

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)

SUPPLEMENTAL 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 continue to serve as the Information Review Officer ("IRO") for the Litigation Information Review Office ("LIRO") at the Central Intelligence Agency ("CIA" or "Agency"). I respectfully refer the Court to the CIA's previous public declaration filed on 10 May 2018 (ECF No. 68-5, hereinafter "the Shiner Declaration") for my background as well as a detailed account of the requests and the procedural history of this case.

2. Through the exercise of my official duties, I remain 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 Supplemental Declaration in support of Defendants' Combined Reply and Opposition to Plaintiffs' Opposition to Defendants' Motion for Summary Judgment, Cross-Motions for Summary Judgment and Motion for Leave to Propound Interrogatory to DOD (ECF No. 71, hereinafter "Plaintiffs' Motion"), to be filed by the United States Department of Justice in this proceeding.

3. The purpose of this Supplemental Declaration is to clarify that the IG Documents (identified as document number C06354620 and found in Exhibit 8 to Plaintiffs' Motion) are not operational files and therefore were not exempt from search and review. In addition, this Supplemental Declaration clarifies the bases for certain redactions and withholdings explained and justified in the Shiner Declaration.

II. PLAINTIFFS' MOTION ERRONEOUSLY RAISES THE OPERATIONAL FILE EXEMPTION AND EXCEPTIONS THERETO.

4. 50 U.S.C. § 3141,¹ as amended, exempts CIA operational files from the search, review, publication, and disclosure requirements of FOIA, with certain exceptions. 50 U.S.C. § 3141(c) states that "exempted *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" (emphasis added).

¹ Plaintiffs citation to 50 U.S.C. § 431 refers to the statute transferred in 2013 and re-codified as 50 U.S.C. § 3141.

5. Operational files are defined as certain files of the National Clandestine Service (since renamed the Directorate of Operations), the Directorate of Science and Technology, and the Office of Personnel Security.² Records of the Office of Inspector General - including the IG Documents - do not meet this definition of operational files. Thus, the CIA did not rely on the operational file exemption in its search, review, and release determinations regarding the IG Documents. Indeed, there is no mention in the Shiner Declaration of the operational file exemption.

III. AS EXPLAINED IN THE SHINER DECLARATION, CIA PROPERLY REDACTED PORTIONS OF THE IG DOCUMENTS PURSUANT TO MULTIPLE FOIA EXEMPTIONS.

6. As explained at length in the Shiner Declaration (see Shiner Decl., pp. 11-23), 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, including the subject matter of the IG's investigation.

7. For example, Exhibit 8 to Plaintiffs' Motion discloses multiple references to the subject matter and genesis of the IG complaint:

- Information concerning the complaint is found on the document bates stamped 000082. The subject of the

² See 50 U.S.C. § 3141(b).

emailed complaint is "Comments on the Benghazi Attacks," and the complaint is introduced as addressing the concern that the Director of the CIA ("DCIA") had "not been provided fulsome details regarding the events that took place during the 11/12 September attacks on the U.S. Mission (Consulate) in Benghazi and Benghazi Base." The complainant wanted the "correct information [to] be made available to Agency leadership as numerous officers . . . were surprised that the DCIA did not appear to know the chain of events which is crucial as this information helps him and other leaders make operational decisions, and respond to policy related questions."

- Document bates stamped 000085 is an email to then-Director Petraeus, where the CIA IG summarizes the complaint as "call[ing] into question some actions and decisions made by the Chief of Base, Benghazi." The complainant was alleging that Director Petraeus had "not been provided with all the details regarding the attack in Benghazi and subsequent response."
- The interview report bates stamped 000088 makes clear that the subject of the complaint addressed whether "the Director of CIA . . . had been misinformed concerning the events surrounding the attacks on the

US Consulate and the CIA Base in Benghazi, Libya, on 11 and 12 September 2012.”

- Additional IG documents included in Plaintiffs’ Exhibit 8 include the email bates stamped 000095, which summarizes the genesis and subject matter of the complaint as being “concern that the information provided to the D/CIA by official channels was not complete.”

8. CIA redacted the specific substance - as opposed to the subject - of the IG complaint pursuant to FOIA exemptions (b)(1), (b)(3), (b)(6), and/or (b)(7). I respectfully refer the Court to the explanations and justification provided in the Shiner Declaration addressing each cited exemption in turn.

9. In addition, where CIA redacted elements of the IG complaint that are neither classified nor exempt pursuant to the CIA Act or National Security Act, it did so because such information is protected from disclosure pursuant to FOIA exemption (b)(7)(D), which, as stated in the Shiner Declaration, the CIA asserts to protect not only the individuals providing information to the OIG but also the specific information provided.

IV. CONCLUSION

10. In conclusion, CIA did not invoke the operational file exemption statute as a basis for its treatment of the IG

Documents. I reaffirm the explanations and justifications provided in the Shiner Declaration regarding the proper treatment of the IG Documents, and further explain that the released information does identify the subject and genesis of the complaint underlying the IG Documents.

* * *

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

Executed this 18th day of July 2018.



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