

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ACCURACY IN MEDIA, INC., et al.,

Plaintiffs,

v.

CENTRAL INTELLIGENCE AGENCY, et
al.,

Defendants.

Case No. 1:14-CV-01589 (EGS)

DECLARATION OF ANTOINETTE B. SHINER,
INFORMATION REVIEW OFFICER FOR THE
LITIGATION INFORMATION REVIEW OFFICE
CENTRAL INTELLIGENCE AGENCY

I, ANTOINETTE B. SHINER, hereby declare and state:

I. INTRODUCTION

1. I am the Information Review Officer ("IRO") for the Litigation Information Review Office ("LIRO") at the Central Intelligence Agency ("CIA" or "Agency"). I have worked in the information review and release field since 2000.

A. Professional Background

2. Prior to becoming the IRO for LIRO, I served as the IRO for the Directorate of Support ("DS") for over sixteen months. In that capacity, I was responsible for making classification and release determinations for information originating within the DS. Prior to that, I was the Deputy IRO for the Director's Area of the CIA ("DIR Area") for over three

years. In that role, I was responsible for making classification and release determinations for information originating within the DIR Area. Before assuming that role, I was a reviewer in the DS for seven months, where I performed research and provided input and recommendations on classification and release decisions. Prior to that position, I worked in the Public Information Program Division ("PIPD") within the Information Management Services ("IMS") Group for over ten years engaged in all aspects of FOIA case management.

3. I am a senior CIA official and hold original classification authority at the TOP SECRET level under written delegation of authority pursuant to section 1.3(c) of Executive Order 13526, 75 Fed. Reg. 707 (Jan. 5, 2010). This means that I am authorized to assess the current, proper classification of CIA information, up to and including TOP SECRET information, based on the classification criteria of Executive Order 13526 and applicable regulations.

4. Among other things, I am responsible for the classification review of CIA documents and information that may be the subject of court proceedings or public requests for information under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and the Privacy Act of 1974, 5 U.S.C. § 552a.

B. Purpose

5. Through the exercise of my official duties, I have become familiar with this civil action and the underlying FOIA requests. I make the following statements based upon my personal knowledge and information made available to me in my official capacity. I am submitting this declaration in support of the Motion for Summary Judgment to be filed by the United States Department of Justice in this proceeding.

6. The purpose of this Declaration is to explain and justify, to the greatest extent possible on the public record, the CIA's actions in responding to Plaintiffs' FOIA requests in this action. Part II of this Declaration chronicles Plaintiffs' FOIA requests and the CIA's responses in this case; Part III identifies the three issues Plaintiffs take with CIA's actions and responses in this case; and Parts IV-VI address in turn each purported issue.

II. BACKGROUND

7. This matter concerns two different, yet related, FOIA requests from Plaintiffs to CIA. The first FOIA request is dated 24 February 2014 ("February FOIA Request") and the second request is dated 1 October 2014 ("October FOIA Request").

A. February FOIA Request

8. Plaintiffs' February FOIA Request sought several categories of records pertaining to the September 2012 terrorist

attack in Benghazi, Libya and the CIA's response to that attack. A true and correct copy of the February FOIA Request is attached as Exhibit "A".

9. By letter dated 14 April 2014, the CIA acknowledged receipt of Plaintiffs' February FOIA request and assigned it the reference number F-2014-00953. A true and correct copy of this letter is attached as Exhibit "B".

10. By letter dated 5 August 2014, Plaintiffs withdrew three of their requests--specifically, item numbers 7, 8, and 10 of the February FOIA Request. A true and correct copy of this letter is attached as Exhibit "C".

11. By letter dated 18 September 2014, the CIA sent Plaintiffs an update regarding their February FOIA Request. In this letter, the CIA declined to process certain portions of Plaintiffs' February FOIA Request, which fell under the auspices of another federal agency. A true and correct copy of this letter is attached as Exhibit "D".

12. On 19 September 2014, Plaintiffs filed a complaint in this Court naming CIA as a defendant. Plaintiffs subsequently amended their complaint on 12 January 2015 and 25 June 2015. Defendants responded to Plaintiffs' Second Amended Complaint on 13 July 2015.

13. By letter dated 29 September 2014, Plaintiffs appealed certain of the CIA's denials regarding the February FOIA

Request. A true and correct copy of this letter is attached as Exhibit "E".

14. By motion filed on 22 July 2016, Plaintiffs limited the February FOIA Request to items 3, 5, 6, and 16 only and narrowed the scope of items 3, 5, and 6. See Plaintiffs' Unopposed Motion to Lift Partial Stay Against CIA, ECF No. 55.

15. By letter dated 28 February 2017, the CIA provided Plaintiffs with an update regarding the February FOIA Request and made a partial production of documents. A true and correct copy of this letter is attached as Exhibit "F".

16. By letter dated 3 March 2017, the CIA made a final production responsive to the remaining items in the February FOIA Request. A true and correct copy of this letter is attached as Exhibit "G".

B. October FOIA Request

17. In addition to the February FOIA Request described above, Plaintiffs submitted a different, yet related, FOIA request dated 1 October 2014. The October FOIA Request contains two items.

18. First, it requests "[a]ny and all reports, memoranda, correspondence, maps, diagrams, charts, printouts . . . regarding allegations that Executive Branch personnel deleted, destroyed, erased, obliterated, or obscured, records of CIA activities in Libya in the aftermath of the September 11 and 12,

2012 attacks in Benghazi, Libya, including but not limited to records in possession of the CIA Office of Inspector General."

19. Second, the October FOIA request seeks records generated in March of 2011 pertaining to Colonel Muammar Gaddafi's "expressed interest in a truce and possible abdication and exile out of Libya, by or to: (a) Head of Qaddafi's personal security General Abdulqader Yusef Dibri; (b) Rear Admiral (ret.) Chuck Kubic; (c) AFRICOM personnel . . . [and] (d) The CIA." A true and correct copy of the October FOIA Request is attached as Exhibit "H".

20. By letter dated 3 November 2014, the CIA acknowledged receipt of the October FOIA Request and assigned it a reference number of F-2015-00060. A true and correct copy of this letter is attached as Exhibit "I".

21. By letter dated 30 September 2015, the CIA stated that it completed a thorough search for documents responsive to Item 1, which yielded a search result of twenty documents. The CIA stated that it would produce eight documents in redacted form but that the remaining twelve documents must be denied in their entirety on the basis of FOIA exemptions (b) (1), (b) (3), (b) (5), (b) (6), and (b) (7).

22. With respect to Items 2(a) and (d) of the October FOIA Request, the CIA's letter states that "in accordance with section 3.6(a) of Executive Order 13526, the CIA can neither

confirm nor deny the existence or nonexistence of records responsive to your request." The letter further explains that the fact of the existence or nonexistence of the requested records is currently and properly classified and relates to intelligence sources and methods information that is protected from disclosure by section 6 of the CIA Act of 1949 and section 102(A)(i)(1) of the National Security Act of 1947. The letter also notes that Plaintiffs should consider this portion of the response a denial of their request pursuant to FOIA exemptions (b)(1) and (b)(3). Lastly, the letter states that Items 2(b) and (c) of the October FOIA Request fall under the auspices of the Department of Defense. A true and correct copy of the 30 September 2015 letter is attached as Exhibit "J".

III. PLAINTIFFS' REMAINING CHALLENGES

23. Plaintiffs challenge three aspects of CIA's actions and/or responses to items from both the February and October FOIA Requests. See Joint Motion to Amend Briefing Schedule, ECF No. 65.

1. Plaintiffs' Challenge Regarding the Adequacy of CIA's Search for Records Responsive to Items 5 and 6 of the February FOIA Request.

24. Plaintiffs intend to challenge the adequacy of CIA's search for records in response to Plaintiffs' request for "[a]ll records of CIA Director David Petraeus' [and Deputy CIA Director Michael Morell's] actions and communications for the 24-hour

period beginning when first notified that the Benghazi Mission was under attack.” ECF No. 55 at 2; see *id.* at 2-3 (narrowing Plaintiffs’ original request to “omit ‘telephone logs or bills’ and ‘records generated by anyone about’ the actions and communications,” leaving the scope of the search to comprise “[a]ll records *generated by*” the two individuals within the specified time period) (quoting Ex. A at 3) (emphasis added).

2. Plaintiffs’ Challenge to CIA’s Reliance on Certain FOIA Exemptions Withholdings in CIA’s Response to the October FOIA Request.

25. Plaintiffs intend to challenge the CIA’s redactions of certain Office of Inspector General (“OIG”) documents (“IG Documents”)¹ responsive to item 1 of Plaintiffs’ October FOIA Request. Specifically, Plaintiffs take issue with certain redactions made prior to release of a response letter to the U.S. Senate from the CIA Inspector General, with attachments that include comments regarding the Benghazi attacks.

3. Plaintiffs’ Challenge to CIA’s Glomar Assertion in its Response to the October FOIA Request.

26. Finally, Plaintiffs intend to challenge the CIA’s Glomar response with respect to Items 2(a) and (d) of the October FOIA Request, which called for communications purportedly generated in March 2011 regarding Colonel Muammar Gaddafi.

¹ The IG Documents at issue are identified as document number C06354620.

27. The remaining sections of this declaration address the details surrounding these three issues raised by Plaintiffs.

IV. CIA'S SEARCH FOR DIRECTOR PETRAEUS' AND DEPUTY DIRECTOR MORELL'S RECORDS WAS REASONABLE AND ADEQUATE.

28. In searching for documents responsive to this request, as narrowed, CIA conducted an exhaustive electronic and hard copy search for responsive records. Indeed, CIA went beyond the parameters of Plaintiffs' request for these records: although Plaintiffs sought records for a 24-hour period, in order to ensure an adequate search, CIA determined a 30-hour period of time would be more appropriate in order to avoid missing records likely to be responsive to Plaintiffs' underlying request. CIA personnel conducted a document-by-document review of the search results to determine responsiveness and proceeded to process such documents for appropriate release. Note that Plaintiffs are challenging only the reasonableness of this search and not the disposition of responsive documents. As noted in Section III, *supra*, the narrowed request sought records – to include email, memoranda, and notes – generated by Director Petraeus and Deputy Director Morell during the requested time period.

29. CIA completed a search for records responsive to items 5 and 6 of the February FOIA Request, as narrowed, in the locations reasonably expected to contain them. Information management professionals within IMS directed searches of the

electronic mailboxes — both classified and unclassified — of Director Petraeus and Deputy Director Morell for the relevant time period. In addition, IMS conducted searches of multiple databases within the Director's Area in which other records generated by Director Petraeus and Deputy Director Morell would be found, including databases containing hand-written notes and memoranda intended for either internal or external audiences. IMS also directed a search of the Office of Congressional Affairs. In the course of these searches, CIA personnel included all relevant office databases and archival records deemed likely to contain responsive records.

30. In light of the narrow time period applicable to items 5 and 6 of the February FOIA request, CIA personnel searched *all* email sent by Director Petraeus and *all* email sent by Deputy Director Morell between 3:40pm Eastern Time on September 11, 2012 (the day of the Benghazi attack) and 9:40pm Eastern Time on September 12, 2012.² CIA personnel utilized keyword searches for the database searches, including broad search terms such as relevant titles (e.g., Director), names (e.g., Petraeus), locations (e.g., Benghazi), facilities (e.g., annex), and actions (e.g., attack).

² A 30-hour window of time, rather than the requested 24-hour window, was employed due to the uncertainty as to when exactly Director Petraeus and Deputy Director Morell were first notified of the Benghazi attack. The 30-hour window begins at the time the attack began.

31. In sum, CIA personnel conducted a very thorough search that was reasonably calculated to uncover all documents relevant to items 5 and 6 of the February FOIA Request, as narrowed.

V. CIA PROPERLY REDACTED PORTIONS OF THE IG DOCUMENTS PURSUANT TO MULTIPLE FOIA EXEMPTIONS.

32. In evaluating the IG Documents, the CIA conducted a page-by-page and line-by-line review, and released all reasonably segregable, non-exempt information. After reviewing the records at issue, I have determined that no additional information may be released without jeopardizing classified, statutorily protected, or privileged information that falls within the scope of one or more FOIA exemptions.

A. Exemption (b) (1)

33. Exemption (b) (1) provides that the FOIA does not require the production of records 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." 5 U.S.C. § 552(b) (1). The IG Documents include specific and detailed information concerning the IG investigation and include sensitive and classified information regarding Agency personnel and activities.³ Thus, as explained below, the exemption (b) (1) withholdings in the IG Documents at

³ See, e.g., IG Documents (C06354620) at pages 5, 8, and 11.

issue satisfy the procedural and the substantive requirements of Executive Order 13526, which governs classification. See E.O. 13526 § 1.1(a), § 1.4(c).

34. Section 1.1(a) of Executive Order 13526 provides that information may be originally classified under the terms of this order if the following conditions are met: (1) an original classification authority is classifying the information; (2) the information is owned by, produced by or for, or is under the control of the U.S. Government; (3) the information falls within one or more of the categories of information listed in section 1.4 of Executive Order 13526; and (4) the original classification authority determines that the unauthorized disclosure of the information reasonably could be expected to result in some level of damage to the national security, and the original classification authority is able to identify or describe the damage. The Executive Order also mandates that records be properly marked and requires that records not be classified for an improper purpose.

(a) Original classification authority. Pursuant to a written delegation of authority in accordance with Executive Order 13526, I hold original classification authority at the TOP SECRET level. Therefore, I am authorized to conduct classification reviews and to make original classification decisions. I have determined that

certain information in the IG Documents is currently and properly classified.

- (b) U.S. Government information. The information at issue is owned by the U.S. Government, was produced by or for the U.S. Government, and is under the control of the U.S. Government.
- (c) Classification categories in Section 1.4 of the Executive Order. Exemption (b)(1) is asserted in this case to protect information that concerns "intelligence activities (including covert action), [or] intelligence sources or methods" pursuant to section 1.4(c) of Executive Order 13526.
- (d) Damage to the national security. I have determined that the CIA information contained in the records at issue is classified SECRET, because it constitutes information the unauthorized disclosure of which could reasonably be expected to result in serious damage to the national security.
- (e) Proper purpose. With respect to the information for which exemption (b)(1) is asserted in this case, I have determined that this information has not been classified in order to conceal violations of law, inefficiency, or administrative error; prevent embarrassment to a person, organization or agency; restrain competition; or prevent or

delay the release of information that does not require protection in the interests of national security.

- (f) Marking. The documents are properly marked in accordance with section 1.6 of the Executive Order.

35. In sum, I have determined that information withheld pursuant to exemption (b)(1) has been properly withheld because its disclosure could identify CIA sources, methods, and activities. The redacted information includes code words, locations, names of covert personnel, as well as references to classified Agency programs, functions, assets, and activities unrelated to the September 2012 attacks.

36. *Code Words*. As mentioned, some of the redacted information consists of code words. The use of code words is an intelligence method whereby words and letter codes are substituted for actual names, identities, or programs in order to protect intelligence sources and methods. Specifically, the CIA and other federal agencies use code words in cables and other correspondence to disguise the true name of a person or entity of operational intelligence interest, such as a source, a field installation, or a covert program.

37. When obtained and matched to other information, code words possess a great deal of meaning for someone able to fit them into the proper framework. For example, the reader of a message is better able to assess the value of its contents if

the reader can identify a source or an intelligence activity by the code word. By using these code words, the CIA and other federal agencies add an extra measure of security, minimizing the damage that would flow from an unauthorized disclosure of intelligence information. The disclosure of code words – especially in context or in the aggregate – can permit foreign intelligence services and other groups to fit disparate pieces of information together to discern or deduce the identity of the source or nature of the project or location for which the code word stands, thereby compromising intelligence operations and impairing the national security of the United States.

38. *Covert Personnel.* Some of the redacted information contains the names of covert CIA personnel.⁴ The CIA considers the identities of its undercover employees and their activities to constitute intelligence sources and methods. In order to carry out its mission of gathering and disseminating intelligence, the CIA places certain employees undercover to protect the fact, nature, and details of the Agency's interest in foreign activities as well as the intelligence sources and methods employed to assist in those activities. Disclosing the identity of a covert employee could expose the intelligence activities with which the employee has been involved and the

⁴ See, e.g., IG Documents (C06354620) at page 11.

sources with whom the employee has had contact. Additionally, disclosing the identity of a covert employee could jeopardize the safety of the employee, his or her family, his or her sources, and even other persons with whom he or she has had contact.

39. As such, disclosure of this information could reasonably be expected to result in serious damage to national security.

B. Exemption (b) (3)

40. Exemption (b) (3) protects information that is specifically exempted from disclosure by statute. To justify withholding under exemption (b) (3), a statute must either (i) require that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establish particular criteria for withholding or refer to particular types of matters to be withheld. 5 U.S.C. § 552(b) (3).

41. Section 6 of the Central Intelligence Agency Act of 1949, as amended, 50 U.S.C. § 3507 (the "CIA Act"), provides that the CIA shall be exempted from the provisions of "any other law" (in this case, FOIA) which requires the publication or disclosure of, the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency. Accordingly, under Section 6, the CIA is exempt from disclosing information relating to employees' names and personal

identifiers. The CIA Act therefore constitutes a federal statute that "establish[es] particular criteria for withholding or refer[s] to particular types of matters to be withheld" and is well-established as a qualifying withholding statute under exemption (b) (3). 5 U.S.C. § 552(b) (3). The documents at issue contain information concerning the organization, names, or official titles of personnel employed by the CIA, the disclosure of which the CIA Act expressly prohibits.

42. Although the CIA Act's exemptions from disclosure of certain information do not expressly require the CIA to identify or describe the damage to national security that reasonably could be expected to result from their unauthorized disclosure, the withheld information that is covered by the CIA Act similarly relates to intelligence activities, sources, and methods covered by the Executive Order for classified information. Therefore, the damage to national security that reasonably could be expected to result from the unauthorized disclosure of information relating to the identities and functions of CIA personnel is co-extensive with the damage that reasonably could be expected to result from the unauthorized disclosure of classified information.

43. Additionally, Section 102A(i) (1) of the National Security Act of 1947, as amended, 50 U.S.C. § 3024 (the "National Security Act"), which provides that the Director of

National Intelligence ("DNI") "shall protect intelligence sources and methods from unauthorized disclosure," applies to certain responsive records. As an initial matter, the National Security Act is likewise a well-recognized exemption (b)(3) withholding statute that 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 direction of the DNI pursuant to section 102A of the National Security Act, as amended, and in accordance with section 6 of the CIA Act of 1949, as amended, and sections 1.6(b) and 1.6(d) of Executive Order 12333,⁵ the Director of the CIA is responsible for protecting CIA intelligence sources and methods from unauthorized disclosure. Accordingly, the CIA relies on the National Security Act as well as the CIA Act to withhold information that would reveal intelligence sources and methods and their application by Agency personnel.

44. The National Security Act's statutory requirement to protect intelligence sources and methods does not require the CIA to identify or describe the damage to national security that reasonably could be expected to result from their unauthorized

⁵ Section 1.6(d) of Executive Order 12333, as amended by Executive Order 13470 (July 30, 2008) requires the Director of the Central Intelligence Agency to "[p]rotect intelligence and intelligence sources, methods, and activities from unauthorized disclosure"

disclosure. Nonetheless, in this case, the protections of the National Security Act apply to the same information for which exemption (b) (1) was asserted to protect code words and names of covert personnel. As indicated above, although no harm rationale is required, the release of this information is reasonably likely to significantly impair the CIA's ability to carry out its core missions of gathering and analyzing intelligence.

C. Exemption (b) (6)

45. I have also determined that certain information must be withheld pursuant to FOIA exemption (b) (6). 5 U.S.C.

§ 552(b) (6) exempts from disclosure:

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

46. Therefore, in addition to withholding the names of CIA officers pursuant to the CIA Act, the CIA has also asserted exemption (b) (6) to withhold CIA officers' and contractors' names. The disclosure of this information would constitute a clearly unwarranted invasion of personal privacy and has been properly withheld under exemption (b) (6).

47. When withholding information pursuant to exemption (b) (6) the Agency must balance the privacy interests of the individuals mentioned in these records against any public

interest in disclosure. In asserting these exemptions, each item of information was examined to determine the nature and strength of the privacy interest of every individual whose name and/or identifying information appears in the documents at issue. In each instance where information was withheld, it was determined that individual privacy rights outweighed the public interest.

48. The publicity associated with the release of a CIA employee's identity in connection with a particular investigation could trigger hostility towards that particular individual and potentially jeopardize ongoing and future investigations by the IG. As a result, they maintain substantial privacy interest in not having their identities disclosed.⁶ In contrast, there is no public interest to be served by disclosing the identities of the CIA personnel to the public because their identities would not significantly increase the public's understanding of the CIA's operations and activities. Thus, disclosure of this information would constitute a clearly unwarranted invasion of these employees' personal privacy.

⁶ Indeed, the Agency took steps to redact personal identifying information both in an internal communication from the IG to Director Petraeus and in the IG's response to the U.S. Senate Select Committee on Intelligence. See IG Documents (C06354620) at 1 ("I have redacted any identifying information regarding the officer"), 7 ("I have redacted the officer's identity").

49. The CIA concluded that the information should be withheld under exemption (b)(6) and determined that the individual's privacy interests were not outweighed by any public interest in disclosure. As noted above, CIA conducted a page-by-page and line-by-line review to identify all non-exempt information, and every effort has been made to release all segregable information contained in these records without invading the privacy interests of these individuals.

D. Exemption (b)(7)

50. Certain records and information generated by CIA's OIG were "compiled for law enforcement purposes" within the meaning of Exemption 7.

51. Exemption 7 protects:

Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information ... (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy [or] (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local or foreign agency or authority or any private institute which furnished information on a confidential basis and, in the case of a record or information compiled by a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source.

52. With respect to exemption (b)(7)(C), much of the analysis is duplicative of exemption (b)(6), which is discussed above. Although the balancing test for exemption (b)(6) uses a

"would constitute a clearly unwarranted invasion of personal privacy" standard, and the test for (b)(7)(C) uses the lower standard of "could reasonably be expected to constitute an unwarranted invasion of personal privacy," the analysis and balancing required by both exemptions is sufficiently similar to warrant a consolidated discussion. The privacy interests are balanced against the public's interest in disclosure under the analysis of both exemptions. Therefore, for additional analysis of exemption (b)(7)(C), please refer to Part V-C above.

53. With respect to exemption (b)(7)(D), the CIA has asserted this exemption to protect information provided by confidential sources to the OIG in the course of its investigation.

54. The OIG is charged with providing objective and independent oversight into the programs and operations of the CIA. Here, the OIG opened an investigation pertaining to the September 2012 attacks in Benghazi, Libya. As a matter of Agency policy, the OIG does not disclose the identities of persons it interviews⁷ or the substance of their statements unless such disclosure is determined to be necessary for the full reporting of a matter or the fulfillment of other OIG or

⁷Moreover, where interviewees are CIA employees, as was the case here, the CIA Act precludes disclosure of the identities of the interviewed employee as well as referenced names and titles of other Agency employees. See *supra*, ¶ 41.

Agency responsibilities. Pursuant to Agency policy, all interviewees were under an express or implied promise of confidentiality. The OIG shared this information to the extent necessary for law enforcement purposes. These documents contain details that would tend to identify the parties by virtue of their position in the Agency or their role in, or knowledge of, the underlying events.

55. Exemption (b)(7)(D) requires no showing of harm, or balancing of privacy and public interests. However, the performance of the OIG's mission to conduct independent investigations is heavily reliant upon its access to unfiltered information provided by confidential sources. Disclosure of the sources and the information provided would severely compromise the OIG's ability to perform those duties. Accordingly, CIA has asserted exemption (b)(7)(D) to protect OIG investigators' interview notes and memoranda.

56. Therefore, for the reasons set forth above, the IG Documents are withheld in part pursuant to exemptions (b)(1) and (b)(3), and, to the extent that they are personally-identifying, exemptions (b)(6) and (b)(7)(C). These documents are further withheld pursuant to exemption (b)(7)(D).

VI. CIA'S GLOMAR DETERMINATION IS PROPER.

57. Section 3.6(a) of Executive Order 13526 provides the authority for the CIA to issue a response neither confirming nor

denying the existence or nonexistence of requested records, also known as a "Glomar" response, in response to requests for information submitted pursuant to the FOIA. Specifically, Section 3.6(a) provides that: "An agency may refuse to confirm or deny the existence or nonexistence of requested records whenever the fact of their existence or nonexistence is itself classified under this order or its predecessors."

58. Plaintiffs' FOIA requests present just such a circumstance, wherein the mere confirmation or denial of the existence or nonexistence of responsive records would itself reveal a classified fact - namely, whether CIA has or had an intelligence interest in Colonel Muammar Gaddafi's possible abdication, exile, or truce, as well as any intelligence interest in General Abdulqader Yusef Dibri as it pertains to Gaddafi's possible abdication, exile, or truce. Therefore, with respect to Items 2(a) and (d) of Plaintiffs' October FOIA Request, CIA properly issued a Glomar response.

59. The CIA is charged with carrying out a number of important functions on behalf of the United States, which include, among other activities, collecting and analyzing foreign intelligence and counterintelligence. A defining characteristic of the CIA's intelligence activities is that they are typically carried out through clandestine means, and therefore, they must remain secret in order to be effective. In

the context of FOIA, this means that the CIA must carefully evaluate whether its response to a particular FOIA request could jeopardize the clandestine nature of its intelligence activities or otherwise reveal previously undisclosed intelligence information, including but not limited to, its sources, capabilities, authorities, interests, strengths, weaknesses, and resources.

60. In a typical scenario, a FOIA requester submits a request to the CIA for information on a particular subject and the CIA conducts a search of records subject to the FOIA reasonably calculated to uncover responsive records, and advises whether responsive records were located. If records are located, the CIA provides the non-exempt records or reasonably segregable non-exempt portions of records. In this typical circumstance, the CIA's response - either to provide or not provide the records sought - actually confirms the existence or nonexistence of CIA records on the subject of the request. Typically, this confirmation neither threatens the national security nor reveals intelligence sources and methods because the mere fact that the CIA possesses or does not possess records is not itself a classified fact.

61. In other cases, the confirmation or denial of the existence or nonexistence of other responsive records would itself reveal a classified fact: namely, whether the CIA has an

intelligence interest in, or clandestine connection to, a particular individual or activity. In those cases, the CIA asserts a Glomar response because the existence or nonexistence of CIA records responsive to the request is a currently and properly classified fact, the disclosure of which reasonably could be expected to cause damage to the national security.

62. Thus, acknowledging the existence or nonexistence of such records necessarily would disclose at minimum the CIA's association with or intelligence interest, or lack thereof, in the expressed interest in a truce or possible abdication and exile out of Libya of Muammar Gaddafi. Disclosure of whether CIA was involved or not in these alleged specific intelligence activities and interests would reveal information concerning the reach, locations, and capabilities or limitations of CIA's clandestine intelligence activities and operations.

63. The release of such information would provide CIA's adversaries with insight on how the CIA might or might not choose to focus its intelligence activities, including, for example, whether the CIA has or had any affiliation with Muammar Gaddafi or Abdulqader Yusef Dibri.

64. Additionally, if the CIA were to provide responses either confirming or denying that it possesses records concerning any particular individual, in this case Muammar Gaddafi or Abdulqader Yusef Dibri, these admissions, in addition

to revealing information about the CIA's specific intelligence interests or activities, would endanger human intelligence sources. Such responses, therefore, reasonably could be expected to cause serious damage to U.S. national security.

65. To be credible and effective, the CIA must assert a Glomar response consistently in all cases where the existence or nonexistence of responsive records is itself a classified fact, including in those cases in which the CIA does not possess records responsive to a particular request. If the CIA were to invoke a Glomar response only when it actually possessed responsive records, the Glomar response would be interpreted as an admission that responsive records exist. This practice would reveal the very information that the CIA must protect in the interest of national security.

66. Therefore, the CIA asserted Glomar responses to Item Numbers 2(a) and (d) of Plaintiffs' October FOIA Request because the existence or nonexistence of CIA records responsive to these requests is a currently and properly classified fact, the disclosure of which reasonably could be expected to cause damage to the national security. The fact of the existence or nonexistence of records responsive to Plaintiffs' FOIA request is currently and properly exempt from release under FOIA exemptions (b)(1) and (b)(3).

67. With respect to exemption (b)(1) and consistent with sections 1.1(a) and 3.6(a) of Executive Order 13526, I have determined that the existence or nonexistence of the requested records is a currently and properly classified fact that concerns "intelligence activities" and "intelligence sources and methods" under section 1.4(c) of the Executive Order; the requested records are owned by and under the control of the U.S. Government; and the unauthorized disclosure of the existence or nonexistence of requested records reasonably could be expected to result in serious damage to national security.

68. My determination that the existence or nonexistence of the requested records is classified has not been made to conceal violations of law, inefficiency, or administrative error; to prevent embarrassment to a person, organization, or agency; to restrain competition; or to prevent or delay the release of information that does not require protection in the interests of national security.

69. With respect to exemption (b)(3), confirming or denying the existence or nonexistence of records responsive to Item Numbers 2(a) and (d) of Plaintiffs' October FOIA Request would reveal information concerning intelligence activities and interests that the National Security Act and CIA Act require CIA to protect.


70. Accordingly, the fact of the existence or nonexistence of records that would reflect a classified connection to the CIA is exempt from disclosure under FOIA exemption (b)(3) pursuant to both the National Security Act and the CIA Act. Although these statutes do not require the CIA to identify and describe the damage to the national security that reasonably could be expected to result should the CIA confirm or deny the existence or nonexistence of records reflecting a classified connection between the CIA and the subject of the FOIA request, I nonetheless refer the Court to the paragraphs above for a description of the damage to the national security should anything other than a Glomar response be required of the CIA in this instance.

71. In sum, for CIA to officially confirm or deny the existence or nonexistence of the requested records would reveal classified national security information that concerns intelligence activities, and intelligence sources and methods. I have determined that such a revelation could be expected to cause serious damage to U.S. national security. Accordingly, I have determined that the fact of the existence or nonexistence of records responsive to Items 2(a) and (d) of Plaintiffs' October FOIA Request is currently and properly classified and exempt from release under FOIA exemptions (b)(1) and (b)(3).

* * *

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

Executed this 10th day of May 2018.



Antoinette B. Shiner
Information Review Officer
Litigation Information Review Office
Central Intelligence Agency

EXHIBIT A

F-2014-00953

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 24, 2014

By Certified Mail — Return Receipt Requested
Article Number 7010 3090 0000 0316 6512

FOIA REQUEST

Information and Privacy Coordinator
Central Intelligence Agency
Washington, D.C. 20505

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 eight
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, (5) Clare Lopez, (6) James A. Lyons, Jr., (7) Kevin Shipp, and (8) Wayne
Simmons.

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

1. All records of whatsoever nature regarding (1) the Benghazi Special
Mission Compound or "Ambassador's compound" or "Benghazi Mission"
and (2) the 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 Mission and the CIA Annex.
Responsive records include those that disclose:

MAR 04 2014

- (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 Mission;
 - (2) The descriptions and inventories of all weapons brought into the Annex, including small arms, ammunition, and man-portable air defense systems, or Manpads, and missiles;
 - (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 out of Libya, bound for Syria, thorough Turkey, Qatar, Saudi Arabia, Qatar, or Jordan;
 - (6) All communication and cryptographic equipment at the CIA Annex and Benghazi Mission;
 - (7) The weaponry, communication, cryptographic equipment, and electronic or paper files, left in the Annex and Benghazi Mission 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 Mission in Benghazi, Libya (including the Special Mission Compound and the CIA 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. 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. 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. All records of CIA Director David Petraeus' actions and communications for the 24-hour period beginning when first notified that the Benghazi Mission was under attack. Responsive records include:
 - (1) All records generated by Director Petraeus, 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 CIA Director's actions and communications.
6. All records of Deputy CIA Director Michael Morell actions and communications for the 24-hour period beginning when first notified that the Benghazi Mission was under attack. Responsive records include:
 - (1) All records generated by Deputy CIA Director Morell, 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 CIA Deputy Director's actions and communications.
7. Any records reflecting the time, and substance, of the President's first notification that the Benghazi Mission was under attack, and his actions, and communications, for the next 24 hours.
8. 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. 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.
10. All correspondence to or from Ambassador Stevens on September 10th and 11th, 2012.
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.
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.
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.
15. Records of the video teleconference on the afternoon of the September 16th, 2012, between the FBI and other IC officials in Washington, regarding FBI interviews with U.S. personnel who had been on the compounds in Benghazi during the attack. For your reference, the following is an excerpt from the December 30, 2012, Senate Committee On Homeland Security And Governmental Affairs. "Flashing Red: A Special Report On The Terrorist Attack At Benghazi:"

On September 15th and 16th, officials from the FBI conducted face-to-face interviews in Germany of the U.S. personnel who had been on the compound in Benghazi during the attack. The U.S. personnel who were interviewed saw no indications that there had been a protest prior to the attack. Information from those interviews was shared on a secure video teleconference on the afternoon of the 16th with FBI and other IC officials in Washington; it is unclear whether the question of whether a protest took place was discussed during this video conference.

16. Non-Disclosure Agreements signed by survivors of the Benghazi attacks, including employees or contractors of the CIA or DOD.

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). In July of 2007, the CIA adopted new regulations. 32 C.F.R. § 1900.02, *Definitions*, states, in part:

- (3) *Representative of the news media* means a request from an individual actively gathering news for an entity that is organized and operated to publish and broadcast news to the American public and pursuant to their news dissemination function and not their commercial interests; the term *news* means information which concerns current events, would be of current interest to the general public, would enhance the public understanding of the operations or activities of the U.S. Government, and is in fact disseminated to a significant element of the public at minimal cost; freelance journalists are included in this definition if they can demonstrate a solid basis for expecting publication through such an organization, even though not actually employed by it; a publication contract or prior publication record is relevant to such status;

AIM is organized and operated to publish or broadcast news to the public, and has been doing so for more than 40 years. It clearly meets the standard of "representative of the news media" status. A "representative of the news media" is "a person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience." *Nat'l Sec. Archive v. Dep't of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989).

To meet FOIA's "member of the news media" status, a requestor must "use[] its editorial skills to turn the raw materials into a distinct work." *Nat'l Sec. Archive*, 880 F.2d at 1387. To be considered a representative of the news media for fee purposes, "a requester must establish that it has a firm intent to disseminate, rather than merely make available, the requested information." *Judicial Watch*, 185 F. Supp. 2d at 60 (citation and internal quotation marks omitted).

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 BenghaziGate," "Obama and His Media Loyalists Still Spinning Benghazi," and "Does Navy Map Alter the Benghazi Narrative?"

Additionally, several of the individual requesters have published a number of articles about the matter. 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).

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."

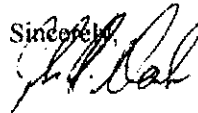
Here, the FOIA requesters do not have a commercial interest in the disclosure. Their purpose is to inform the public. The subject of the requested records concerns the operations or activities of the United States Government. The information sought is directed at finding out what information the government 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.

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

Accuracy in Media, Inc.
4350 East West Highway
Suite 555
Bethesda, MD 20814-4582

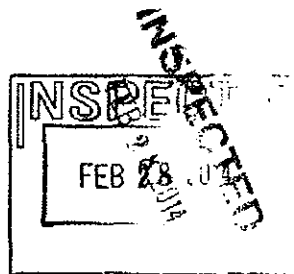


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FOIA REQUEST

Information and Privacy Coordinator
Central Intelligence Agency
Washington, D.C. 20505



RETURN RECEIPT
REQUEST

20505

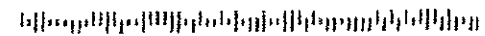


EXHIBIT B

Central Intelligence Agency



Washington, D.C. 20505

14 April 2014

John H. Clarke, Esq.
1629 K Street, NW
Suite 300
Washington, DC 20006

Reference: F-2014-00953

Dear Mr. Clarke:

On 4 March 2014, the office of the Information and Privacy Coordinator received your 24 February 2014 Freedom of Information Act (FOIA) request, submitted on behalf of Accuracy in Media, Inc., "Citizens Commission on Benghazi," for:

- "1. All records of whatsoever nature regarding (1) the Benghazi Special Mission Compound or 'Ambassador's compound' or 'Benghazi Mission' and (2) the CIA Annex for the time period of January 1st 2011, through September 30, 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 Mission and the CIA Annex. Responsive records include those that disclose:
 - (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 Mission;
 - (2) The descriptions and inventories of all weapons brought into the Annex, including small arms, ammunition, and man-portable air defense systems, or Manpads and missiles;
 - (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 out of Libya, bound for Syria, through Turkey, Qatar, Saudi Arabia, Qatar, or Jordan;
 - (6) All communication and cryptographic equipment at the CIA Annex and Benghazi Mission;


- (7) The weaponry, communication, cryptographic equipment, and electronic or paper files, left in the Annex and Benghazi Mission 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 Mission in Benghazi, Libya (including the Special Mission Compound and the CIA 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. 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. 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. All records of CIA Director David Petraeus' actions and communications for the 24-hour period beginning when first notified that the Benghazi Mission was under attack. Responsive records include:
 - (1) All records generated by Director Petraeus, 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 CIA Director's actions and communications.
 - 6. All records of Deputy CIA Director Michael Morell actions and communications for the 24-hour period beginning when first notified that the Benghazi Mission was under attack. Responsive records include:
 - (1) All records generated by Deputy CIA Director Morell, 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 CIA Deputy Director's actions and communications.

7. Any records reflecting the time, and substance, of the President's first notification that the Benghazi Mission was under attack, and his actions, and communications, for the next 24 hours.
8. 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. 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.
10. All correspondence to or from Ambassador Stevens on September 10th and 11th 2012.
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 Transnational 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
 - Mohammed 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.
 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.
 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.
 15. Records of the video teleconference on the afternoon of the September 16th, 2012, between the FBI and other IC officials in Washington, regarding FBI interviews with U.S. personnel who had been on the compounds in Benghazi during the attack...
 16. Non-Disclosure Agreements signed by survivors of the Benghazi attacks, including employees or contractors of the CIA or DOD."

Our officers will review your request and will advise you should they encounter any problems or if they cannot begin the search without additional information. We have assigned your request the reference number above. Please use this number when corresponding with us so that we can identify it easily.

Sincerely,

A handwritten signature in black ink, appearing to read "Michele Meeks", written in a cursive style.

Michele Meeks
Information and Privacy Coordinator

EXHIBIT C

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

August 5, 2014

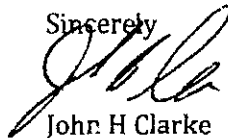
Ms. Michele Meeks
Information and Privacy Coordinator
CENTRAL INTELLIGENCE AGENCY
Washington, DC 20505

Re: February 24, 2014 FOIA Request
CIA Reference No. F-2014-00953
Acknowledgement of receipt: April 14, 2014
CIA denial of Expedited Processing: July 17, 2014
Administrative Appeal: July 25, 2014

Dear Ms Meeks:

Please note that the FOIA requesters hereby withdraw three of their requests, numbered seven, eight, and ten. Request 7 sought disclosure of "the President's first notification that the Benghazi Mission was under attack..." Request 8 sought disclosure of "records reflecting Ambassador Stevens' schedule on September 11, 2012," and Request 10 sought "correspondence to or from Ambassador Stevens on September 10th and 11th, 2012."

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

AUG 12 2014

Law Office
John H. Clarke
1629 K Street, NW
Suite 300
Washington, DC 20006

CAPITAL DISTRICT 2000/2006

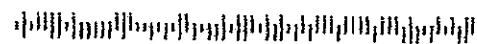
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Ms. Michele Meeks
Information and Privacy Coordinator
CENTRAL INTELLIGENCE AGENCY
Washington, DC 20505

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EXHIBIT D



Washington, D.C. 20505

18 September 2014

John H. Clarke, Esquire
1629 K Street, NW
Suite 300
Washington, DC 20006

Reference: F-2014-00953

Dear Mr. Clarke:

This is further to our 17 July 2014 letter concerning your 24 February 2014 Freedom of Information Act (FOIA) request, submitted on behalf of Accuracy in Media, Inc. "Citizens Commission on Benghazi," for:

- "1. All records of whatsoever nature regarding (1) the Benghazi Special Mission Compound or 'Ambassador's compound' or 'Benghazi Mission' and (2) the CIA Annex for the time period of January 1st 2011, through September 30, 2012. This request is inclusive for all records, however recorded, including emails, reports, memoranda, correspondence, teletypes, telephone calls, text messages, and audio and video recordings, regarding the uses of the Benghazi Mission and the CIA Annex. Responsive records include those that disclose:
 - (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 Mission;
 - (2) The descriptions and inventories of all weapons brought into the Annex, including small arms, ammunition, and man-portable air defense systems, or Manpads and missiles;
 - (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 out of Libya, bound for Syria, through Turkey, Qatar, Saudi Arabia, Qatar, or Jordan;
 - (6) All communication and cryptographic equipment at the CIA Annex and Benghazi Mission;
 - (7) The weaponry, communication, cryptographic equipment, and electronic or paper files, left in the Annex and Benghazi Mission 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 Mission in Benghazi, Libya (including the Special Mission Compound and the CIA 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. 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. 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. All records of CIA Director David Petraeus' actions and communications for the 24-hour period beginning when first notified that the Benghazi Mission was under attack. Responsive records include:
 - (1) All records generated by Director Petraeus, 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 CIA Director's actions and communications.
 6. All records of Deputy CIA Director Michael Morell actions and communications for the 24-hour period beginning when first notified that the Benghazi Mission was under attack. Responsive records include:
 - (1) All records generated by Deputy CIA Director Morell, 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 CIA Deputy Director's actions and communications.
 7. Any records reflecting the time, and substance, of the President's first notification that the Benghazi Mission was under attack, and his actions, and communications, for the next 24 hours.

8. 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. 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.
10. All correspondence to or from Ambassador Stevens on September 10th and 11th 2012.
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 Jabil, Interim Prime Minister of Libya and Chair of the Executive Board of the Transnational 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 and 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 and 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
 - Mohammed 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.
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.
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.
15. Records of the video teleconference on the afternoon of the September 16th, 2012, between the FBI and other IC officials in Washington, regarding FBI interviews with U.S. personnel who had been on the compounds in Benghazi during the attack...
16. Non-Disclosure Agreements signed by survivors of the Benghazi attacks, including employees or contractors of the CIA or DOD."

Per your earlier 5 August 2014 letter, we will not conduct a search for Items 7, 8, and 10 of your request.

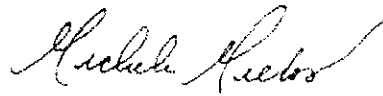
With regard to Part 1 of Item 2 of your request, we are currently processing a request for the same records from another requester. Once our research and review of that request are completed, we will forward to you the same CIA-originated records, if released. We have a substantial backlog, which we are working diligently to reduce, so we are unable to estimate when we will complete our review. However, we will notify you once the processing of the original request is complete.

With regard to those portions of Item 1 and Part 2 of Item 2 of your request pertaining to the "Benghazi Special Mission Compound," or "Ambassador's compound," or "Benghazi Mission," and Items 4, 9, and 11 of your request, the information you seek would fall under the auspices of the Department of State. With regard to those portions of Items 12, 13, and 16 of your request pertaining to the Department of Defense "or other intelligence community records," the information you seek would fall under the auspices of the Department of Defense or those specific agencies within the intelligence community you are interested in. With regard to Item 14 of your request, the information you seek would fall under the auspices of the Department of Homeland Security. With regard to the portion of Item 15 of your request pertaining to the "FBI and other IC officials in Washington," the information you seek would fall under the auspices of the FBI or those specific agencies within the intelligence community you are interested in. Please be aware that the CIA is not authorized to release records held by other government agencies.

With regard to those portions of your request pertaining to the CIA annex and the remaining items of your request, the CIA Information Act, 50 U.S.C. § 431, as amended, exempts CIA operational files from the search, review, publication, and disclosure requirements of the FOIA. To the extent your request seeks information that is subject to the FOIA, we accept your request, and we will process it in accordance with the FOIA, 5 U.S.C. § 552, as amended. Unless you object, we will limit our search to CIA records up to and including the date the Agency starts its search. We have reviewed your request for a fee waiver and determined that it meets the standard. Therefore, we will charge no fees associated with processing your request.

The large number of FOIA requests CIA receives has created unavoidable delays making it unlikely that we can respond within the 20 working days the FOIA requires. You have the right to consider our honest appraisal as a denial of your request and you may appeal to the Agency Release Panel. A more practical approach would permit us to continue processing your request and respond to you as soon as we can. You will retain your appeal rights and, once you receive the results of our search, can appeal at that time if you wish. We will proceed on that basis unless you object.

Sincerely,

A handwritten signature in black ink, appearing to read "Michele Meeks", with a stylized, flowing script.

Michele Meeks
Information and Privacy Coordinator

EXHIBIT E

UNCLASSIFIED

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

September 29, 2014

FOIA APPEAL

Ms. Michele Meeks
Information and Privacy Coordinator
CENTRAL INTELLIGENCE AGENCY
Washington, DC 20505

Re: February 24, 2014 FOIA Request
September 18, 2014 Denial of FOIA Requests
Reference No. F-2014-00953

Dear Ms. Meeks:

This is an appeal of the captioned denial. Kindly note that on the morning of September 19, 2014, I filed a lawsuit seeking disclosure of the requested records. Your letter, dated September 18, was postmarked on the afternoon of September 19. Thus, unless CIA counsel asserts that plaintiffs failed to exhaust their administrative remedies, and the court holds that the lawsuit was filed only after you responded, this Administrative Appeal may be moot.

You wrote that, "[w]ith regard to those portions of Item 1 and Part 2 of Item 2 of your request pertaining to the 'Benghazi Special Mission Compound,' or 'Ambassador's compound,' or 'Benghazi Mission,' and Items 4, 9, and 11 of your request, the information you seek would fall under the auspices of the Department of State." Part 1 of Request 1 seeks various records of concerning the Special Mission Compound ("SMC"). Request 4 seeks production of radio communications emanating from the Compound's Tactical Operations Center of the SMC on September 11th and 12th, 2012. Request 9 seeks records concerning Ambassador Stevens' meetings on September 11, 2012. Request 11 seeks disclosure of records generated between January of 2007 and September 11, 2012, regarding meetings between Tripoli Embassy officials and one or nine named individuals.

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Although much of this information sought does, in fact, fall under the auspices of the Department of State, the CIA is the proper Agency from which to seek disclosure. Because we believe that the SMC was established and maintained primarily to provide an excuse for CIA presence in Benghazi, we believe that the CIA is in possession of records sought in Request 1. We also believe that Ambassador Stevens' meetings on September 11 concerned CIA operations, and, so, the CIA would be the correct Agency from which to seek disclosure of records sought by Request 9. Similarly, because the meetings referenced in Request 11 were undertaken in furtherance of CIA operations to support Libyan rebels, the CIA, we believe, is in possession of records responsive to this Request.

Regarding Request 12, seeking disclosure of records shared with members of Congress regarding arms in Libya, Request 13 seeking intelligence community records of Congressional approval for CIA transport of arms to Syrian rebel forces, and Request 16 for Non-Disclosure Agreements signed by survivors of the Benghazi attacks, you responded that these records "would fall under the auspices of the Department of Defense or those specific agencies within the intelligence community." We do not believe that this is so. We agree that "the CIA is not authorized to release records held by other government agencies." However, to the extent that the CIA is in possession of these records, they are properly the subject of a FOIA request, and CIA is required to coordinate with, or refer to, other agencies prior to disclosure.

In response to Request 14, seeking "John Brennan's recommendations regarding the overthrow of Libyan leader Muammar Gaddafi," you wrote that "the information you seek would fall under the auspices of the Department of Homeland Security." Although we do not agree, we hereby withdraw Request 14.

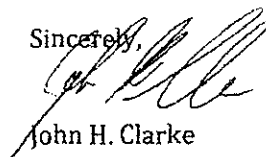
Regarding Request 15, seeking records of the "video teleconference on the afternoon of the September 16th, 2012, between the FBI and other IC officials in Washington, regarding FBI interviews with U.S. personnel who had been on the compounds in Benghazi during the attack," you wrote that "the information you seek would fall under the auspices of the FBI or those specific agencies within the intelligence community you are interested in," and that "the CIA is not authorized to release records held by other government agencies." Please be advised that the CIA is the "specific agenc[y] within the intelligence community... [that we] are interested in." And, again, to the extent that the CIA is in possession of these records, they are properly the subject of a FOIA request, and CIA is required to coordinate with, or refer to, other agencies prior to CIA disclosure.

Lastly, you wrote that "[w]ith regard to those portions of your request pertaining to the CIA annex and the remaining items of your request, the CIA Information Act, 50 U.S.C. § 431, as amended, exempts CIA operational files from the search, review, publication, and disclosure requirements of the FOIA." While this statement is accurate, that statute, "Operational files of the Central Intelligence Agency," also contains exceptions. *See, e.g.*, 50 U.S.C. § 431(c)(3):

[E]xempted operational files shall continue to be subject to search and review for information concerning *** the specific subject matter of an investigation by the congressional intelligence committees, the Intelligence Oversight Board, the Department of Justice, the Office of General Counsel of the Central Intelligence Agency, the Office of Inspector General of the Central Intelligence Agency, or the Office of the Director of National Intelligence for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity.

We believe that much of the information requested falls within one or more exceptions under 50 U.S.C. § 431.

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

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UNCLASSIFIED

UNCLASSIFIED

Law Office
John H. Clarke
1629 K Street, NW
Suite 300
Washington, DC 20006

CAPITAL DISTRICT 200/208

29 SEP 2014 PM 11



FOIA APPEAL

Ms. Michele Meeks
Information and Privacy Coordinator
CENTRAL INTELLIGENCE AGENCY
Washington, DC 20505

INSPECTED
OCT 03 2014

20505



EXHIBIT F

Central Intelligence Agency



Washington, D.C. 20505

28 February 2017

John H. Clarke
1629 K Street, NW
Suite 300
Washington, DC 20006

Re: F-2014-00953; 14-cv-01589

Dear Mr. Clarke:

This letter is in response to the 24 February 2014 Freedom of Information Act (FOIA) request that you submitted on behalf of your client, Accuracy in Media, Inc., that was most recently narrowed in the Motion filed on 22 July 2016 to the following items:

“• Survivor’s accounts. Complaint ¶ 136:

3. 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.

This request is narrowed to specify identify only Memorandum for the Record, prepared by the Deputy Chief of Base "Events of 11-12 SEP 2012 at Benghazi Base, Libya," September 19, 2012. That record is cited on page 5, footnote13, of the January 15, 2014. U.S. Senate Select Committee on Intelligence Review of the Terrorist Attacks on U.S. Facilities in Benghazi, Libya, September 11-12, 2012:

According to informal notes obtained from the CIA, the security team left for the Annex [sic] without the formal approval of the Chief of Base, see attachments to e-mail from CIA staff [redacted] to CIA staff [redacted] September 23, 2012. However, a Memorandum for the Record prepared by the Deputy Chief of Base specifically states that the Chief "authorized the move" and the Chief told the Committee: "We launched QRF [Quick Reaction Force] as soon as possible down to the State [Department] compound." Memorandum for the Record, "Events of 11 - 12 SEP 2012 at Benghazi Base, Libya," September 19, 2012, p. 1

- Contemporaneous records generated by CIA Director and Deputy Director.
Complaint ¶ 136:

5, 6. All records of CIA Director David Petraeus" [and Deputy CIA Director Michael Morell's actions and communications for the 24-hour period beginning when first notified that the Benghazi Mission was under attack. Responsive records include:

- (1) All records generated by Director Petraeus, [and Deputy Director Morell] 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 CIA Director's [and Deputy Director's] actions and communications.

These two items are narrowed to omit "telephone logs or bills" and "records generated by anyone about" the actions and communications.

Fourth item at issue

- Non-Disclosure Agreements. Complaint ¶ 136:

16. Non-Disclosure Agreements signed by survivors of the Benghazi attacks, including employees or contractors of the CIA or DOD."

We processed the request in accordance with the FOIA, 5 U.S.C. § 552, as amended, and the National Security Act, 50 U.S.C. § 3141, as amended.

We completed a thorough search for records responsive to the request and located sixty nine (69) responsive documents. At this time, we have determined that forty four (44) documents can be released in segregable form with redactions made on the basis of FOIA exemptions (b)(1), (b)(3), (b)(5), and (b)(6). We have also determined that twenty three (23) documents must be denied in their entirety on the basis of FOIA exemptions (b)(1), (b)(3), (b)(5), and (b)(6). Exemption (b)(3) pertains to Section 6 of the Central Intelligence Agency Act of 1949, 50 U.S.C. § 3507, noted as exemption "(b)(3)CIAAct" on the enclosed documents, and/or Section 102A(i)(1) of the National Security Act of 1947, 50 U.S.C § 3024(i)(1), noted as exemption "(b)(3)NatSecAct" on the enclosed documents. We are still coordinating the review of two (2) documents and will release those to you once all equity holders have responded.

Sincerely,



Allison Fong
Acting Information and Privacy Coordinator

Enclosures

EXHIBIT G

Central Intelligence Agency



Washington, D.C. 20505

3 March 2017

John H. Clarke
1629 K Street, NW
Suite 300
Washington, DC 20006

Re: F-2014-00953; 14-cv-01589

Dear Mr. Clarke:

This letter is a follow-up response to your 24 February 2014 Freedom of Information Act (FOIA) request that you submitted on behalf of your client, Accuracy in Media, Inc., that was most recently narrowed in the Motion filed on 22 July 2016 to the following items:

• Survivor's accounts. Complaint ¶ 136:

3. 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.

This request is narrowed to specify identify only Memorandum for the Record, prepared by the Deputy Chief of Base "Events of 11-12 SEP 2012 at Benghazi Base, Libya," September 19, 2012. That record is cited on page 5, footnote 13, of the January 15, 2014, U.S. Senate Select Committee on Intelligence Review of the Terrorist Attacks on U.S. Facilities in Benghazi, Libya, September 11-12, 2012:

According to informal notes obtained from the CIA, the security team left for the Annex [sic] without the formal approval of the Chief of Base, see attachments to e-mail from CIA staff [redacted] to CIA staff [redacted] September 23, 2012. However, a Memorandum for the Record prepared by the Deputy Chief of Base specifically states that the Chief "authorized the move" and the Chief told the Committee: "We launched QRF [Quick Reaction Force] as soon as possible down to the State [Department] compound." Memorandum for the Record, "Events of 11 - 12 SEP 2012 at Benghazi Base, Libya," September 19, 2012, p. 1

- Contemporaneous records generated by CIA Director and Deputy Director.
Complaint ¶ 136:

5, 6. All records of CIA Director David Petraeus" [and Deputy CIA Director Michael Morell's actions and communications for the 24-hour period beginning when first notified that the Benghazi Mission was under attack. Responsive records include:

- (1) All records generated by Director Petraeus, [and Deputy Director Morell] 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 CIA Director's [and Deputy Director's] actions and communications.

These two items are narrowed to omit "telephone logs or bills" and "records generated by anyone about" the actions and communications.

Fourth item at issue

- Non-Disclosure Agreements. Complaint ¶ 136:

16. Non-Disclosure Agreements signed by survivors of the Benghazi attacks, including employees or contractors of the CIA or DOD."

We processed the request in accordance with the FOIA, 5 U.S.C. § 552, as amended, and the National Security Act, 50 U.S.C. § 3141, as amended.

We completed a thorough search for records responsive to the request and located sixty nine (69) responsive documents. On 28 February 2017, we produced forty four (44) documents in segregable form and denied twenty three (23) documents in their entirety. At this time, two (2) remaining documents can be released in segregable form with redactions made on the basis of FOIA exemptions (b)(3), (b)(5), and (b)(6). Exemption (b)(3) pertains to Section 6 of the Central Intelligence Agency Act of 1949, 50 U.S.C. § 3507, noted as exemption "(b)(3)CIAAct" on the enclosed documents, and/or Section 102A(i)(1) of the National Security Act of 1947, 50 U.S.C. § 3024(i)(1), noted as exemption "(b)(3)NatSecAct" on the enclosed documents.

This concludes our response to the above referenced request.

Sincerely,



Allison Fong
Acting Information and Privacy Coordinator

Enclosures

EXHIBIT H

F-2015 - 00060

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

October 1, 2014

By Certified Mail—Return Receipt Requested
Article Number 7013 3020 0000 7279 3730

FOIA REQUEST

Information and Privacy Coordinator
Central Intelligence Agency
Washington, D.C. 20505

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, (5) Clare Lopez, (6) James A. Lyons, Jr., and (7) Kevin Shipp.

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

1. Any and all reports, memoranda, correspondence, maps, diagrams, charts, printouts, whether or not recorded electronically, regarding allegations that Executive Branch personnel deleted, destroyed, erased, obliterated, or obscured, records of CIA activities in Libya in the aftermath of the September 11 and 12, 2012 attacks in Benghazi, Libya, including but not limited to records in possession of the CIA Office of Inspector General.

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2. Records of all communications generated in March of 2011 regarding Colonel Muammar Gaddafi's expressed interest in a truce and possible abdication and exile out of Libya, by or to:
 - (a) Head of Qaddafi's personal security General Abdulqader Yusef Dibri;
 - (b) Rear Admiral (ret.) Chuck Kubic;
 - (c) AFRICOM personnel, including but not limited to:
 - (i) General Carter Ham; and
 - (ii) Lieutenant Commander Brian Linvill; and
 - (d) The CIA.

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). In July of 2007, the CIA adopted new regulations. 32 C.F.R. § 1900.02, *Definitions*, states, in part:

- (3) *Representative of the news media* means a request from an individual actively gathering news for an entity that is organized and operated to publish and broadcast news to the American public and pursuant to their news dissemination function and not their commercial interests; the term *news* means information which concerns current events, would be of current interest to the general public, would enhance the public understanding of the operations or activities of the U.S. Government, and is in fact disseminated to a significant element of the public at minimal cost; freelance journalists are included in this definition if they can demonstrate a solid basis for expecting publication through such an organization, even though not actually employed by it; a publication contract or prior publication record is relevant to such status;

AIM is organized and operated to publish or broadcast news to the public, and has been doing so for more than 40 years. It clearly meets the standard of "representative of the news media" status. A "representative of the news media" is "a person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience." *Nat'l Sec. Archive v. Dep't of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989).

To meet FOIA's "member of the news media" status, a requestor must "use[] its editorial skills to turn the raw materials into a distinct work." *Nat'l Sec. Archive*, 880 F.2d at 1387. To be considered a representative of the news media for fee purposes, "a requester must establish that it has a firm intent to disseminate, rather than merely make available, the requested information." *Judicial Watch*, 185 F. Supp. 2d at 60 (citation and internal quotation marks omitted).

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 Benghazigate," "Obama and His Media Loyalists Still Spinning Benghazi," and "Does Navy Map Alter the Benghazi Narrative?"

Additionally, several of the individual requesters have published a number of articles about the matter. 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).

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."

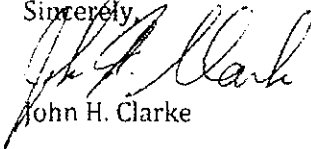
Here, the FOIA requesters do not have a commercial interest in the disclosure. Their purpose is to inform the public. The subject of the requested records concerns the operations or activities of the United States Government. The information sought is directed at finding out what information the government 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.

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

Law Office
John H. Clarke
1629 K Street, NW
Suite 300
Washington, DC 20006

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

CERTIFIED MAIL



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Information and Privacy Coordinator
Central Intelligence Agency
Washington, D.C. 20505



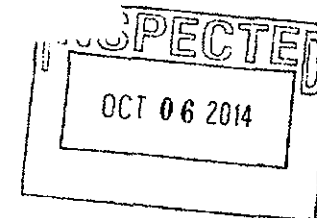
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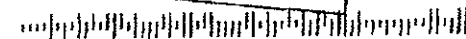


EXHIBIT I

Central Intelligence Agency



Washington, D.C. 20505

3 November 2014

John H. Clarke, Esq.
1629 K Street, NW
Suite 300
Washington, DC 20006

Reference: F-2015-00060

Dear Mr. Clarke:

On 7 October 2014, the office of the Information and Privacy Coordinator received your 1 October 2014 Freedom of Information Act (FOIA) request, submitted on behalf of your clients, Accuracy in Media, Inc., and seven individuals, all whom serve as members of the "Citizens Commission on Benghazi, for:

- "1. Any and all reports, memoranda, correspondence, maps, diagrams, charts, printouts, whether or not recorded electronically, regarding allegations that Executive Branch personnel deleted, destroyed, erased, obliterated, or obscured, records of CIA activities in Libya in the aftermath of the September 11 and 12, 2012 attacks in Benghazi, Libya, including but not limited to records in the possession of the CIA Office of Inspector General.
2. Records of all communications generated in March of 2011 regarding Colonel Muammar Gaddafi's expressed interest in a truce and possible abdication and exile out of Libya, by or to:
 - (a) Head of Qaddafi's personal security General Abdulqader Yusef Dibri;
 - (b) Rear Admiral (ret.) Chuck Kubic;
 - (c) AFRICOM personnel, including but not limited to:
 - (i) General Carter Ham; and
 - (ii) Lieutenant Commander Brian Linvill; and
 - (d) The CIA."

We have assigned your request the reference number above. Please use this number when corresponding so that we can identify it easily.

Our officers will review your request and will advise you should they encounter any problems or if they cannot begin the search without additional information. We have assigned your request the reference number above. Please use this number when corresponding with us so that we can identify it easily.

Sincerely,

A handwritten signature in black ink, appearing to read "JG", followed by a horizontal line.

John Giuffrida
Acting Information and Privacy Coordinator

EXHIBIT J

Central Intelligence Agency



Washington, D.C. 20505

30 September 2015

John H. Clarke
1629 K Street, NW
Suite 300
Washington, DC 20006

Re: F-2015-00060; 14-cv-1589

Dear Mr. Clarke:

This letter is in response to your 1 October 2014 Freedom of Information Act (FOIA) request for:

- "1. Any and all reports, memoranda, correspondence, maps, diagrams, charts, printouts, whether or not recorded electronically, regarding allegations that Executive Branch personnel deleted, destroyed, erased, obliterated, or obscured, records of CIA activities in Libya in the aftermath of the September 11 and 12, 2012 attacks in Benghazi, Libya, including but not limited to records in the possession of the CIA Office of Inspector General.
2. Records of all communications generated in March of 2011 regarding Colonel Muammar Gaddafi's expressed interest in a truce and possible abdication and exile out of Libya, by or to:
 - (a) Head of Qaddafi's personal security General Abdulqader Yusef Dibri;
 - (b) Rear Admiral (ret.) Chuck Kubic;
 - (c) AFRICOM personnel, including but not limited to:
 - (i) General Carter Ham; and
 - (ii) Lieutenant Commander Brian Linvill; and
 - (d) The CIA."

We processed your request in accordance with the FOIA, 5 U.S.C. § 552, as amended, and the National Security Act, 50 U.S.C. § 3141, as amended.

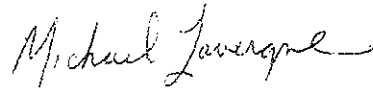
With regard to Item 1, we completed a thorough search for records responsive to your request and located twenty (20) documents. Eight (8) documents can be released in segregable form with redactions made on the basis of FOIA exemptions (b)(1), (b)(3), (b)(5), (b)(6), (b)(7)(c), (b)(7)(d), and (b)(7)(e). In addition, it has been determined that twelve (12) documents must be denied in their entirety on the basis of FOIA exemptions (b)(1), (b)(3), (b)(5), (b)(6), (b)(7)(c), and (b)(7)(d). Exemption (b)(3) pertains to Section 6 of the Central Intelligence Agency Act of 1949, 50 U.S.C. § 3507, noted as exemption "(b)(3)CIAAct" on the enclosed documents, and/or Section 102A(i)(1) of the National Security Act of 1947, 50 U.S.C. § 3024(i)(1), noted as exemption "(b)(3)NatSecAct" on the enclosed documents.

With regard to Items 2 (a) and (d), in accordance with section 3.6(a) of Executive Order 13526, the CIA can neither confirm nor deny the existence or nonexistence of records responsive to your request. The fact of the existence or nonexistence of such records is itself currently and properly classified and relates to CIA intelligence sources and methods information that is protected from disclosure by Section 6 of the CIA Act of 1949, 50 U.S.C. § 3507, and Section 102A(i)(1) of the National Security Act of 1947, 50 U.S.C § 3024(i)(1). Therefore, this portion of your request is denied pursuant to FOIA exemptions (b)(1) and (b)(3).

With regard to Items 2 (b) and (c) of your request, as noted in the acceptance letter, the information you seek would fall under the auspices of the Department of Defense.

This concludes our response to the above referenced request.

Sincerely,

A handwritten signature in cursive script, reading "Michael Lavergne".

Michael Lavergne
Information and Privacy Coordinator

Enclosures