelligence contained in V-11, V-19, V-45, and V-48 because to do so would reveal classified sources and methods and impair the intelligence collection mission of the Intelligence Community. In particular, disclosure of the intelligence information in V-11, V-19, V-45, and V-48 would provide adversaries of the United States sufficient

³ V-19 is a finished intelligence product which contains multiple classified paragraphs addressing myriad intelligence topics. This is a typical format for many intelligence products in DIA, which is an all-source intelligence agency with multiple mission sets and customers. In addition to the paragraph containing specifically responsive information (which is exempt from release for reasons already discussed), it contains classified paragraphs that address issues and topics unrelated to AIM's FOIA requests. For example, hypothetically, one record may discuss drug activity in South America, another acquisition of new naval vessels by a foreign partner, and a third paragraph the political environment in Asia. DIA considers each paragraph to be a discrete record because each targets and is of interest to an entirely different customer, depending on the topic or issues addressed therein. Accordingly, DIA withheld those records addressing topics and issues that are not responsive to Plaintiff's FOIA request.

information about specific intelligence collection techniques utilized by the United States that adversaries could then use to develop countermeasures to resist such intelligence gathering techniques. This, in turn, would render useless the intelligence sources and methods upon which the United States' intelligence community relies. It is for this reason that the intelligence information contained in V-11, V-19, V-45, and V-48 remains currently and properly classified as SECRET or TOP SECRET under E.O. 13,526 and has been withheld by the DIA under FOIA exemption (b)(1).

1.4(d) – Foreign Relations or Foreign Activities of the United States, Including
Confidential Sources

16. DIA also withheld certain information contained in V-11 (a finished intelligence report) and V-19 (a finished intelligence product) under Exemption (b)(1) because certain information in V-11 and V-19 relates to foreign relations or foreign activities of the United States, the disclosure of which could reasonably be expected to cause exceptionally grave damage to national security. Specifically, the responsive portions of V-11 and V-19 contain analyses related to the Benghazi consulate attack, including references to confidential sources and sensitive aspects of U.S. foreign relations. In order to protect this intelligence information from disclosure, V-11 and V-19 are classified under Section 1.4(d) of E.O. 13,526.

17. Moreover, if the DIA were compelled to disclose the properly classified intelligence information in the responsive portions of V-11 and V-19, it would have a chilling effect on current United States foreign relations with certain countries, and any future relations, inasmuch as potential associations might be precluded for fear of exposure, especially with sources that are confidential. As explained above, implicit in the Intelligence Community's

confidential relationships is the notion that identities and information provided will be afforded confidentiality. The United States government goes to great lengths to maintain effective foreign relations and even greater lengths to protect and maintain sources' confidentiality because it is an integral part of successful foreign relations policy. Release of the confidential information in V-11 and V-19 could reasonably be expected to damage our relations with governments whose cooperation is important to the United States' national security. The national security of the United States is clearly injured when other governments refuse to cooperate with the United States because they fear disclosure of the existence of that cooperation.

18. Relatedly, DIA also withheld certain information from V-11 and V-19 under Section 1.4(d) of E.O. 13,526 because V-11 and V-19 contain information regarding intelligence relationships and agreements that DIA has with certain foreign countries. Release of information concerning the United States' intelligence relationships and agreements with foreign governments would damage the United States' intelligence relationships with these particular nations and would hinder DIA's ability to collect and share intelligence. Further, release of the information in V-11 and V-19 would likely result in the loss of the United States' ability to obtain valuable national security information that the United States government cannot obtain from other sources or means. Because the information in V-11 and V-19 is currently and properly classified at either the Secret or Top Secret levels pursuant to Section 1.4(d) of E.O. 13526, the DIA has withheld in full these two documents under FOIA Exemption 1.

Portions of Records V-11, V-19, and V-48 Were Withheld Under 5 U.S.C. § 552(b)(3), Which Exempts From Disclosure Organizational and Personnel Information under 10 U.S.C. § 424

19. The DIA is also withholding responsive information in V-11, V-19, and V-48 under Subsection (b)(3) of the FOIA, which permits the withholding of records that are

“specifically exempted from disclosure by statute provided that such statute . . . requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue . . .” DIA generally applies 10 U.S.C. § 424 when asserting Exemption 3. 10 U.S.C. § 424 states “(a) Exemption from disclosure--Except as required by the President or as provided in subsection (c), no provision of law shall be construed to require the disclosure of--(1) the organization or any function of an organization of the Department of Defense named in subsection (b); or (2) the number of persons employed by or assigned or detailed to any such organization or the name, official title, occupational series, grade, or salary of any such person.” DIA is a covered organization under section 424(b).

20. DIA withheld portions of V-11 (a finished intelligence report), V-19 (a finished intelligence product), and V-48 (an intelligence report classified as Top Secret) under Exemption 3, pursuant to the authority set forth in 10 U.S.C. § 424, because certain portions of these three records specifically identify the names, email addresses, office affiliations, and contact information of DIA personnel, as well as other information, such as countries with which DIA shares intelligence and information concerning DIA’s coordination with other government agencies, which would reveal DIA functions. Because release of this information would identify DIA employees, and would reveal part of DIA’s organizational structure, as well as sensitive DIA functions, disclosure of this information in V-11, V-19, and V-48 is strictly prohibited under 10 U.S.C. § 424.

Portions of Records V-11, V-19, V-45 and V-48 Were Withheld Under 5 U.S.C. § 552(b)(3), Which Exempts From Disclosure Intelligence Sources and Methods under 50 U.S.C. § 3024

21. A separate Exemption 3 statute, 50 U.S.C. § 3024 (i)(1), provides that “[t]he Director of National Intelligence shall protect intelligence sources and methods from

unauthorized disclosure.” The National Security Act is an exemption (b)(3) withholding statute that 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). DIA carries out its intelligence mission under guidance from the Director of National Intelligence and in accordance with the National Security Act. Therefore, to the extent that intelligence sources and methods are referenced in V-11, V-19, V-45, and V-48, 50 U.S.C. § 3024(i)(1) requires DIA to prevent the disclosure or release of this information.

22. DIA withheld certain information in V-11, V-19, V-45, and V-48 under Exemption 3 and 50 U.S.C. § 3024(i), because certain information in these four records would reveal intelligence sources and methods, as previously explained in this declaration, *see infra* ¶¶ 14-17. Although no showing of harm is required to justify the application of Exemption 3, it bears mentioning that disclosure of the intelligence sources and methods referenced in V-11, V-19, V-45, and V-48 would allow adversaries to employ countermeasures, thus reducing the effectiveness of the sources and methods as intelligence collection tools. Because 50 U.S.C. § 3024 prohibits DIA from disclosing the intelligence sources and methods contained in V-11, V-19, V-45, and V-48, the agency properly withheld the information under Exemption 3.

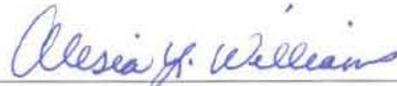
Non-Segregability of V-11, V-19, V-45, and V-48

23. As required under the FOIA, subject matter experts carefully reviewed the information set forth in V-11, V-19, V-45, and V-48 line-by-line to determine whether DIA could make any discretionary disclosures by segregating and releasing non-exempt information. Based on the recommendation of the subject matter experts, I have determined that each of the four documents being challenged was and still remains properly classified and that none of the

information contained in V-11, V-19, V-45, and V-48 may be segregated in any meaningful way without disclosing classified information.

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

Executed this 8th day of May, 2018



Alesia Y. Williams
Chief, Freedom of Information Act and
Declassification Services Office

Exhibit 1

Accuracy in Media, et al. v. DoD, et al., No. 14-CV-01589 (D.D.C)
Defense Intelligence Agency Vaughn Index

Document # / Page #	Title/Summary	Date	Agency	Class	Comments/Exemptions
V-011 5 pages	DIA-09-1209-823	12 Sep 2012	DIA	Top Secret	<p>Document Description – Defense Intelligence Report</p> <p>Document Denied in Full– Exemptions (b)(1), (b)(3)</p> <p>Exemption (b)(1): The document contains information which, if publicly released, would reveal intelligence sources and methods and compromise the intelligence information collection mission effectiveness of the intelligence community. Further, the document contains information concerning foreign relations and/or foreign activities of the United States Government, the disclosure of which could reasonably be expected to cause exceptionally grave damage to the national security. Accordingly, the information is to be accorded protection from mandatory release under Executive Order 13526, section 1.4(c) and 1.4(d).</p> <p>Exemption (b)(3): was used in conjunction with 10 U.S.C. 424 to withhold employee names and contact information, as well as office names/symbols and similar information, the release of which would reveal DIA's organizational structure. The statute was also asserted to withhold information that, if released, would reveal DIA functions. The same statute is also asserted where DIA withheld the countries with which it shared intelligence. Statute 50 U.S.C. 3024(i) also is asserted in conjunction with this exemption to sections of the document to protect intelligence sources and methods withheld since their release could potentially disclose the method or program in which the information was collected.</p>

Document # / Page #	Title/Summary	Date	Agency	Class	Comments/Exemptions
<p>V-019</p> <p>4 pages</p>	<p>SENSITIVE NON-RELEASABLE TITLE</p>	<p>12 Sep 12</p>	<p>DIA</p>	<p>Top Secret</p>	<p>Document Description – Situation Report</p> <p>Document Denied in Full – Exemptions (b)(1), (b)(3)</p> <p>Exemption (b)(1): The document contains information which, if publicly released, would reveal intelligence sources and methods and compromise the intelligence information collection mission effectiveness of the intelligence community. Further, the document contains information concerning foreign relations and/or foreign activities of the United States Government, the disclosure of which could reasonably be expected to cause exceptionally grave damage to the national security. Accordingly, the information is to be accorded protection from mandatory release under Executive Order 13526, section 1.4(c) and 1.4(d).</p> <p>Exemption (b)(3): was used in conjunction with 10 U.S.C. 424 to withhold office names/symbols and similar information, the release of which would reveal DIA's organizational structure. The statute was also asserted to withhold information that, if released, would reveal DIA functions. Email addresses from a classified network were also withheld. Release of this information would give computer savvy entities of hostile intent a tangible target and would compromise the nation's cyber security. The same statute is also asserted where DIA withheld the countries with which it shared intelligence and information concerning DIA's coordination with other government agencies. Statute 50 U.S.C. 3024(i) also is asserted in conjunction with this exemption to sections of the document to protect intelligence sources and methods withheld since their release could potentially disclose the method or program in which the information was collected.</p> <p>Non-Responsive: Portions of the document were not responsive to the request.</p>

Document # / Page #	Title/Summary	Date	Agency	Class	Comments/Exemptions
V-045 6 pages	CLASSIFIED TITLE	12 Sep 12	DIA	Top Secret	<p>Document Description – Intelligence Report</p> <p>Document Denied in Full – Exemptions (b)(1), (b)(3)</p> <p>Exemption (b)(1): The document contains information which, if publicly released, would reveal intelligence sources and methods and compromise the intelligence information collection mission effectiveness of the intelligence community. Accordingly, the information is to be accorded protection from mandatory release under Executive Order 13526, section 1.4(c).</p> <p>Exemption (b)(3): was used in conjunction with 50 U.S.C. 3024(i) to sections of the document to protect intelligence sources and methods withheld since their release could potentially disclose the method or program in which the information was collected.</p>
V-048 4 pages	CLASSIFIED TITLE	12 Sep 12	DIA	Top Secret	<p>Document Description – Intelligence Report</p> <p>Document Denied in Full – Exemptions (b)(1), (b)(3)</p> <p>Exemption (b)(1): The document contains information which, if publicly released, would reveal intelligence sources and methods and compromise the intelligence information collection mission effectiveness of the intelligence community. Accordingly, the information is to be accorded protection from mandatory release under Executive Order 13526, section 1.4(c).</p> <p>Exemption (b)(3): was used in conjunction with 10 U.S.C. 424 to withhold information the release of which would reveal DIA's organizational structure and function. Statute 50 U.S.C. 3024(i) also is asserted to sections of the document to protect intelligence sources and methods withheld since their release could potentially disclose the method or program in which the information was collected.</p>