

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ASSASSINATION ARCHIVES AND
RESEARCH CENTER, INC.

Plaintiff,

v.

CENTRAL INTELLIGENCE AGENCY

Defendant.

Civil Action No.
88-2600 GHR

DECLARATION OF LEE E. CARLE

LEE E. CARLE, hereby declares and says:

INTRODUCTION

1. I am the Information Review Officer (IRO) for the Directorate of Operations (DO) of the United States Central Intelligence Agency (CIA). I was appointed to this position in December 1986, and have held operational and executive positions in the DO since 1956. As IRO, I am responsible for the review of documents containing information originated by the DO, or otherwise implicating DO interests, which may be responsive to Freedom of Information Act (FOIA) and/or Privacy Act (PA) requests and ensuing litigation. As part of such review, I am responsible for ensuring that determinations as to release or

withholding of such information and concerning the disposition of such documents are proper. The statements made herein are based upon my personal knowledge, upon information made available to me in my official capacity, upon advice and counsel of the CIA Office of General Counsel, and upon conclusions and determinations reached and made in accordance therewith.

2. Through the exercise of my official duties, I have become familiar with the Plaintiff's FOIA request dated 8 August 1988 submitted to the Central Intelligence Agency (CIA) seeking: all CIA information on George Herbert Walker Bush which reflects a relationship with him prior to his term as Director of the CIA; and documents regarding the Kennedy assassination or its investigation that were sent to and reviewed by Mr. Bush while he was Director of Central Intelligence (DCI). I am also aware of the CIA's declaration filed with the Court on 3 September 1988 that notes that Plaintiff's request for all records on the Kennedy assassination or its investigation which mention George Bush, to the extent that plaintiff's request seeks "all records" which mention George Bush, would not be searchable through CIA's indexing system. I am also aware of the Court's order, dated 21 December 1988, ordering the CIA to file a Vaughn index by 15 February 1989, with respect to the particular documents at issue. Specifically, I will address herein the information withheld in the sixteen CIA-originated documents that were released to Plaintiff in sanitized form. A copy of the released documents

are attached.

3. Defendant CIA's response of 17 January 1989 to Plaintiff, attached hereto, explicitly stated that a number of documents were being denied in their entirety on the basis of exemptions (b)(1), (b)(3) and (b)(5) of the FOIA. I have since determined that three documents not previously listed or described in any manner numbered 2, 7 and 13, can now be listed and described, but must be denied in their entirety. Document 2 is withheld pursuant to FOIA exemptions (b)(1), (b)(3), and (b)(5); document number 7 pursuant to FOIA exemptions (b)(1), (b)(3), and (b)(6); document number 13 pursuant to FOIA exemptions (b)(1) and (b)(3). I will discuss these particular documents herein. In addition, I have determined there is some segregable material in documents 11, 15 and 17 which can be released. Documents numbered 18 and 19 were released in their entirety and will not be addressed in this declaration.

4. As I will discuss, I respectfully submit that this declaration fully describes the justifications for withholding CIA information from the Plaintiff. Should the Court desire more explanation or information, however, the CIA is prepared to submit a classified declaration for the Court's ex parte, in camera consideration. Moreover, should the Court wish to examine the full text of the documents ex parte and in camera, the CIA will make the documents available to the Court.

5. The purpose of this Declaration is to explain why

certain information contained in the 19 documents withheld in their entirety or released in sanitized form which are at issue are exempt from disclosure under the FOIA. Furthermore, I will explain why the claimed FOIA exemptions apply to the information withheld from the Plaintiff. For the Court's and Plaintiff's ease of reference, this declaration will be divided into two short sections. In the first section, I will discuss the general types of information contained within these documents, and withheld from Plaintiff, and the application of the appropriate FOIA exemptions to such information. In the second section of this declaration--the Document Disposition Index--I will discuss the individual documents, cross-referencing the justifications to the appropriate explanatory paragraphs in the first section.

SECTION I: Categories of Information and Exemptions

6. As DO/IRO I am responsible for the determinations set forth in this declaration. After carefully reviewing the material addressed herein, I have personally determined and affirm that the CIA information withheld from Plaintiff may not be released because:

- (a) The information is currently and properly classified pursuant to Executive Order 12356 as information requiring continued protection against unauthorized disclosure. Thus, such information is exempt from release pursuant to FOIA exemption (b)(1); and/or
- (b) The information withheld, if released, could reasonably

be expected to lead to the unauthorized disclosure of 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). Thus, such information is exempt from release pursuant to FOIA exemption (b)(3); and/or

(c) Certain of the withheld information reveals facts about the organization, functions, or activities of the CIA within the meaning of 50 U.S.C. §403g. Thus, such types of information are exempt from release pursuant to FOIA exemption (b)(3); and/or

(d) Certain of the withheld information reveals privileged information on the Agency's deliberative process, in that it divulges pre-decisional opinions and recommendations on legal or policy matters, which if released would damage the Agency's deliberative process. Thus, such information is exempt from release pursuant to FOIA exemption (b)(5); and/or

(e) Certain of the withheld information is contained in a personnel, medical or similar file and if disclosed would constitute a clearly unwarranted invasion of another individual's privacy. Therefore, such information is exempt from release pursuant to FOIA exemption (b)(6).

A. Classification--FOIA Exemption (b)(1)

7. Exemption (b)(1) of the FOIA, 5 U.S.C. §552(b)(1), provides that the FOIA does not apply to matters 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.

The CIA has invoked FOIA exemption (b)(1) to justify withholding the classified information at issue.

8. The authority of a CIA official to classify documents is derived from a succession of Executive orders, the most recent of which is Executive Order 12356 (47 Fed. Reg. 14874) which became effective on 1 August 1982. Section 6.1(c) of the Order defines national security information as "information that has been determined pursuant to this Order or any predecessor order to require protection against unauthorized disclosure and that is so designated." National security information is synonymous with classified information. Executive Order 12356, §1.1(a). The documents which have been withheld, either in part or in their entirety under E.O. 12356 and FOIA exemption (b)(1), because of the classified information contained therein, were finally reviewed under the criteria established in Executive Order 12356. Thus, the standards of that Executive Order apply in evaluating the Agency's claim of exemption under exemption (b)(1).

9. As a senior CIA official and pursuant to a written delegation of authority from the Director of Central Intelligence, I hold original classification authority at the TOP SECRET level. I, therefore, am authorized to conduct classification reviews and to make original classification

decisions. With respect to the information for which exemption (b)(1) is asserted in this case, I have personally reviewed the determinations under the standards of Executive Order 12356 and have determined that such information is currently and properly classified.

10. Initially, I have determined that the kinds of information contained in the various documents concern one or more of the following general categories of information which permit classification under Executive Order 12356:

- (a) Information concerning intelligence sources or intelligence methods (§1.3(a)(4)); and/or
- (b) Information concerning intelligence activities (§1.3(a)(4)); and/or
- (c) Information concerning foreign relations or foreign activities of the United States (§1.3(a)(5)).

I have further determined that unauthorized disclosure of the classified information which the CIA has withheld, either by itself or in the context of other information, reasonably could be expected to cause damage to the national security. Executive Order 12356 §1.3(b). Accordingly, I have determined that the withheld CIA information is properly classified at the SECRET or CONFIDENTIAL level.

11. I have also determined that the official full-text copies of the CIA-originated documents withheld on the basis of exemption (b)(1) are in conformity with the requisite procedural requirements of Executive Order 12356. Each document containing

classified information bears on its face a number identifying the classifying officer, the date of classification review, the date or event for the next scheduled classification review, information indicating the agency or office of origin, and the level of classification. Accordingly, such information satisfies the procedural classification requirements of §1.5 of Executive Order 12356. In addition, and as I will discuss later, since most of the information concerns intelligence sources and/or methods, or CIA organizational and functional information, that information is coextensively exempt from disclosure pursuant to exemption (b)(3) of the FOIA.

B. Intelligence Sources or Methods--
FOIA Exemption (b)(3)

12. Exemption (b)(3) of the FOIA states that the FOIA does not apply to matters that are:

Specifically exempted from disclosure by statute (other than §552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld.

Two exemption (b)(3) statutes operate to exempt certain of the information contained in the documents at issue. 50 U.S.C. §403(d)(3) requires the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure. Additionally, 50 U.S.C. §403g provides that the CIA shall be exempt from the provision of any other law requiring

the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the CIA. Thus, information falling within the ambit of either of these two statutes is exempt from disclosure pursuant to exemption (b)(3) of the FOIA.

C. Intelligence Methods--FOIA Exemptions
(b)(1) and (b)(3)

13. Certain of the information requested by the Plaintiff has been withheld because its disclosure could reasonably be expected to lead to the unauthorized disclosure of intelligence methods. In particular, certain of the information contained in the documents denied would identify the use of a particular intelligence method at a specific time. Such information is thus exempt from disclosure pursuant to FOIA exemption (b)(1) and (b)(3).

14. Generally, intelligence methods are the means by which, and the manner in which, an intelligence agency accomplishes its mission. Most organized professions or businesses employ methods which are common to and, in some cases, unique to that business or profession, to accomplish their goals and objective. Certain methods used in the conduct of intelligence activities provide them with a special character in records which necessitates protecting the fact of their use, as well as the detail of their use, from unauthorized disclosure.

15. Intelligence methods must be protected in situations where a certain capability or a certain technique or the application thereof is unknown to those individuals or entities

which would take countermeasures. Information collection techniques, capabilities, or technological devices 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 continued successful use is in serious jeopardy. In fact, once an intelligence method or its use is discovered, the method may be neutralized by hostile intelligence services and eventually even turned against the United States.

16. Detailed knowledge of the methods and practices of an intelligence agency must be protected from disclosure because such knowledge would be of material assistance to those who would seek to detect, penetrate, prevent, or damage the intelligence operations of the United States. The result of disclosure of a particular method leads to the neutralization of that method, whether the intelligence methods are those used for the collection of intelligence information, the conduct of clandestine activities, or those techniques utilized in the analysis and evaluation of intelligence information.

17. In addition to sophisticated techniques and electronic devices, the term "intelligence methods" also includes the standard practices and procedures of an intelligence agency. One example is the establishment of relationships with foreign intelligence or security services. Such relationships constitute specific methods for the collection of intelligence.

Knowledge of or insights into such practices would be of invaluable assistance to those who wish to detect, penetrate, counter, or evaluate the activities of the CIA. Another example involves the means by which CIA assesses, evaluates, and recruits sources or potential sources. This process is comprised of many different phases which in conjunction enable the CIA to determine the bona fides of such intelligence sources. These methods employed by the CIA are a necessary precaution to protect classified information and prevent the penetration of U.S. intelligence activities by agents of hostile foreign intelligence services. Knowledge of or insights into such practices also would be of invaluable assistance to those who wish to detect, penetrate, counter or evaluate the activities of the CIA. In summary it is the fact of the use of a particular intelligence method in a particular situation that must be protected. Certain of the withheld information in these documents derives from a particular intelligence method used at a specific time period. Disclosure of this information would allow Plaintiff, and presumably anyone in the public, to pinpoint the intelligence method at issue, thereby compromising the past and future value of this particular method. For these reasons, unauthorized disclosure of details pertaining to the intelligence methods in question reasonably could be expected to cause damage to the national security, through compromise of the method in question and a concomitant loss of intelligence produced by those methods. Since release of this information

could lead to the unauthorized disclosure of intelligence methods, such information falls within the ambit of 50 U.S.C. §403(d)(3) and thus is exempt from disclosure pursuant to FOIA exemption (b)(3). Furthermore, §1.3(c) of Executive Order 12356 establishes a presumption that the unauthorized disclosure of information concerning intelligence methods will cause damage to the national security. Accordingly, portions of information are classified and exempt from disclosure pursuant to FOIA exemption (b)(1) because disclosure would reveal intelligence methods and/or damage foreign relations.

D. Intelligence Sources--FOIA Exemptions (b)(1) and (b)(3)

18. Some of the information in the documents at issue has been withheld because its disclosure could reasonably be expected to lead to the identification of various intelligence sources of the CIA. As is well known, the CIA relies on a variety of types of intelligence sources to collect foreign intelligence critical to our national security. Intelligence sources include foreigners, Americans, foreign entities and the intelligence or security services of foreign countries. Intelligence sources can be expected to furnish information only when confident that they are protected from retribution or embarrassment by the absolute secrecy surrounding the source-CIA relationship. In other words, intelligence sources must be certain that the CIA can and will do everything in its power to prevent the public disclosure of their association with the CIA. For example, if an American businessman is willing to

share information with the CIA, which information is collected in the course of his everyday business, such an individual could suffer serious embarrassment and loss of business domestically or in foreign countries should the fact of his collaboration with the CIA be publicized. In the case of a foreign national abroad who has been cooperating with the CIA, usually without the knowledge of his government, the consequences of public disclosure are often swift and sure--ranging from economic reprisals to possible harassment, imprisonment, or even death. In the case of a foreign intelligence service, public exposure can lead to internal embarrassment and political pressures to terminate cooperation with the CIA. In light of the probable consequences of disclosure, individuals or entities are understandably reluctant to cooperate with the CIA or with American intelligence unless they can be absolutely certain that the fact of their cooperation will forever remain secret. Moreover, foreign intelligence sources who remain within their society are at all times subject to retribution if and when they are identified or, indeed, merely suspected of being CIA collaborators. This fact is also true of intelligence sources who may no longer actively cooperate with the CIA. In many cases, the very nature of the information passed necessarily tends to reveal the source because of the limited number of individuals having access to the information. If such information is disclosed, the source may be perpetually vulnerable to discovery, and retribution may be a real threat

for him and his family for many years.

19. Moreover, the release of information which would or could identify an intelligence source would most likely have a serious effect upon this Agency's ability to recruit other potential sources in the future. As stated previously, most individuals are reluctant to cooperate with the CIA unless they can be positive that their identities will be kept forever secret. Additionally, the CIA itself has a primary interest in keeping the identities of its sources secret, not only to protect that source and other sources, but also to demonstrate to future sources that the CIA can be trusted to preserve the secrecy of the relationship. If a potential source has any doubts about the ability of the CIA to preserve secrecy, i.e., if he learns that the identity of another source was disclosed by the Agency, his willingness to cooperate with the CIA will in most cases be affected adversely. Finally, CIA has to be able to protect the identities of potential sources, even if they are never recruited or used in intelligence operations. The loss of such intelligence sources, and the accompanying loss in critical intelligence which they provide, would have serious effects upon the national security of this country. For the foregoing reasons, I have determined that unauthorized disclosure of information which reasonably would or could be expected to lead to the identification of an intelligence source would cause damage to the national security. Thus, such information currently and properly is classified and, therefore, exempt from

disclosure pursuant to FOIA exemption (b)(1). Coextensively, information which could lead to the revelation of an intelligence source's identity precisely falls within the ambit of 50 U.S.C. §403(d)(3) and thus is exempt from disclosure pursuant to FOIA exemption (b)(3).

20. In the case of Central Intelligence Agency v. Sims, 471 U.S. 159 (1985), the United States Supreme Court held that the Director of Central Intelligence, as the official responsible for conduct of foreign intelligence activities, must have broad authority to protect all intelligence sources from the risks of compelled disclosure. The Court recognized the vital importance of CIA's mission to the national security and the devastating impact on that mission which court-ordered disclosures of sources would have. In the words of the Court:

The decision of the Director, who, of course, must be familiar with "The whole picture," as judges are not, are worthy of great deference given the magnitude of the national security interests and potential risks at stake. Central Intelligence Agency v. Sims, *supra*, at 179.

The court also concluded that CIA could protect any information, not just a name, tending to identify a source:

In exercising the authority granted by Congress in Sec. 102(d)(3), the Director must, of course, do more than simply withhold the names of intelligence sources. Such withholding, standing alone, does not carry out the mandate of Congress. Foreign intelligence services have an interest in knowing what is being studied and researched by our agencies dealing with national security and by whom it is being done. Foreign intelligence services have both the capacity to gather and analyze any information that is in the public domain and the substantial expertise in deducing the identities of intelligence sources from seemingly unimportant details. *Id.* at 178.

In this context, the very nature of the intelligence apparatus of any country is to try to find out the concern of others; bits and pieces of data may aid in piecing together bits of other information even when the individual piece is not of obvious importance in itself Thus, 'what may seem trivial to the uninformed, may appear of great moment to one who has a broad view of the scene and information in its proper context.' Accordingly, the Director, in exercising his authority under Sec. 102(d)(3), has power to withhold superficially innocuous information on the ground that it might enable an observer to discover the identity of an intelligence source. Id. at 178.

By recognizing the importance of safeguarding CIA's sources of intelligence information, the Court in Sims acknowledged the critical role played by the Agency in protecting our national security.

21. I also should note that §1.3(c) of Executive Order 12356 specifically provides that the unauthorized disclosure of information concerning an intelligence source is presumed to cause damage to the national security.

E. Cryptonyms--FOIA Exemptions (b)(1) and (b)(3)

22. Certain of the information withheld in the documents at issue consists of cryptonyms. Use of cryptonyms is an intelligence method that provides an added measure of security to minimize the adverse effects which would flow from the unauthorized disclosure of intelligence information. Cryptonyms are used frequently in cables and other correspondence to disguise the true name of a person or projects. When obtained and matched with other information, a cryptonym possesses a great deal of meaning for those who are able to fit it into the proper cognitive framework. For example, the reader of a

message is better able to assess the value of the information contained therein if the reader knows the identity of the particular individual or project represented by the cryptonym.

23. The mere use of a cryptonym instead of plain text to describe a project is an important piece of information by itself. To those who do not know the scope or nature of a particular project, the mere use of a cryptonym may signal to the reader the importance of the project for which the cryptonym stands. The use of cryptonyms also reduces the seriousness of the breach of security if a document is lost or stolen by disguising the actual individual or project in question. While release or disclosure of isolated cryptonyms would not necessarily create a serious likelihood of damage to the national security, the disclosure of cryptonyms in the aggregate or in a particular context would make it possible to fit disparate pieces of information together and to discern or deduce the identity or nature of the person or project for which the cryptonym stands. Furthermore, the factual setting within which cryptonyms appear is occasionally of such a descriptive nature that disclosure of the document often reveals, to a knowledgeable reader, the true identities of persons or activities intended to be protected by the cryptonyms. Simply stated, cryptonyms are intelligence methods used to conceal intelligence sources and methods currently requiring protection. Accordingly, information which would disclose cryptonyms is withheld under the authority of exemption (b)(3)

of the FOIA as specifically exempted from disclosure by the statutory provision that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods (50 U.S.C. §403(d)(3)). Because the disclosure of cryptonyms could jeopardize the individuals or projects to which they relate, disclosure of cryptonyms also would cause or reasonably could be expected to cause serious damage to the national security. Thus, such information currently and properly is classified pursuant to the criteria of Executive Order 12356. Accordingly, such information coextensively is exempt from disclosure under FOIA exemption (b)(1).

F. Information Which Would Reveal Covert CIA Field Installations and/or Foreign CIA Intelligence Activities--FOIA Exemptions (b)(1) and (b)(3)

24. Certain of the documents at issue contain information the disclosure of which could reveal the existence or location of unacknowledged CIA field installations in foreign countries. The Directorate of Operations has a number of unacknowledged field installations abroad, the purpose of which is to facilitate the foreign intelligence activities of the CIA. In this sense, these CIA installations on foreign soil are designed to act as methods for the collection of intelligence. Public disclosure of the existence or locations of these covert installations could reasonably be expected to cause damage to the national security of the United States for a variety of reasons. A foreign government, even if friendly, confronted

with an official disclosure that a CIA installation existed and operated on its soil, could bow to public opinion and order all CIA personnel out of the country. Such a reaction would impair the national security of the United States in that this Agency would have its intelligence collection capability in such a country reduced drastically. In addition, identification of personnel working for such a station would also damage the collection capabilities of this Agency as well. Any individual known to have had any contact with such personnel would be subjected to scrutiny and their contacts with identified Agency personnel analyzed by the counterintelligence branches of the foreign government's intelligence services, which could result in the possible identification of intelligence sources and operations.

25. Public disclosure of the locations of unacknowledged installations could also seriously embarrass the governments of the countries in which the installations are located, thereby creating diplomatic tensions between those countries and the United States. Many nations are willing to tolerate the presence of CIA installations on their soil only so long as the fact of the acceptance is not officially acknowledged. Official confirmation of such an arrangement would not only cause the host country acute public embarrassment but could also pressure that country into terminating or severely limiting its relationship with this Agency. Foreign governments rarely stand mute in the face of public acknowledgment that another country

is conducting espionage activities on its soil. The resulting damage to a foreign intelligence activity of this country would be severe.

26. Further, public disclosure of the locations of these installations would be of value to a hostile intelligence service. Such a service could use this information for propaganda purposes to embarrass the government of the United States or to pressure the host country into retaliating against the CIA. Personnel identified as working for such an installation and, thus for the CIA, could be subjected to threats, reprisals, and physical injuries from terrorist groups, or from other persons hostile to this Agency.

27. In summary, official acknowledgment that the CIA maintains a particular installation on the soil of a foreign sovereign country may compel that government to take measures on its own initiative or in response to public pressure to eliminate or reduce the CIA presence within its borders, with a detrimental effect upon the foreign relations of the United States and upon the foreign intelligence activities of the CIA. Furthermore, official acknowledgment of the location of such an installation could subject the personnel working therein to possible reprisals from individual groups or retaliation from the foreign nation itself. For all these reasons, information which reveals the CIA presence or activity in a foreign country is classified pursuant to the criteria of Executive Order 12356 and is thus exempt from disclosure pursuant to FOIA exemption

(b)(1). Moreover, and as discussed previously, CIA field installations constitute methods for the collection of intelligence. Information, the disclosure of which would identify such locations, is therefore within the meaning of 50 U.S.C. §403(d)(3). Finally, such installations precisely fall within the explicit categories of information set forth in 50 U.S.C. §403g. Accordingly, such information is coextensively exempt from disclosure pursuant to FOIA exemption (b)(3).

G. CIA Employee Names, Employee Identifiers, Official Titles, Organizational Data, and Filing Instructions--
FOIA Exemptions (b)(1) and/or (b)(3)

28. Another statute enacted in furtherance of the DCI's responsibility to protect intelligence sources and methods (Section 6 of the Central Intelligence Agency Act of 1949, 50 U.S.C. §403g) provides that the CIA is exempt from the provisions of any other law requiring the disclosure of information regarding the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency. A small amount of CIA filing information has been withheld from certain of the documents at issue. Internal CIA filing information has been withheld since it tends to reveal information pertaining to the structure of the CIA records system. CIA staff employees' names and other personnel identifiers of individuals or information related to specific individuals (employee numbers, telephone numbers, initials of employees, etc.) have been deleted from the documents at issue.

Additionally, the titles or other organizational identifiers of a number of CIA internal organizational components also have been deleted. Such data have been deleted to prevent detailed knowledge of CIA personnel, structure, organization, and procedures from becoming publicly available and possibly being used as a tool for hostile penetration and manipulation. The names of CIA employees have been deleted because the Agency does not routinely disclose the identity and affiliation of its employees who may come into public view during the course of their duties. Such employees may have in the past served under cover or in sensitive positions or operations, may be doing so now, or may do so in the future. Widespread revelation of their affiliation with the CIA could well be used to compromise past, present, or future intelligence operations or activities; to impair the usefulness of such individuals to the Agency; and/or to place their lives, the lives of members of their families, and the lives of intelligence sources they have worked with in jeopardy. Since such information fits within 50 U.S.C. §403g, deletions from portions of the attached documents have been made pursuant to exemption (b)(3) of FOIA. In particular instances where such information concerning CIA personnel and/or CIA organizational functions: (1) relates to sensitive intelligence operations or activities; or (2) would prejudice the prospects of ongoing or contemplated intelligence activities that might be undertaken in the future, such information also currently and properly is classified according to the criteria set forth in

Executive Order 12356 and, thus, is withholdable coextensively under the authority of exemption (b)(1) of the FOIA.'

H. Information Withheld Pursuant to Privilege -- FOIA Exemption (b)(5)

29. Exemption (b)(5) of the FOIA, 5 U.S.C. § 552 (b)(5), provides that the FOIA does not apply to matters that are:

Inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the Agency.

30. This exemption was intended to incorporate into the FOIA the Government's common law privilege from discovery in litigation. Among these common law privileges protected under exemption (b)(5) of the FOIA is the deliberative process privilege. It is based upon three consistently upheld policy purposes: (1) to encourage open and frank discussions on matters of policy between subordinates and superiors; (2) to protect against premature disclosure of proposed policies before they are finally adopted; and (3) to protect against public confusion that might result from disclosure of reasons and rationales that were not in fact ultimately the grounds for the agency's actions. The communication must be pre-decisional and deliberative in that it expresses opinions on legal or policy matters or makes recommendations.

31. In considering whether to delete certain information in document number 2 on the basis of FOIA exemption (b)(5), I determined that this document reflects the pre-decisional deliberative, consultative decision-making process whereby; (a)

senior Agency officials were appraised of Congressional inquiries into U.S. intelligence agencies' support provided to the Warren Commission and questions raised concerning Agency policy; (b) opinions were expressed concerning Agency policy matters generated by these inquiries; and (c) recommendations were tendered. I have also determined that release of this information would damage the Agency's deliberative process.

I. Information, the Disclosure of Which Would Constitute Clearly Unwarranted Invasion of Personal Privacy--
FOIA Exemption (b)(6)

32. Exemption (b)(6) provides that the FOIA does not apply to matters that are:

Personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Defendant CIA is withholding certain of the information contained in Document No. 7 on the grounds that the information, if disclosed, would constitute a clearly unwarranted invasion of another individual's privacy.

33. In considering whether to delete certain information in this document on the basis of FOIA exemption (b)(6), I have balanced the public interest in disclosure against the degree of intrusion into the privacy of the individual named in the document if such information was disclosed. First, I considered that the requester's interest is primarily for information on George Herbert Walker Bush. Accordingly, his interest in personal details concerning another individual would be slight.

Second, I was unable to specify any overriding public interest which would require disclosing the information pertaining to this individual. Disclosure of this personal information would not act to enlighten the public on any matter of public interest. Third, the nature of this information is such that disclosure would, in fact, violate the personal privacy of the individual involved by revealing details of their actions and whereabouts. The information being withheld in this document under FOIA exemption (b)(6) is a summary of personal information contained in a security file, compiled for purposes of determining this other persons suitability for access to classified information. Accordingly, I believe that the degree of intrusion to the individuals' privacy would be substantial. In light of my consideration of all of these factors, I have determined that the information should not be disclosed and the information should be withheld.

J. Segregability

34. After carefully reviewing the documents at issue, I have determined that no further meaningful segregable segments of information can be released to Plaintiff. A release of any further information would risk compromise of the intelligence sources, intelligence activities, and methods sought to be protected. In addition, no further meaningful segregable information can be released to plaintiff in those portions of

the documents for which FOIA exemptions (b)(5) and (b)(6) have been invoked.

SECTION II. Document Disposition Index

35. This index will address the 19 CIA documents. In my expert judgment, no additional public description of the withheld information can be made without apprising Plaintiff of facts the public disclosure of which would be detrimental to U.S. security interests, including the identity of sensitive intelligence sources and certain similarly sensitive methods of intelligence collection. I would repeat my previous assertion, namely that, in my judgment, this declaration fully explains the CIA's rationale for withholding the information at issue. However, should the Court desire further information, the Agency will submit a classified declaration or the full text documents themselves for the Court's in camera, ex parte inspection.

Document Descriptions

Document No. 1

This document is a one-page unclassified note for the Director dated 14 June 1976. The only information withheld is the name of a CIA employee and filing information. This information is exempt from disclosure pursuant to FOIA exemption (b)(3) based upon the CIA's statutory authority found at 50

U.S.C § 403g. See paragraph 28.

Document No. 2

Document number 2 is a 3-page Memorandum For the Record dated 14 June 1976 that is denied in its entirety as no meaningful segregation can be made for release to Plaintiff.

Certain of the information contained in the document at issue herein contains advice, recommendations and opinions of an Agency official concerning issues generated for the Agency by the congressional inquiries into U.S. intelligence agency support provided to the Warren Commission. The information contained in this document reflects the pre-decisional deliberative, consultative decision-making process whereby: (a) senior Agency officials were apprised of the Congressional inquiries and the questions raised concerning Agency policy; (b) opinions were expressed concerning the policy matters generated by this and (c) recommendations were tendered. Release of the information in this document would damage the Agency's deliberative process and is protected under FOIA exemption (b)(5). See paragraphs 29 through 31. There is no meaningful segregability factual information that may be released to plaintiff since, as noted below, this information is exempt under FOIA exemptions (b)(1) and (b)(3).

This document also contains organizational data, employee number and filing information, see paragraph 28, and a cryptonym, see paragraph 22 and 23. The full-text copying of this document is currently and properly classified

CONFIDENTIAL. This information is being withheld pursuant to FOIA exemptions (b)(1) and (b)(3), the latter exemption is based upon CIA's statutory authority found at 50 U.S.C. §§ 403(d)(3) and g.

Documents No. 3 and 4

Document number 3 is a Routing and Record Sheet dated 9 July 1976. The only information withheld is the names and official titles of CIA employees, which is organizational data, and filing information. This information is exempt from disclosure pursuant to FOIA exemption (b)(3) based upon CIA's statutory authority found at 50 U.S.C. § 403g. See paragraph 28.

Document number 4 is a 2-page Memorandum For the Director dated 9 July 1976 with the attachment of a 1-page Washington Star article dated 8 July 1976. The only information withheld are the names and official titles of CIA employees, filing information and employee number. See paragraph 28. This document is currently and properly classified at the CONFIDENTIAL level. This information is exempt from disclosure pursuant to FOIA exemptions (b)(1) and (b)(3), the latter exemption is based upon the CIA's statutory authority found at 50 U.S.C. § 403g.

Documents No. 5 and 8

Document number 5 is a one-page Official Routing Slip to the DCI dated 3 August 1976, with attachments: 8-page text, undated; 2-page chronology dated 2 July 1971-23 July 1972; 3-page General Chronology, dated January 1960-22 November 1963; 1-page UPI News Service, dated 2 August. All of the information

in these documents is released except for a CIA employee's name, title, initials and filing information. This information is withheld pursuant to FOIA exemption (b)(3), based upon the CIA's statutory authority found at 50 U.S.C. § 403g. See paragraph 28.

Document number 8 is a 2-page Memorandum For the Director of Central Intelligence dated 31 July 1976. Deletions from this document refer to the name and title of a CIA employee, employee number and filing information. The name of a Division in the Directorate of Operations has been withheld. See paragraph 28. Also, information which reveals an intelligence method has been withheld because it reveals the way the Agency collects information. The full-text copy of this document is currently and properly classified at the SECRET level. This information has been withheld pursuant to FOIA exemptions (b)(1) and (b)(3), the latter exemption is based upon the CIA's statutory authority found at 50 U.S.C. §§ 403(d)(3) and g.

Document No. 6

Document number 6 is a 2-page Memorandum For the Director of Central Intelligence dated 2 August 1976, with attached 2-page article dated 2 August 1976 from "Midnight". The information that has been withheld is filing information, CIA employee names, titles, employee number and Directorate of Operations Division names. See paragraph 28. Also, information has been withheld to protect intelligence sources and methods which would readily identify a collection technique as well as the target of collection. See paragraphs 12 and 13 through 17. Information

revealing the identity of a source has also been withheld. See paragraphs 12 and 18 through 21. The full-text version of this document is currently and properly classified at the SECRET level. The information that has been withheld is exempt from disclosure pursuant to FOIA exemptions (b)(1) and (b)(3), the latter exemption is based upon the CIA's statutory authority found at 50 U.S.C. §§ 403(d)(3) and g.

Document No. 7

Document number 7 is a 2-page memorandum dated 24 March 1976. This document is denied in its entirety as no meaningful segregation can be made for release to Plaintiff. Information in this document pertains to a source and is being withheld to protect the identity of the source. See paragraph 12 and 18 through 21. Information pertaining to an intelligence method has also been withheld; if released, it would reveal intelligence collection techniques. See paragraphs 12 and 13 through 17. In addition, the information includes details concerning another individual and if released would result in an invasion of the privacy of a third person. See paragraphs 32 and 33. Other information being withheld includes filing information and names of CIA employees (see paragraph 28). This document is currently and properly classified at the SECRET level and is exempt from disclosure pursuant to FOIA exemptions (b)(1), (b)(3) based upon the CIA's statutory authority found at 50 U.S.C. §§ 403(d)(3) and g, and (b)(6).

Document No. 9

Document number 9 is a 3-page Memorandum to the Director of Central Intelligence dated 6 October 1976 with attached 1-page article titled "CIA Viewed Oswald as Information Source." The information withheld includes employee names, telephone number, employee titles and filing information. See paragraph 28. Cryptonyms have been withheld as they are an intelligence method (see paragraphs 22 and 23) and a covert CIA field installation has been withheld as a method for the collection of intelligence (see paragraphs 24 and 25). This document is currently and properly classified at the SECRET level. This information has been withheld pursuant to FOIA exemptions (b)(1) and (b)(3), the latter exemption is based upon the CIA's statutory authority found at 50 U.S.C. §§ 403(d)(3) and g.

Document No. 10

Document number 10 is a 1-page cable dated 1 October 1976. The information that has been withheld is filing information; CIA employee names, titles and telephone numbers (see paragraph 28). Also withheld are cryptonyms since they are an intelligence method (see paragraph 22 and 23) and a CIA field installation since it is a method for the collection of intelligence (see paragraphs 24 and 25). The full text version of this document is currently and properly classified at the SECRET level. This information has been withheld pursuant to FOIA exemptions (b)(1) and (b)(3), the latter exemption is based upon the CIA's statutory authority found at 50 U.S.C. §§ 403(d)

(3) and g.

Documents No. 11 and 12

Document number 11 is a 1-page Official Routing Slip dated 2 October 1976 with attached 1-page Washington Star article dated 1 October 1976 and a 2-page Associated Press article dated 1 October. The information withheld could identify a source (paragraphs 12 and 18 through 21). Filing information was also withheld. This information has been withheld pursuant to FOIA exemption (b)(3), based upon the CIA's statutory authority found at 50 U.S.C. § 403g.

Document number 12 is a 1-page Note to the Director dated 5 October 1976. Filing information is the only information withheld. See paragraph 28. This information has been withheld pursuant to FOIA exemption (b)(3), based upon the CIA's statutory authority found at 50 U.S.C. § 403g.

Document No. 13

This is a 2-page Memorandum For the Director of Central Intelligence dated 28 October 1976. This document is denied in its entirety as no meaningful segregation can be made for release to Plaintiff. Certain portions of this document contain information provided by a liaison contact and release of other information would reveal the liaison contact. See paragraphs 12 and 18 through 21. This document also contains information on intelligence collection methods. See paragraphs 12 and 13 through 17. Also, this document contains information on a CIA overseas installation, see paragraphs 24 and 25 and name of CIA

employee, employee number and filing information, see paragraph 28. I have determined that release of this information reasonably could be expected to cause serious damage to the national security. Therefore, the full-text version of this document is currently and properly classified at the SECRET level and is exempt from disclosure pursuant to FOIA exemptions (b)(1) and (b)(3); the latter exemption is based upon the CIA's statutory authority found at 50 U.S.C. §§ 403(d)(3) and g.

Document No. 14

Document number 14 is a 1-page Memorandum For the Director dated 15 September 1976. The only information that has been withheld is filing information, and employee signature. See paragraph 28. This information has been withheld pursuant to FOIA exemption (b)(3), based upon the CIA's statutory authority found at 50 U.S.C. § 403 g.

Document No 15

Document number 15 is a 2-page Memorandum For the Record dated 13 September 1976 with attached 2-page Washington Post article.

Information pertaining to intelligence methods has been withheld. The information pertains to intelligence collection techniques, targets and discusses intelligence operations. See paragraphs 12 and 13 through 17. Information concerning intelligence sources has been withheld. See paragraphs 12 and 18 through 21. Information concerning foreign relations or foreign activities in the United States has been withheld. See paragraphs 7-11. Also withheld are CIA employee names, see

paragraph 28. This document is currently and properly classified at the SECRET level. This information has been withheld pursuant to FOIA exemptions (b)(1) and (b)(3), the latter exemption is based upon the CIA's statutory authority found at 50 U.S.C. §§ 403(d)(3) and g.

Document No. 16

This is a 1-page Note For the DDCI dated 15 September 1976. The only information that has been withheld is filing information. See paragraph 28. This information has been withheld pursuant to FOIA exemption (b)(3), based upon the CIA's statutory authority found at 50 U.S.C. § 403g.

Document No. 17

Document number 17 is a 3-page Memorandum For the Record dated 15 September 1976. The information that has been withheld pertains to the way CIA collects information and thus is an intelligence methods, see paragraphs 12 and 13 through 17; names of CIA employees, employee number and signature, filing information and internal organizational data, see paragraph 28. I have determined that release of this information reasonably could be expected to cause serious damage to the national security. Therefore, the full-text version of this document is currently and properly classified at the SECRET level and is exempt from disclosure pursuant to FOIA exemptions (b)(1) and (b)(3), the latter exemption is based upon the CIA's statutory authority found at 50 U.S.C. §§ 403(d)(3) and g.

Document No. 18a

Document number 18a is a 2-page Washington Star article

dated 22 October 1976. The only information that has been withheld is organizational data and filing information. See paragraph 28. This information has been withheld pursuant to FOIA exemption (b)(3), based upon the CIA's statutory authority found at 50 U.S.C. § 403g.

Document No. 20

Document number 20 is a 2-page letter to the Honorable Thomas N. Downing, Chairman, House Select Committee on Assassinations, dated December 1976, with 2-page excerpt from the Federal Register titled Central Intelligence Agency Control of Records Destruction. Filing information, employee name and internal organizational data have been withheld. See paragraph 28. This information is exempt from disclosure pursuant to FOIA exemption (b)(3), based upon the CIA's statutory authority found at 50 U.S.C. § 403g.

I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.



Lee E. Carle

Dated: 16 Feb February 1989.