

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ACCURACY IN MEDIA, INC., et al.,

Plaintiffs,

v.

DEPARTMENT OF DEFENSE, et al.,

Defendants.

Civil Action No. 14-cv-1589 (EGS)

Exhibit D

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ACCURACY IN MEDIA, INC., et al.,

Plaintiffs,

v.

DEPARTMENT OF DEFENSE, et al.,

Defendants.

Case No. 14-cv-01589 (EGS)

DECLARATION OF VANNA BLAINE,
INFORMATION REVIEW OFFICER,
LITIGATION INFORMATION REVIEW OFFICE,
CENTRAL INTELLIGENCE AGENCY

I, VANNA BLAINE, hereby declare and state:

I. INTRODUCTION

1. I currently serve as the Information Review Officer ("IRO") for the Litigation Information Review Office ("LIRO") at the Central Intelligence Agency ("CIA" or "Agency"). I have held this position since February 2020.

2. Prior to my current position, I served as the Deputy IRO for LIRO beginning in April 2019, during which time I also served as the Acting IRO in the IRO's absence. Before becoming Deputy IRO, I served as the office's Litigation Production Manager for 24 months. In that capacity, I was the senior litigation analyst responsible for managing and tracking case assignments, as well as litigation deadlines, and also conducted

second-line reviews of Agency information subject to litigation, making classification and release determinations regarding such information when necessary. Prior to that, I was an Associate Information Review Officer for the Director's Area of the CIA for 11 months. In that role, I was responsible for making classification and release determinations for information originating within the Director's Area, which included, among other offices, the Office of the Director of the CIA, the Office of Congressional Affairs, the Office of Public Affairs, and the Office of General Counsel. I have held other administrative and professional positions within the CIA since 2007 and have worked in the information review and release field since 2014.

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. In my current role as IRO, I am responsible for ensuring that any determinations as to the release or withholding of any such documents or information are proper and do not jeopardize the national security. Among other things, I

am also 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.

5. Through the exercise of my official duties, I have become familiar with this civil action and the underlying FOIA requests described below. I make the following statements based upon my personal knowledge and information made available to me in my official capacity as IRO for LIRO.

6. This declaration is submitted in support of the FBI's Motion for Summary Judgment, to be filed by the United States Department of Justice in this proceeding.

II. BACKGROUND

7. This matter concerns Plaintiffs' separate, but related, FOIA requests for records related to the September 11, 2012 attack on the United States Embassy in Benghazi, Libya. Plaintiffs sought records from several U.S. federal government agencies, including the FBI.¹

8. In response to Plaintiffs' FOIA requests, the FBI located documents containing classified information that belongs to the CIA ("FBI Documents"). In accordance with the

¹ Plaintiffs also named the CIA as a defendant in this case. It is my understanding that, on November 28, 2022, the Court adopted the Magistrate Judge's Report and Recommendation that the CIA had appropriately redacted portions related to the Inspector General files, and denied Plaintiff's cross-motion for Summary Judgment on this issue. ECF No. 92.

requirements of Section 3.6(b) of Executive Order 13526, the FBI coordinated review of these FBI Documents with the CIA via a letter dated 21 October 2020. The CIA responded to the FBI's request for consultation by applying FOIA Exemptions (b)(1), (b)(3), and (b)(6) to certain CIA information contained in the FBI Documents. It is my understanding that the FBI withheld the FBI Documents in their entirety, and that Plaintiff is challenging the asserted FOIA exemptions.

9. This declaration addresses the CIA's application of FOIA Exemptions (b)(1), (b)(3), and (b)(6) to certain CIA information contained in the FBI Documents.

III. FOIA EXEMPTIONS APPLICABLE TO THE FBI DOCUMENTS

10. The FBI Documents consist of interview statements provided to FBI agents in connection with the September 2012 Benghazi attack. In evaluating the referred FBI Documents, I conducted a page-by-page and line-by-line review, and released all reasonably segregable, non-exempt CIA information. After a careful review of the FBI Documents at issue, I have determined that no additional CIA information can be released without jeopardizing classified, statutorily protected information that falls within the scope of one or more FOIA exemptions.

A. Exemption (b)(1)

11. Exemption (b)(1) provides that 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). Here, Executive Order 13526 is the operative Executive Order governing classification and safeguarding of national security information.

12. As an original classification authority, I have determined that the CIA information in the FBI Documents is currently and properly classified. The information is owned by and is under the control of the U.S. Government. As described below, the CIA information in the FBI Documents falls under classification category § 1.4(c) of the Executive Order because it concerns "intelligence activities (including covert action), [or] intelligence sources and methods." In addition, the unauthorized disclosure of the CIA information in the FBI Documents could reasonably be expected to result in serious damage to national security and, as a result, is classified at the SECRET level. Further, the FBI Documents are properly marked in accordance with Section 1.6 of the Executive Order.

13. Finally, in accordance with Section 1.7(a) of Executive Order 13526, none of the CIA information in the FBI Documents has been classified in order to conceal violations of law, inefficiency or administrative error; prevent embarrassment to a person, organization or agency; restrain competition; or

prevent or delay the release of information that does not require protection in the interest of national security.

14. Here, the withheld CIA information in the FBI Documents consists of information that would tend to reveal specific CIA intelligence sources, methods, and/or activities, which are protected under Exemption (b)(1). Intelligence activities refer to CIA's targets and operations, including the clandestine activities undertaken by the CIA to collect intelligence and the means used to collect intelligence. Although it is widely acknowledged that the CIA is responsible for conducting intelligence collection and analysis for the United States, the CIA generally does not confirm or deny the existence, or disclose the target, of specific intelligence collection activities or the operations it conducts or supports.

15. Intelligence methods are the techniques and means by which an intelligence agency accomplishes its mission, and the classified internal regulations, approvals, and authorities that govern the conduct of CIA personnel. The CIA's collection methods are valuable from an intelligence-gathering perspective only so long as they remain unknown and unsuspected. Once the nature of an intelligence method or the fact of its use in a certain situation is discovered, its usefulness in that situation is neutralized and the CIA's ability to apply that method in other situations is significantly degraded. Thus, the

more information the CIA discloses about its operational tradecraft, the more difficult it becomes for the CIA to actually collect foreign intelligence around the world.

16. In reviewing the FBI Documents, the CIA limited its redactions to cover only specific still-classified CIA intelligence information related to the September 2012 Benghazi attack. Although many details surrounding the attack are either not classified or have since been declassified, some information about CIA remains classified. The redacted CIA information includes certain classified details regarding the Agency's operational equipment, names of sources who assisted U.S. personnel during the attack, and the methods used to transport CIA personnel to safety during the attack. These are specific details that would tend to reveal CIA's sources and methods, including operational techniques, resources, capabilities, and vulnerabilities. Terrorist organizations, foreign intelligence services, and other hostile groups use such information to thwart CIA activities and attack the United States and its interests. These groups search continually for information regarding the activities of the CIA and are able to gather information from a myriad of sources, analyze this information, and devise ways to defeat CIA activities from seemingly disparate pieces of information. I have determined that

disclosure of such classified CIA information could reasonably be expected to cause serious damage to national security.

17. In sum, the CIA redactions in the FBI Documents satisfy the procedural and the substantive requirements of Executive Order 13526. See E.O. 13526 § 1.1(a), § 1.4(c).

B. Exemption (b) (3)

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

19. 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." As an initial matter, it is well-established that the National Security Act is an 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 consistent with section 1.6(d) of Executive Order 12333, the Director of the CIA is responsible for protecting CIA intelligence sources and methods from unauthorized disclosure.

20. The National Security Act applies to all of the information protected by Exemption (b)(1), described above, because disclosure of the CIA information contained in the FBI Documents would tend to reveal information that concerns intelligence sources and methods. Accordingly, the withheld CIA information is exempt from disclosure under Exemption (b)(3) pursuant to the National Security Act. Exemptions (b)(1) and (b)(3) therefore apply independently and co-extensively to protect CIA's intelligence sources and methods from disclosure.

21. In contrast to Executive Order 13526, no harm rationale is required under the National Security Act. Nonetheless, I refer the Court to Paragraphs 14-16 above for a description of the damage to national security that reasonably could be expected to result should the redacted CIA information in the FBI Documents be disclosed.

C. Exemption (b)(6)

22. Exemption (b)(6) protects from disclosure "personnel and medical files and similar files when the disclosure of such information would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(6). Courts have broadly

construed the term "similar files" to cover any personally identifying information. In applying Exemption (b)(6), an agency is required to balance the relevant privacy interests of the individuals against the public interest in disclosure. In order to withhold information pursuant to Exemption (b)(6), an agency must determine that the disclosure "would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. § 552

(b)(6). The public interest in the FOIA context is defined as information that would "shed[] light on the performance of [an Agency's] statutory duties." Courts have routinely found information that does not directly reveal the operations or activities of the federal government falls outside the scope of the public interest that FOIA was enacted to serve.

23. The CIA asserted Exemption (b)(6) to withhold exempt information regarding identifying information of individuals involved in the underlying subject matter of Plaintiff's FOIA request to the FBI. Specifically, the CIA withheld identifying information, in part or in full, of individuals who provided significant assistance to CIA personnel in response to the attack. Disclosure of such information could subject these individuals to harassment and hostility, and could cause certain organizations or foreign governments to take retaliatory action against these persons, or possibly their family and friends. It

further places in jeopardy other individuals with whom these individuals had contact during the relevant time period.

24. In contrast, there is no public interest to be served by disclosing the information of these individuals to the public. Revealing the identities of these individuals, or information that would allow them to be identified, will not shed light on the conduct of the Agency's activities or operations beyond what is already being disclosed to the public. Thus, disclosure of this information would constitute a clearly unwarranted invasion of these individuals' personal privacy.

25. Accordingly, I have determined that the CIA has properly withheld the identifying information of these individuals pursuant to FOIA Exemption (b)(6).

* * *

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

Executed this 25th day of April 2023.



Vanna Blaine
Information Review Officer
Litigation Information Review Office
Central Intelligence Agency