

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

RECEIVED

JAN 29 1980

.....  
: HAROLD WEISBERG,  
:

Plaintiff,  
:

v. :  
:

GENERAL SERVICES ADMINISTRATION, :  
:

Defendant :  
: .....

JAMES F. DAVEY, Clerk

Civil Action No. 75-1448

PLAINTIFF'S MEMORANDUM TO THE COURT

On January 11, 1980, plaintiff filed a response to the supplemental affidavit of Robert E. Owen. Plaintiff had thought that this would be the last pleading he would file in support of his motion for an award of attorneys' fees and costs. However, there have been two subsequent developments which have a bearing on this issue and which he thinks should be called to the attention of this Court. Accordingly, he is submitting this brief memorandum and his attached January 23, 1980 affidavit.

The first development involves another Freedom of Information Act lawsuit, Mark A. Allen v. Central Intelligence Agency, et al., Civil Action No. 78-1743. In that case the plaintiff, a law student, sought a document on the assassination of President John F. Kennedy identified as CIA Document NO. 509-803. This same document had been one of many at issue in an earlier FOIA suit for CIA records on the assassination of John F. Kennedy, Bernard J. Fensterwald, Jr. v. CIA, Civil Action No. 75-0897, where the CIA was successful in withholding it in its entirety under Exemptions 1, 2, and 3.

On January 9, 1979, the CIA submitted an affidavit by Robert E. Owen in the Allen case. This affidavit affirmed the previous

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affidavit which his predecessor, Mr. Charles A. Briggs, had submitted in the Fensterwald case declaring that Document No. 509-803 was properly classified under Executive Order 11652. In addition, Mr. Owen swore that he had reviewed the document in the light of Executive Order 12065, which became effective December 1, 1978, and that he had concluded that it remained at the "SECRET" level. He specifically found that:

The release of this document could reasonably be expected to cause serious damage to the national security in terms of disrupting foreign relations of the United States and in disclosing information concerning United States intelligence activities, sources and methods.

(See Attachment 1, January 9, 1979 Owen Affidavit, ¶3) Although his affidavit was executed after the House Select Committee on Assassinations went out of existence, he made no mention of the impact of any disclosures made by it on the document's security classification status.

On January 12, 1979, United States District Court Judge John Lewis Smith, Jr. filed a Memorandum and Order dismissing the Allen case. In so doing he relied upon the representations made in the Owen Affidavit. (See Attachment 2)

Allen appealed and filed his brief in the Court of Appeals. After first requesting extensions of time to file its brief, the government then moved that the case be remanded to the District Court so it could supplement the record. On October 31, 1979, the Court of Appeals vacated Judge Smith's order and remanded the case for proceedings not inconsistent with The Founding Church of Scientology of Washington, D.C., Inc. v. Bell (D.C.Cir. No. 78-1391, June 25, 1979). (See Attachment 3)

On remand the CIA ultimately filed a new affidavit by Owen. In this affidavit, executed January 11, 1980, Mr. Owen found that much of the document could now be released, notwithstanding the

fact that a year earlier, and after the House Select Committee on Assassinations had ceased to exist, he had found that it was properly classified "SECRET" because its disclosure "could reasonably be expected to cause serious damage to the national security." While his new affidavit suggested that this precipitous change in the classification status of the released portions of the document was due to disclosures made by the House Select Committee on Assassinations, it nowhere expressly stated this. (See Attachment 4, January 11, 1980 affidavit of Robert E. Owen)

The attached Weisberg affidavit shows that: 1) the information in Document 409-803 which the CIA has now released was public knowledge long before Mr. Allen filed suit for it; and 2) information in the document which remains withheld is also a matter of public knowledge. (See attached January 23, 1980 Weisberg Affidavit)

Plaintiff has contended that the CIA and its sometime front, the General Services Administration, have a clear pattern of stonewalling FOIA requests by asserting spurious claims of exemptions, then subsequently dropping them when they face reversal on appeal. The Allen case is additional proof of this undeniable pattern. It shows that the CIA is not responding to FOIA requests in good faith but is instead employing every device at its disposal to flim-flam District Court judges, to delay access to non-exempt information, and to drive up the cost of litigating FOIA lawsuits. The government's bad faith in resisting disclosure of the Warren Commission executive session transcripts at issue in the present case is a ground for increasing the award of attorneys' fees requested by plaintiff. Because it is apparent that the CIA-GSA abuses of the Act are not limited to just this case and that they will not stop until some court takes forceful action, plaintiff again urges that the award of attorneys' fees be increased so as to punish the government for its wrongful conduct.

Plaintiff also wishes to point out that the latest Owen affidavit filed in the Allen case bears directly on the lack of credence which can be placed on the Owen affidavits filed in this case. Although the January 21 and June 23, 1964 transcripts at issue in this case were released to plaintiff on the very day the government's brief was due in the Court of Appeals, Mr. Owen has sworn that the pendency of the case there had no effect upon the decision to release the documents. Rather, they were "declassified" and released to plaintiff because of the testimony of John L. Hart before the House Select Committee on Assassinations. But in the Allen case Mr. Owen executed a affidavit on January 9, 1979, nearly three months after the Warren Commission transcripts were released to Weisberg and after the House Select Committee had ceased to exist, in which he affirmed that the document sought by Allen was still classified "SECRET." Only after remand by the Court of Appeals did he claim that the proceedings of the House Select Committee have any bearing on the classification status of the transcript.

What is apparent in all of this is that the CIA continues to stall disclosure as long as it can, then when can no longer resist disclosure without incurring attorneys' fees and possibly sanctions, it finds a suitable pretext for "declassifying" some or all of the withheld information and claims this is done independently of the costly and time-consuming litigation through which it has sought to pulverize the plaintiff who had the audacity to ask for what he is entitled by law to receive.

The second development referred to above was the discovery by plaintiff on January 17, 1980, of some records which had been misfiled. These records add further weight to the showing made by plaintiff in the affidavit which was attached to his response to the supplemental Owen affidavit. To refer to but one of the il-

lustrations cited in the attached Weisberg affidavit, on November 5, 1976, he wrote the National Archives that:

The subject matter of the withheld pages of the Warren Commission transcript of 1/21/64 is a defector or more than one. There was a KGB defector of about 10 years before the JFK assassination. This is neither secret nor the disclosure of a secret intelligence source nor to the best of my knowledge of any other nature that fits any of the exemptions of the Act. The CIA has and has disclosed a long memo from him, typical for all of you as illegible as it can be short of total illegibility. I am asking is this in the 1/21/64 transcript that is withheld.


(See January 23, 1980 Weisberg Affidavit, ¶16 and Exhibit 6 thereto. (Paragraph 16 initially refers incorrectly to Exhibit 5, when it should be Exhibit 6))

Having received no response to his letter of November 5, 1976, Weisberg again wrote the National Archives about this on November 21, 1976. He put the government on notice that "there is a substantial question of defrauding me and of deceiving and misrepresenting to the Court" because "[t]he claimed reason for withholding the transcript no longer exists--if it ever did." (See January 23, 1980 Weisberg Affidavit, ¶17 and Exhibit 7 thereto)

Disclosure of the January 21 transcript proves that Weisberg was exactly right. Yet the government continued to withhold the January 21 transcript for nearly two more years after he had correctly informed it that it was withholding what there no longer could be any basis for suppressing.

These facts make it clear that the government has engaged in outrageous bad-faith conduct in this case. In order to ensure that courts are not again flim-flamed and that FOIA requesters are not subjected to the de facto denial of their rights by the spurious withholding of information that is not exempt, this Court should double or triple the award of fees and cost sought by plaintiff.

Respectfully submitted,

  
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JAMES H. LESAR  
910 16th Street, N.W., #600  
Washington, D.C. 20006  
Phone: 223-5587

Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that I have this 29th day of January, 1980 hand-delivered a copy of the foregoing Plaintiff's Memorandum to the Court to the office of Ms. Patricia J. Kenney, United States Courthouse, Washington, D.C. 20001.

  
\_\_\_\_\_  
JAMES H. LESAR

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

MARK A. ALLEN, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 CENTRAL INTELLIGENCE AGENCY, )  
 et al., )  
 )  
 Defendants. )

Civil Action No. 78-1743

AFFIDAVIT

FILED

JAN 3 1978

Robert E. Owen, being first duly sworn, deposes and says:

1. I am the Information Review Officer for the Directorate of Operations (DO) of the Central Intelligence Agency (CIA). My responsibilities include the review of the DO documents which are the object of Freedom of Information Act (FOIA) and/or Privacy Act requests to and litigation against the CIA, to insure that determinations made regarding the disposition of such documents are proper. I am authorized in accordance with sections 1-201 and 1-204 of Executive Order 12065 to make original classification determinations up through TOP SECRET. The statements made herein are based upon my knowledge, upon information made available to me in my official capacity, upon advice and counsel from the CIA Office of General Counsel and upon conclusions reached in accordance therewith.

2. Through my official duties, I have become acquainted with the FOIA request originated by plaintiff for CIA Document No. 509-803 which is at issue in the above-captioned litigation. Plaintiff's identification of the document was possible as a result of the document having been involved in an earlier

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instance of FOIA litigation, in Fensterwald v. CIA, USDC, D.C., Civil Action No. 75-0897. In that instance the document was withheld in its entirety as indicated on page 127 of the Document Disposition Index prepared in that litigation. Page 127 is attached hereto designated Attachment A. The document was withheld pursuant to FOIA exemptions (b) (1), (b) (2) and (b) (3). A copy of the Court's findings regarding CIA invocation of the FOIA exemptions is attached as Attachment C. Plaintiff's letter dated 24 July 1978 initiating his FOIA request is attached as Attachment D. Plaintiff was advised by CIA in a letter dated 8 August 1978 that the document requested was denied pursuant to FOIA exemptions. A copy of the letter is attached and identified as Attachment E. By letter dated 9 August 1978, plaintiff appealed the CIA determination regarding Document No. 509-803. A copy of plaintiff's appeal letter is attached as Attachment F. Plaintiff filed his Complaint in this suit on 18 September 1978.

3. The affidavit of my predecessor as Information Review Officer for the Directorate of Operations of the Central Intelligence Agency, Mr. Charles A. Briggs, is attached identified as Attachment B and is hereby incorporated and made a part hereof by reference. Mr. Briggs' affidavit sets forth the CIA rationale for withholding documents or portions thereof pursuant to various FOIA exemptions. Document No. 509-803 was one of the documents dealt with in the earlier litigation. The circumstances which warranted the FOIA exemption determination have not changed since the time of the original determinations with one exception. The executive order in effect at the time of the Fensterwald litigation, Executive Order 11652, was replaced, effective 1 December 1978, by Executive Order 12065. I have reviewed



Document No. 509-803 and the classification determinations made with regard to it. I conclude that the withheld material remains classified at the SECRET level under Executive Order 12065. The release of this document could reasonably be expected to cause serious damage to the national security in terms of disrupting foreign relations of the United States and in disclosing information concerning United States intelligence activities, sources and methods. Thus, the document remains exempt from release pursuant to FOIA exemption (b)(1).

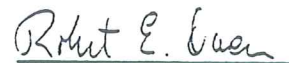
4. Executive Order 12065 provides more stringent standards for classifying information than the Order it replaced. At a minimum, under the new Order, information may not be classified unless its unauthorized disclosure could reasonably be expected to cause identifiable damage to the national security. In addition, only certain categories of information may be considered for classification. These categories include information pertaining to intelligence activities, sources or methods and information concerning foreign relations or foreign activities of the United States. With respect to withheld information for which FOIA exemption (b)(1) has been asserted, I have reviewed the determinations in light of the criteria of the new Order and have determined that the information meets the more stringent standards for classification set forth in Executive Order 12065 and falls within the requisite categories of information set forth in that Order.

5. I have reviewed the document in issue pursuant to section 3-303 of the new Executive Order which provides:

It is presumed that information which continues to meet the classification requirements in section 1-3 requires continued protection. In some cases, however, the need to protect such information may be outweighed by the public interest in disclosure of the information, and in these cases the information should be declassified. When such questions arise, they shall be referred to the agency head, a senior agency official with responsibility for processing Freedom of Information Act requests or Mandatory Review requests under this Order, an official with TOP SECRET classification authority, or the Archivist of the United States in the case of materials covered in section 3-503. That official will determine whether the public interest in disclosure outweighs the damage to national security that might reasonably be expected from disclosure.

The CIA has issued an Agency regulation implementing this section (see Attachment G) which was based upon the advisory letter of Mr. Zbigniew Brzezinski, Assistant to the President for National Security Affairs (see Attachment H). I have reviewed the document withheld in this case to determine if there are any circumstances which would require that a balance be made to test whether public interest in continued protection of this properly classified information is outweighed by the public interest in disclosure. I have determined that the requisite circumstances do not exist.

6. As indicated above, the document at issue remains properly classified and the circumstances warranting the FOIA exemptions justifying withholding the document in its entirety pursuant to FOIA exemptions (b)(1), (b)(2) and (b)(3), remain applicable and the document has therefore been withheld.

  
Robert E. Owen



Document No.                      Date                      No. of Pages

505 - 212                      30 January 1964                      1

Disposition - This document was released with portions deleted. The deleted portions include information identifying a number of Agency stations in specific cities abroad, the identity of a number of Agency components and several Agency staff employees. Also deleted were operational cryptonyms and mention of a sensitive foreign intelligence operational method. Agency internal filing instructions were also deleted. The deletions were made under the authority of exemptions (b)(1), (b)(2) and (b)(3).

506 - 213                      9 January 1964

Disposition - This document was released with portions deleted. The deleted portions include information identifying Agency components and staff employees, as well as Agency internal filing instructions. The deletions were made under the authority of exemptions (b)(2) and (b)(3).

507 - 802                      31 January 1964                      2

Disposition - This document was denied. The document is a brief review of information provided by the FBI. The information has been referred to that agency and will be dealt with directly by the bureau.

508 - 214                      30 January 1964                      2

Disposition - This document was released with portions deleted. The deleted portions include information from which it would be possible to identify a foreign intelligence source, as well as information identifying Agency components and Agency staff employees. Also deleted was the identity of a special agent of the FBI and Agency internal filing instructions. The deletions were made under the authority of exemptions (b)(1), (b)(2), (b)(3) and (b)(7)(F).

509 - 803                      31 January 1964                      14

Disposition - This document was denied. The document contains a discussion of a collection of information available from very sensitive intelligence sources and in one instance the results of a sensitive foreign intelligence operational method of collection. Most of the substantive information in this document is available in other unclassified documents. In this particular document, it is inextricably mixed with operational details which, if exposed, would compromise several sensitive foreign intelligence sources, as well as a sensitive foreign intelligence operational method. In addition, the document contains information identifying a number of Agency components and Agency internal filing instructions. This denial was made under the authority of exemptions (b)(1), (b)(2) and (b)(3).

Attachment 2

Civil Action No. 75-1448

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

MARK A. ALLEN, )  
 )  
Plaintiff ) Civil Action  
 )  
v ) No. 78-1743  
 )  
CENTRAL INTELLIGENCE AGENCY, ) **FILED**  
 )  
et al., )  
 )  
Defendants )  
 )  
JAMES F. DWYER, C

MEMORANDUM OPINION AND ORDER


This case arises under the Freedom of Information Act, 5 U.S.C. § 552. Only one document is at issue. The defendants contend that the document is properly withheld from public inspection pursuant to 5 U.S.C. § 552 (b) (1), (b) (2) and (b) (3). The matter is before the Court on defendants' motion to dismiss.

The requested document has previously been described in a Vaughn v Rosen [484 F.2d 820 (D.C. Cir. 1973)] index filed in Bernard Fensterwald v CIA, Civil Action No. 75-0897 (D.D.C. 1978) (Sirica, J.). This Court held that the document was protected from disclosure. In addition, the appropriate office in the CIA has re-reviewed the document in question in light of the new, more stringent, criteria set forth in Executive Order 12065, effective December 1, 1978, and has determined that the material is classified at the SECRET level and should be withheld from disclosure. Agency affidavits concerning the classification of documents are entitled to "substantial weight." Adele Halkin v Helms, Nos. 77-1922 and 77-1923 (D.C. Cir. June 16, 1976).

Accordingly, it is by the Court this 12<sup>th</sup> day of  
January 1979

ORDERED that defendants' motion to dismiss is granted  
and it is further

ORDERED that the case is dismissed with prejudice.

  
United States District Judge

(2)

Attachment 3

Civil Action No. 751448

United States Court of Appeals  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 79-1454

September Term, 1979

Mark A. Allen,  
Appellant

Civil Action No. 78-1743

v.

Central Intelligence  
Agency, et al.,

United States Court of Appeals  
For the District of Columbia Circuit

FILED OCT 31 1979

BEFORE: Tamm, Wald and Mikva, Circuit Judges, and FISHER  
CLERK

O R D E R

On consideration of appellee's motion to remand, the opposition thereto and of the reply, it is

ORDERED by the Court that the order of the District Court on appeal herein is vacated and this case is remanded to the District Court for further proceedings not inconsistent with The Founding Church of Scientology of Washington, D.C., Inc. v. Bell (D.C. Cir., No. 78-1391, June 25, 1979).

This Court has noted the length of time this matter has been pending and unresolved. While this period is in no way attributable to the District Court we nevertheless recommend to that Court that it proceed with this matter as expeditiously as its business permits.

Per Curiam

Circuit Judge Wald did not participate in the foregoing order.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

MARK A. ALLEN, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 CENTRAL INTELLIGENCE AGENCY, )  
et al., )  
 )  
 Defendants. )

Civil Action No. 78-1743

FILED ✓  
JAN 21 1980

JAMES F. DANEY, Clerk

SUPPLEMENTAL AFFIDAVIT

ROBERT E. OWEN, being first duly sworn, deposes and says:

1. I am the Information Review Officer for the Directorate of Operations of the Central Intelligence Agency (CIA). My responsibilities and authorities remain as stated in my affidavit of 9 January 1979, filed in the above-styled litigation. For convenient reference, a copy of my previous affidavit and that of my predecessor, Mr. Charles A. Briggs, dated 14 April 1977 and filed in the litigation styled Fensterwald v. CIA, Civil Action No. 75-1897 (D.D.C.) accompany this current and supplementary affidavit as Attachments A and B respectively. The statements made herein are based upon my knowledge, upon information made available to me in my official capacity, upon advice and counsel from the CIA Office of General Counsel and upon conclusions reached in accordance therewith.

2. Plaintiff filed his Complaint in the above-styled litigation for the purpose of contesting a CIA determination that a CIA document, identified as No. 509-803, was exempt



from release pursuant to provisions of the Freedom of Information Act (FOIA). The document at issue was originally numbered as a consequence of being involved in an earlier FOIA litigation, the Civil Action No. 75-1897 mentioned above. It was one of 1,363 CIA documents reviewed for release in response to an FOIA request for documents related to the investigation of the assassination of President John F. Kennedy. The actual FOIA review of Document No. 509-803 was made in June 1976 and the determination regarding FOIA releasability of the document was recorded on page 127 of a 310-page index which was part of the affidavit of my predecessor, Mr. Charles A. Briggs, filed in Civil Action No. 75-189 on 14 April 1977 (see Attachment C). In my affidavit of 9 January 1979 in the above-styled litigation, I adopted the FOIA determination of my predecessor, Mr. Charles A. Briggs as valid. I have now been asked to provide a more detailed account of the nature of the information withheld and its relationship to the specific FOIA exemptions. Recent guidelines set forth by the Appellate Court in this Circuit suggest some modification of the explanations for withholding records requested under the FOIA to provide more detailed statements. I have reviewed Document No. 509-803 again in light of the concerns expressed above and will attempt to supplement the comments to overcome any current shortcomings to the extent possible.

3. In reviewing the status of Document No. 509-803 it became clear that a number of substantively related, official disclosures had been made in recent years. Several congressional investigations have concerned themselves with the assassination of President John F. Kennedy. The investigations included detailed reviews of the records of CIA, and each investigation

culminated its efforts with published reports which made extensive use of CIA records. The most recent and the most comprehensive of such reports was one by the Select Committee on Assassinations of the U.S. House of Representatives of the 95th Congress. Coordination between the CIA and the Committee regarding the portions of the Committee's report which contained CIA information was not finally completed until 30 June 1979. Each of the various congressional reports on the assassination from 1975 through 1979 contained new disclosures of CIA records which had previously been withheld from public release. The cumulative effect of these various disclosures has, not unexpectedly, decreased the volume of materials still withheld from release. The passage of time has also had an effect on those records which have been classified in the interest of national security. The passage of time gradually reduced the level of damage likely from unauthorized disclosure of classified information. As a result of the combination of such circumstances, the FOIA disposition of Document No. 509-803 can now be modified somewhat.

4. In reviewing Document No. 509-803 I have determined that portions may now be released, but that some portions must continue to be withheld. The material which must continue to be withheld is exempt from release,

a. because it is currently and properly classified pursuant to Executive Order 12065, effective 1 December 1978, as information requiring continued protection against unauthorized disclosure and, thus, exempt from release pursuant to FOIA exemption (b)(1).

My authority to originally classify official documents up through Top Secret in accordance with Executive Order 12065, Sections 1-201 and 1-204 is currently in effect, and in reviewing Document No. 509-803 I have determined the document is classifiable and is currently and properly classified. I have likewise determined that my statements in paragraph 15 of my affidavit of 9 January 1979 remain valid;

b. because the information is related solely to internal practices, in this case related solely to Agency internal filing instructions, and thus exempt from disclosure pursuant to FOIA exemption (b) (2);

c. because the information reveals facts about intelligence sources and methods which the Director of Central Intelligence is responsible for protecting against unauthorized disclosure as set forth in 50 U.S.C. 403(d) (3), and which is thus exempt from release pursuant to FOIA exemption (b) (3); and

d. because the information reveals facts about CIA organization, functions, names, official titles or numbers of personnel employed, all of which are exempt from disclosure pursuant to 50 U.S.C. 403g and thus FOIA exemption (b) (3).

5. A copy of the newly released version of Document No. 509-803 is attached as Attachment D. It has been marked with letters which correspond to those letters used in the list of categories of withheld information below. The categories each characterize, (A) the kind of withheld information encompassed by the category, (B) make reference by paragraph numbers

to the paragraphs (except for C and F categories) in the affidavit of Charles A. Briggs (Attachment B) which explain the rationale for withholding that category of information, and (C) cite the FOIA exemption which identifies that category of information as exempt from release. Additional narrative comments follow the list of categories about various portions withheld which warrant explanation beyond the brief categorization.

6. The categories of information deleted from the various letter-designated portions are:

A. Circumstantial information which, in combination with other information could lead to the identification of an intelligence source, paragraphs 7-13 and 17-19, withheld pursuant to FOIA exemptions (b)(1) and (b)(3);

B. Circumstantial information which, in combination with other information could lead to the identification and compromise of an intelligence method used in the collection of intelligence information abroad, paragraphs 14-17 and 20, withheld pursuant to FOIA exemptions (b)(1) and (b)(3);

C. Information which is currently and properly classified in the interest of national security, paragraph 4 and 5 of Owen Affidavit of 9 January 1979, withheld pursuant to FOIA exemption (b)(1);

D. Information identifying CIA staff employees and organizational components, paragraph 21, withheld pursuant to FOIA exemption (b)(3);

E. Filing instructions, paragraph 24, withheld pursuant to FOIA exemption (b)(2); and

F. Classification and information control markings, deleted in the process of producing a declassified version of the document for release under provisions of the FOIA. No FOIA exemptions claimed.

7. Deletions designated with the letter "F" are marked on the top and bottom of all pages of Document No. 509-803. The portions deleted were markings put on the document to show its classified status. The document was originally marked "SECRET" and the complete, official copy remains so classified. Other markings on the document were warning notices intended to alert the reader that the document contained certain specific kinds of sensitive intelligence information. Since the document has been modified to remove the classified information and the information requiring the warning notice, those markings have also been removed as part of the process of creating a declassified version of the document.

8. Deletions designated by the letter "E" are marked on the first unnumbered page (the covering memorandum) and pages numbered 1, 5, 10 and 14. The portions deleted consist of handwritten entries which are intended to facilitate the administrative handling of the document; principally the filing of the document and distribution of copies. Such information is unlikely to have any meaning to individuals not directly and currently involved in the administrative handling of the documents. Such material being among the internal practices of the CIA was deleted pursuant to FOIA exemption (b) (2).

9. Deletions designated with the letter "D" are marked on the bottom of the first page of the document, which is an unnumbered page. The material deleted was information identifying some CIA staff employees and organizational components which are exempt from release pursuant to FOIA exemption (b) (3) which is activated by 50 U.S.C. 403g.

10. Deletions designated with the letter "C" are marked on pages 10 and 11, in paragraphs 16, 17, 19 and 20. The information deleted revealed CIA knowledge of specific intelligence organization affiliations by several foreign individuals.

Such knowledge comes almost exclusively from counterintelligence operations designated to produce information on the inner-workings of foreign intelligence services. Demonstrating this kind of awareness concerning an intelligence service will usually result in the organization implementing concrete changes to its security systems to eliminate such unwanted access. Since CIA's ability to carry out its own intelligence activities requires, among other things, the ability to know how to counter opposition intelligence services, evidence of our ability in collecting such information must be protected from disclosure to prevent damage to our intelligence activities. The information is thus properly classifiable in accordance with Section 1-301(c) of Executive Order 12065. The information is properly classified since it is clear that unauthorized disclosure could reasonably be expected to produce identifiable damage to the national security.

11. Deletions designated with the letter "B," marked in paragraphs 1 and 4, show where material was deleted to protect against the disclosure of several intelligence methods. The deleted remarks tended to characterize certain factual data in a way in which the nature of the method used to collect the information is made obvious. The intelligence methods used are unique to intelligence activities and in fact are used in current intelligence operations. The disclosure of the nature of the methods and their use in identifiable circumstances would damage their continuing viability and utility. The protection of such intelligence methods against unauthorized disclosure is mandated by 50 U.S.C. 403(d)(3), and is thus exempt from release pursuant to FOIA exemption (b)(3). The disclosure of the portions marked "B" could also reasonably be expected to cause identifiable damage to intelligence activities

and methods and is thus information which is classifiable pursuant to Executive Order 12065 Section 1-301(c) and is properly classified pursuant to Section 1-302; and is thus properly exempt from release pursuant to FOIA exemption (b)(1).

12. Deletions designated with the letters "A & B" on pages 4 through 9, in paragraphs 5 through 12, show where portions were deleted to protect against the disclosure of intelligence sources and methods. The substance in these paragraphs concern one sequence of events, which has been the subject of a number of other documents which have been released for public access. The material is presented in such a manner, in this document, that to name the principal figures would result in the eventual identification of the intelligence sources who produced the information and the intelligence methods used in the process. Such a disclosure would compromise the intelligence sources and methods involved, which are currently viable and functioning. The information is thus exempt from release pursuant to FOIA exemptions (b)(1) and (b)(3), with the same statutory support cited in paragraph 11 above.

13. Deletions designated with the letter "A" on pages 12 and 13, in paragraphs 21 through 25, were deletions made to avoid the disclosure of an intelligence source. The text of these paragraphs relate to one sequence of events, which has been well reported in other documents which have been publicly released. The deleted portions in this document contain phrases and substance which identify the intelligence source of certain portions of the record. The CIA has a continuing responsibility to protect against the disclosure of intelligence sources and such information, in furtherance of that responsibility, is classified. The information is withheld pursuant to FOIA exemptions (b)(1) and (b)(3) with the same statutory support cited in paragraph 11 above.

