

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Ex A

THE NATIONAL SECURITY ARCHIVE)
Plaintiff,)
v.)

Civil No. 99-1160 (CKK)

CENTRAL INTELLIGENCE AGENCY)
Defendant.)

DECLARATION OF WILLIAM H. MCNAIR
INFORMATION REVIEW OFFICER, DIRECTORATE OF OPERATIONS
UNITED STATES CENTRAL INTELLIGENCE AGENCY

I, WILLIAM H. MCNAIR, hereby declare and say:

1. I am the Information Review Officer (IRO) for the Directorate of Operations (DO) of the Central Intelligence Agency (CIA or Agency). I have held operational and executive positions in United States intelligence agencies since 1962, and with CIA in the DO since 1982. After serving nine months as Assistant DO/IRO, I was appointed to my current position on 22 February 1994. As DO/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) or Privacy Act (PA) requests. As part of my official duties, I ensure that determinations as to the admission or denial of the existence or nonexistence



of records in CIA files, or as to the release or withholding of information in CIA documents, are proper.

2. As a senior CIA official and under a written delegation of authority pursuant to Executive Order 12958, § 1.4(c), I hold original classification authority at the TOP SECRET level. Exec. Order No. 12958, 3 C.F.R. 333 (1995), reprinted as amended in 50 U.S.C.A. § 435 (1995) (hereafter EO 12958). Therefore, I am authorized to conduct classification reviews and to make original classification and declassification decisions.

3. I am familiar with the above-captioned litigation, and Plaintiff's FOIA requests that are the subject of this case. I make the following statements based upon my personal knowledge, information made available to me in my official capacity, the advice and counsel of the CIA Office of General Counsel, and conclusions I reached and determinations I made in accordance therewith.

4. The purpose of this Declaration is to justify to the greatest extent possible on the public record the CIA responses to Plaintiff's requests for information under the Freedom of Information Act, 5 U.S.C. § 552. All of the documents containing responsive information, not including documents regarding specifically named foreign nationals, which may or may not exist, have been carefully reviewed to determine what information, if any, could be released to

Plaintiff. All reasonably segregable information has been released. Where documents have been denied in full, I have determined that no reasonable, segregable portion of those documents could be released without risk of compromise of classified information or information concerning the intelligence sources and methods the Director of Central Intelligence is charged with protecting.

5. Pursuant to Plaintiff's FOIA requests, I have determined, after carefully reviewing the information at issue, that two CIA documents (Document Number 1, a 139 page history; and Document Number 2, an 11 page history) must be withheld in full, and one CIA document (Document Number 3, a 200 page history) can only be partially released¹, because;

(a) the information therein is currently and properly classified pursuant to Executive Order 12958, as its disclosure could reasonably be expected to damage the national security, and is therefore 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 from unauthorized disclosure, in accordance with 50 U.S.C. § 403-3(c)(6). Such information is therefore exempt from disclosure pursuant to FOIA exemption (b)(3); and/or

¹ The partial release of Document Number 3 consists of only a single sentence which was previously disclosed in a publication. This document is essentially withheld in full.

(c) some of the information divulges facts about the organization, functions, names, or official titles of personnel employed by CIA, all of which are protected from disclosure under the Central Intelligence Act of 1949, 50 U.S.C. § 403g, and therefore exempt from release pursuant to FOIA exemption (b)(3).

I have also determined that the CIA can neither confirm nor deny the existence or non-existence of documents Plaintiff requested regarding specific named foreign nationals because the fact of such existence or non-existence is classified.²

6. For the Court's convenience, I have divided this Declaration into four parts:

a. In Part I, I will briefly summarize Plaintiff's FOIA requests.

b. In Part II, I will explain the Agency's "foreign-national Glomar" response to Plaintiff's request for information on specific foreign nationals. This response, whereby the CIA refuses to confirm or deny the existence or non-existence of such records, is consistently given by the CIA when requesters, like Plaintiff, seek information on specific foreign nationals, unless CIA has previously acknowledged the existence or non-existence of records.

² My determination to neither confirm nor deny the existence or nonexistence of the requested records is in accordance with Section 3.7(a) of EO 12958, further discussed in Part 2 of this Declaration.

c. In Part III, I will describe the applicable FOIA exemptions, (b)(1) and (b)(3) invoked to withhold information responsive to Plaintiff's requests.

d. In Part IV, I will describe the specific categories of protected information withheld under the applicable FOIA exemptions, and explain in detail why this information is exempt from disclosure. Appendix A to this Declaration, the document index, describes the individual documents, or in the case of composite intelligence histories, a description of the histories responsive to Plaintiff's FOIA requests, lists the applicable exemptions, and references the applicable categories of information in Part IV.

I. SUMMARY OF PLAINTIFF'S FOIA REQUESTS

7. Plaintiff submitted its FOIA request with the CIA (F95-0792; Pl ex. 4) on 2 May 1995, seeking biographies, assessments, and materials used in its preparation concerning the following foreign individuals: Todor Zhivkov; Gustav Husak; Erich Honecker; Janos Kadar; Nicolae Ceausescu; Enver Hoxha; Ramiz Alia; Marshal Josip Broz Tito; and Wojciech Jaruzelski.

8. By letter dated 25 May 1995 (Pl. ex. 5), CIA denied Plaintiff's request on the basis of FOIA exemptions (b)(1) and (b)(3), stating that the CIA could neither confirm nor

deny the existence or nonexistence of any records responsive to Plaintiff's request.

9. By letter dated 4 August 1995 (Pl. ex. 6), Plaintiff appealed the CIA's denial of Plaintiff's FOIA request to the Agency's Information Review Committee. Said appeal was denied by the Information Review Committee by letter dated 9 October 1995 (Pl. ex. 7).

10. Plaintiff submitted its second FOIA request with the CIA (F98-00555; Pl. ex. 1) on 5 March 1998, seeking studies prepared by the CIA History Staff on the following subjects:

- a. U.S. - Iran relations during 1953, and
- b. U.S. government assistance to Western European democracies during the late 1940s-early 1950s.

11. In a letter dated 6 April 1998 (Pl. ex. 2), Plaintiff presented an appeal of its request based on a lack of response by the CIA to Plaintiff's 5 March request.

Plaintiff also amended its request to the following:

- a. Clandestine Services History, History Staff, CSHP 208, "Overthrow of Premier Mossadegh of Iran, November 1952 - August 1953" [as cited in Evan Thomas, The Very Best Men: Four Who Dared: Early Years of the CIA [New York, 1995), p. 345].
- b. Any studies of U.S. - Iran relations during 1953, including the overthrowing of Mossadegh, produced by the Study of Intelligence, CIA History Staff.
- c. Any studies by the CIA History Staff of U.S. intervention in the Italian election in 1948.³

³ The amended request originally included a request for supporting documentation collected by the CIA History Staff for the studies of U.S.

12. CIA accepted Plaintiff's appeal of this matter. By letter dated 28 April 1998, the CIA informed Plaintiff that its request would be considered by the appropriate members of the Agency Release Panel and that Plaintiff will be advised of the determinations made. The CIA further advised Plaintiff that a backlog of approximately 350 appeals await completion, therefore, there would be a delay in the Agency's reply.

13. As of this filing, all referrals and processing regarding the FOIA requests at issue in this litigation are completed.

II. JUSTIFICATION FOR "FOREIGN NATIONAL GLOMAR"
RESPONSE TO FOIA REQUEST FOR INFORMATION ON SPECIFIC
FOREIGN NATIONALS

14. One of Plaintiff's FOIA requests to the CIA (F95-0792) sought CIA prepared biographies pertaining to nine named foreign nationals: Todor Zhivkov; Gustav Husak; Erich Honecker; Janos Kadar; Nicolae Ceausescu; Enver Hoxha; Ramiz Alia; Marshal Josip Broz Tito; and Wojciech Jaruzelski. The CIA does not, however, confirm or deny the existence or non-existence of documents regarding specific named foreign nationals, because the fact of such existence or non-existence is classified.

- Iran relations in 1953. This request was subsequently withdrawn by Plaintiff during a telephone conversation with a CIA representative.

15. Confirming or denying the existence or non-existence of records responsive to Plaintiff's request for information regarding specific foreign nationals would reveal classified information relating to intelligence activities, sources and methods, and U.S. foreign relations, and is thus exempt from disclosure under FOIA exemptions (b)(1) and (b)(3). CIA did not require its components to search for documents responsive to those requests concerning the nine individually named foreign nationals for which it must issue this "Glomar" response.⁴ My determination to neither confirm or deny the existence or nonexistence of the requested records is in accordance with Section 3.7(a) of Executive Order 12958:

An agency may refuse to confirm or deny the existence or non-existence of requested information whenever the fact of its existence or non-existence is itself classified under this Order.

As discussed below, the very existence of information on foreign nationals is itself a classified fact, and is therefore properly exempt from disclosure under FOIA exemption (b)(1).

16. If the CIA admits that it possesses intelligence information about a particular foreign national, the CIA

⁴ The Agency's authority and need to refuse to confirm or deny the existence or nonexistence of records on specific foreign nationals is based on its legitimate need to protect national security information and intelligence sources and methods. See, Hunt v. CIA, 981 F.2d 1116 (9th Cir 1992). CIA does not assert a Glomar response in order to preserve any privacy interests on the part of foreign nationals.

essentially admits that that individual was a target of CIA intelligence gathering efforts. Such an acknowledgment alerts this individual, as well as foreign intelligence services, that CIA intelligence methods have been applied against him. The individual, or intelligence service may then take countermeasures to identify, if possible, and frustrate the methods in order to make his future activities of interest undetectable by the CIA. If the individual's countermeasures are successful, the CIA loses its ability to monitor his activities, losing perhaps valuable intelligence information. Moreover, others who may be collaborating with the individual also may cease engaging in these detectable activities with similar results.

17. If, on the other hand, the CIA admits that it does not possess information about a particular foreign national and that person is an intelligence operative, the CIA essentially admits to that individual that his efforts to conceal his intelligence activities have been successful. The result of CIA's admission is that this operative would know that his operational security practices have successfully defeated CIA intelligence methods and that he can act with impunity. Moreover, other intelligence operatives could learn of and begin to emulate this same successful pattern of undetectable intelligence activities with similar results.

18. Though the potential harm faced by the CIA from the two preceding examples is self-evident, the harm faced by the CIA is potentially magnified many times if a foreign intelligence service were to submit multiple FOIA requests. For example, if a foreign intelligence service were to submit separate FOIA requests for information concerning all nationals it suspected of being CIA collaborators, and the CIA were to provide a response other than refusing to confirm or deny the existence or nonexistence of responsive records, the CIA would, in essence, provide the foreign intelligence service with information that would greatly aid in eliminating the CIA's intelligence network targeting that country.

19. Finally, the effective collection and analysis of clandestinely-acquired intelligence requires the Agency to prevent disclosing to our adversaries the specific persons and areas in which CIA is interested, and upon which it focuses its methods and resources. Every country or group has limited resources. The disclosure to a potential U.S. intelligence target of the areas and persons of CIA interest would indicate to that target how CIA is allocating its resources. Such information would permit the target to array its counterintelligence and security resources most efficiently to frustrate CIA collection efforts. The more efficiently an intelligence target may apply its

counterintelligence resources, the more likely it will deny the information of interest to the United States.

20. The CIA's intelligence interest in a specific foreign national represents an intelligence activity, source and/or method, the unauthorized disclosure of which reasonably could be expected to cause serious damage to the national security. For example, the monitoring of each foreign national of potential intelligence interest to the CIA is a very costly enterprise with significant resource and national security implications. At present these costs are, in a sense, shared by both the CIA (which attempts to monitor the operatives) and the foreign intelligence service (which attempt to conceal from the CIA the identities of its operatives). CIA may sometimes expend resources monitoring a particular foreign national who is not, in fact, an intelligence operative while foreign intelligence operatives may sometimes undertake elaborate precautions because they believe their actions are being monitored by the CIA, when, in fact, they are not.

21. If the CIA were required to confirm or deny the existence or nonexistence of CIA records about a foreign national, it would reveal whether it had an intelligence interest in that particular foreign national. Such a revelation would provide a foreign intelligence service with information concerning which intelligence operatives or

types of intelligence activities the CIA can and cannot monitor. It may also indicate which persons are potential CIA sources. It will at a minimum indicate CIA interest in identified persons. These admissions would greatly benefit the foreign service by enabling it to redirect its resources to identify potential CIA sources, circumvent CIA's monitoring efforts, and generally enhance its intelligence activities at the expense of the United States. As a result, CIA's efforts can be thwarted or made more difficult and result in a loss of valuable intelligence information.

22. In addition to invoking FOIA exemption (b)(1) to justify its foreign-national Glomar response to Plaintiff, the CIA also invokes FOIA exemption (b)(3). Section 103(c)(6) of the National Security Act of 1947, as amended, 50 U.S.C. § 403-3(c)(6), requires the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure. As discussed above, CIA can neither confirm nor deny that it maintains records concerning a foreign national, because to do so could disclose intelligence sources and/or methods which the Director of Central intelligence has a statutory duty to protect.

23. In addition to the threat to intelligence sources and methods, Plaintiff's request for information on specific foreign nationals also implicates another category of

information eligible for classification under § 1.5(d) of EO 12958: U.S. foreign relations. I have determined that official acknowledgment that CIA maintains information concerning a particular foreign national may be construed by a foreign government as evidence that the CIA has been active within that country, or even recruited one of its citizens. Such a perception could be reasonably expected to cause serious damage to U.S. foreign relations with that nation. Although it is known that CIA collects intelligence on foreign countries, identifying an intelligence interest in a particular foreign national cannot normally even be implied. Because of the equities involved, and the necessity for consistency, the CIA routinely responds to requests like Plaintiff's by refusing to confirm or deny the existence or non-existence of responsive records.

24. As discussed above, merely confirming or denying the existence or non-existence of records responsive to Plaintiff's request for information regarding specific foreign nationals would reveal classified information relating to intelligence sources and methods, and U.S. foreign relations. When such matters are encountered in FOIA requests, they must be approached in the reasonable manner of neither confirming nor denying the existence or nonexistence of such records, to protect against exposing

intelligence sources and methods, and the reasonable expectation of serious damage to U.S. foreign relations.

III. FOIA EXEMPTIONS CLAIMED FOR THE CIA WITHHOLDINGS

A. FOIA Exemption (b)(1)

25. FOIA Exemption (b)(1), 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.

As discussed below, the CIA invoked FOIA exemption (b)(1) for all the FOIA withholdings discussed in this Declaration.

26. Under the Agency's FOIA and Privacy Act Declassification Review Program, declassification reviews of information responsive to FOIA requests and classified under EO 12958, or predecessor Executive Orders, is conducted to determine whether the information is currently and properly classified.⁵ I have determined that the classified information being withheld from Plaintiff, all of which was classified under the Executive Order 12,356, 3 C.F.R. 166 (1983), continues to meet the standards for classification under EO 12958. Section 3.2 of the Order states, "[i]t is

⁵ Section 1.1(c) of Exec. Order No. 12958 defines classified national security information as "information that has been determined pursuant to this order or any predecessor order to require protection against unauthorized disclosure and is marked to indicate its classified status when in documentary form."

presumed that information that continues to meet the classification requirements under this order requires continued protection." I have determined that the CIA information being withheld falls within three of the seven categories for classified information listed in Section 1.5 of EO 12958:

- (a) foreign government information (§1.5(b)),
- (b) intelligence activities . . . intelligence sources or methods, or cryptology (§1.5(c)), and
- (c) foreign relations (§1.5(d)).

The classified information at issue concerns covert CIA installation locations, the identities of current and former CIA employees who were or are under cover, the existence of clandestine relationships with foreign governments, information provided to the CIA by foreign governments, information that could lead to the identification of individual human sources, and details about intelligence methods. I have determined that all of the information withheld on the basis of FOIA exemption (b)(1) is within the aforementioned §1.5 categories for classified information. Additionally, most of the information withheld under FOIA exemption (b)(1) is also being withheld pursuant to FOIA exemption (b)(3).

B. FOIA Exemption (b)(3)

27. Since almost all of the information withheld concerns intelligence sources and/or methods, and, to a lesser extent, CIA organizational or functional information, that information is also exempt from disclosure pursuant to FOIA exemption (b)(3). FOIA Exemption (b)(3) 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 (b)(3) withholding statutes exempt the CIA information at issue: Section 103(c)(6) of the National Security Act of 1947, as amended, codified at 50 U.S.C. § 403-3(c)(6), which requires the DCI to protect intelligence sources and methods from unauthorized disclosure; and Section 6 of the Central Intelligence Agency Act of 1949, as amended, codified at 50 U.S.C. § 403g, which provides that the CIA shall be exempt from the provision of any other law requiring the publication or disclosure of the organization, function, names, official titles, salaries, or numbers of personnel employed by the CIA. Thus, as discussed below, information falling within the scope of either of these two statutes is exempt from disclosure pursuant to FOIA exemption (b)(3).

Section IV of this Declaration describes the specific categories of protected information withheld under these FOIA exemptions, and explains in detail why they are exempt from disclosure.

IV. CATEGORIES OF INFORMATION WITHHELD UNDER THE
APPLICABLE FOIA EXEMPTIONS

A. Intelligence Sources
(1) Individual Human Sources

28. Much 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, and is thus exempt from disclosure under FOIA exemptions (b)(1) and (b)(3). 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 individual human sources, foreign or American, foreign entities, and the intelligence and 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 with the CIA information 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 certain parts of the world, this businessman's life could be placed at risk. 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 far-ranging, from economic reprisals to possible harassment, imprisonment, or even death.

29. 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, intelligence sources who remain within their society are at times subject to retribution if and when they are identified or, indeed, merely suspected of being CIA collaborators. This fact is also true even if the intelligence source is no longer actively cooperating 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 had access to the

information. If such information is disclosed, the source may be perpetually vulnerable to discovery and retribution.

30. Moreover, the release of information which would or could identify an intelligence source would most likely have a serious effect upon the Agency's ability to recruit other potential sources in the future. As stated previously, most individuals will not 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 the source, but also to demonstrate to other sources, and potential 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 desire to cooperate with the CIA would likely disappear. In other words, sources, be they present or future, usually will not work for the CIA if they are convinced or believe that the CIA will not or cannot protect their identities. The loss of such intelligence sources, and the accompanying loss in critical intelligence which they provide, could 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 serious damage to the national security. Such information is therefore currently and properly classified, and 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. § 403-3(c)(6), and is exempt from disclosure pursuant to FOIA exemption (b)(3).

(2) Foreign Liaison & Foreign Government Information

31. Some of the information withheld from the documents at issue reveals CIA intelligence relationships with numerous foreign intelligence services. CIA's intelligence-liaison relationships must be protected as intelligence sources and methods. In CIA v. Sims, 471 U.S. 159 (1985), the Supreme Court held that the DCI, as the official responsible for the conduct of foreign intelligence operations, must have broad authority to protect all intelligence sources from the risk of compelled disclosure. Foreign liaison services are intelligence sources, since such services covertly provide the CIA with foreign intelligence.

32. The information provided to the CIA by the intelligence services of foreign countries with whom the CIA maintains a liaison relationship is provided only upon a

guarantee of absolute secrecy. If this agreement is abrogated by CIA, the government with whom this relationship exists could be subjected to internal and external political pressure. As a result, the scope of the liaison relationship could be curtailed, resulting in a loss to the U.S. government of valuable foreign intelligence. The foreign government could even be compelled by political pressure to take defensive actions, such as a reduction of the approved CIA presence in that country, further reducing CIA's ability to collect intelligence about other countries or persons operating in that country. It is also possible that liaison exchanges could become more formalized, with fewer regular information exchanges. Such an environment would reduce CIA's access to foreign intelligence.

33. Any official acknowledgment by the CIA of a past or current liaison relationship could cause serious damage to relations with that organization (and possibly other relationships as well), and would likely result in a significant loss of intelligence information for the United States Government, thereby causing serious damage to national security. Therefore, I have determined that information which reveals the fact and the nature of CIA's liaison relationships is properly classified SECRET pursuant to the criteria of Executive Order 12958, as its disclosure could reasonably be expected to cause serious damage to the

national security of the United States, and is thus exempt from disclosure pursuant to FOIA exemption (b)(1). As this information concerns intelligence sources and methods, it is also exempt from disclosure pursuant to FOIA exemption (b)(3).

34. Officials of foreign governments with which CIA maintains an official liaison relationship provide information in confidence to the CIA on issues of importance to United States foreign relations and national security. Such information is highly sensitive and is offered to the CIA in strict confidence. Officials of such services convey information to CIA with the express understanding that the content of the information--and indeed, the fact of the liaison relationship through which the information was provided--will forever remain a secret. Disclosure of the content and nature of such information would likely implicate such services, and suggest to other foreign intelligence services with whom CIA has liaison relationships that CIA is unable or unwilling to observe an express agreement of confidentiality. This perception could lead to diminished access to information from such liaison services, seriously inhibiting the collection of information from intelligence sources. Information provided to the CIA by foreign governments is therefore properly classified SECRET pursuant to the criteria of Executive Order 12958, as

it constitutes foreign government information provided to the U.S. under a promise of secrecy, and its disclosure could reasonably be expected to cause serious damage to the national security of the United States. Such information is thus exempt from disclosure pursuant to FOIA exemption (b)(1). This information is also withheld from disclosure under FOIA exemption (b)(3), and the DCI's statutory authority to protect intelligence sources and methods.

B. Intelligence Methods

35. 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 exemptions (b)(1) and (b)(3).

36. 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 objectives. 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 details of their use, from unauthorized disclosure.

37. Intelligence methods must be protected in situations where a certain capability or technique, or the application thereof, is unknown to those individuals or entities who would take countermeasures. Secret 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 or terrorist organizations, and eventually even turned against the United States.

38. Detailed knowledge of the methods and practices of an intelligence agency must be protected from disclosure because such knowledge would be of material assistance of those who would seek to penetrate, detect, 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.

39. Knowledge of or insights into specific methods for the collection of intelligence 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, in addition to the methodology itself, that must be protected. Certain of the withheld information in these documents derives from particular intelligence methods used to gather very specific information during a precise time period. Disclosure of this information would allow the Plaintiff or, indeed, anyone in the public to pinpoint the actual intelligence methods at issue, thereby possibly compromising the past and future value of the particular 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. § 403-3(c)(6) and is thus exempt from disclosure pursuant to FOIA exemption (b)(3). I have also determined that unauthorized disclosure of information responsive to Plaintiff's FOIA request which pertains to the intelligence methods in question could reasonably be expected to cause serious damage to the national security, through compromise of the methods in question and possible discovery of the

intelligence produced by those methods. Thus, such information is currently and properly classified, and is coextensively exempt from disclosure pursuant to FOIA exemption (b)(1).

40. In exercising his authority granted by Congress, the DCI must do more than protect the name of an intelligence source or a mere reference to an intelligence method. Foreign intelligence services have as one of their primary defensive missions the discovery of the particular methodologies CIA utilizes.⁶ A primary vehicle for that effort is scouring the public sector for officially released intelligence information. We know that foreign intelligence services have the capacity and ability to gather information from myriad sources, analyze it, and deduce means to defeat the CIA collection effort from disparate and even seemingly unimportant details. As the CIA has consistently testified over the years and the courts have agreed, "What may seem trivial to the uninformed, may appear of great moment to one who has a broad view of the scene and may put the questioned item of information in its proper context."⁷

The cost ratio between developing and validating an intelligence method and negating that method via public disclosure is hugely disproportionate. Intelligence methods can cost many millions of dollars; a single newspaper story generated by a single disclosure will often end the utility of the method. The actual damage and loss to the United States is not only the cost of the initial method but also the loss of intelligence in the time it takes to fund and field a replacement method.

Halkin v. Helms, 194 U.S.App.D.C. 82, 90, 598 F.2d 1, 9 (1978) quoting United States v. Marchetti, 466 F.2d 1309, 1318 (4th Cir. 1972),

41. Accordingly, the DCI in exercising his authority has the power to withhold a full spectrum of information concerning particular intelligence methods if it is determined that such information could reasonably be expected to assist foreign intelligence services to the detriment of the United States. These decisions, by the senior government official entrusted with national security and who is most familiar with the entire intelligence environment, "are worthy of great deference given the magnitude of the national security interests and potential risks at stake."⁸ Without such protection, the CIA would quickly become impotent. Specific categories regarding intelligence methods are set forth below.

(1) Field Installations

42. Information regarding covert CIA field installations, both overseas and domestic, is also being withheld pursuant to FOIA exemptions (b)(1) and (b)(3). The Directorate of Operations maintains covert field installations on foreign soil. Details of such installations, such as locations, are protected from public disclosure because such disclosure could reasonably be expected to cause serious damage to the national security of the United States. Official acknowledgment that the CIA

cert. denied, 409 U.S. 1063 (1972); quoted with approval CIA v. Sims, 471 U.S. 159, 178 (1985).

⁸ CIA v. Sims, at 179.

maintains a particular installation in a particular foreign country would likely compel the government involved to take measures, either on its own initiative or in response to public pressure, to eliminate the CIA presence within its borders or otherwise to retaliate against the U.S.

Government. The CIA also maintains unacknowledged domestic facilities. Official acknowledgment of domestic facilities would likely result in foreign intelligence services targeting such facilities. Information which reveals a covert CIA presence in a foreign country is therefore classified SECRET, and information which reveals an unacknowledged domestic facility is therefore classified CONFIDENTIAL pursuant to EO 12958, and both are thus exempt from disclosure pursuant to FOIA exemption (b)(1).

Additionally, as far as information concerning the location of covert CIA installations would reveal specific CIA methodology for collecting foreign intelligence, or the organizational structure of CIA, such information is also within the purview of 50 U.S.C. §§ 403-3(c)(6) and 403g, and accordingly is also exempt from disclosure pursuant to FOIA exemption (b)(3).

(2) Cryptonyms

43. Cryptonyms, words and letter codes substituted for actual names or identities, have also been withheld from

disclosure pursuant to FOIA exemption (b)(3). Cryptonyms are frequently used in cables and other correspondence to disguise the true name of a person or entity of operational intelligence interest, such as a source or foreign liaison service, or a covert project. When obtained and matched to other information, a cryptonym possesses a great deal of meaning for someone able to fit it into the proper cognitive framework. For example, the reader of a message is better able to assess the value of its contents if the reader knows the identity of the particular individual or project by the cryptonym. Also, a reader may be able to identify the particular individual who is an intelligence source for CIA. By using cryptonyms the CIA adds an extra measure of security, minimizing the damage that would flow from an unauthorized disclosure of intelligence information.

44. The mere use of a cryptonym instead of plain text to describe a project is an important piece of information in a document. 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. By disguising individuals or projects, cryptonyms reduce the seriousness of a breach of security if a document is lost or stolen. While release or disclosure of isolated cryptonyms would not necessarily create serious 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. Because cryptonyms are intelligence methods which protect other intelligence sources and methods, information which would disclose cryptonyms is withheld under the authority of FOIA exemptions (b)(3), in conjunction with DCI's statutory duty to protect intelligence sources and methods (50 U.S.C. § 403-3(c)(6)).

(3) Foreign Intelligence Relationships

45. As stated above, intelligence methods include the standard practices and procedures of an intelligence agency. One example is the establishment of relationships with foreign intelligence services. Such relationships constitute specific methods for the collection of intelligence, and the fact of the use of these relationships under certain circumstances must be protected. Divulging information concerning the collection method used under specific circumstances could compromise that collection method's future value. Since release of this information could lead to unauthorized disclosures of intelligence methods, such information falls within the ambit of

50 U.S.C. § 403-3(c)(6) and is thus exempt from disclosure pursuant to FOIA exemption (b)(3).

46. Disclosure of information responsive to Plaintiff's FOIA request which pertains to the CIA relationship with foreign intelligence services could reasonably be expected to cause serious damage to the national security through compromise of the method of intelligence collection (see paragraphs 36-39). Such information is therefore currently and properly classified SECRET, and is coextensively exempt from disclosure pursuant to FOIA exemption (b)(1).

C. CIA Employees Names, Employee Identifiers, Official Titles, Filing Instructions, and Organizational Data

47. Certain Agency-specific information was withheld from disclosure pursuant to FOIA exemption (b)(3) and the Central Intelligence Agency Act of 1949. Section 6 of this Act exempts the CIA from the provisions of any other law requiring the disclosure of information regarding the organization, functions, names, official titles, salaries, filing instructions, or numbers of personnel employed by the Agency (50 U.S.C. § 403g). On the basis of this statute, certain CIA employee names and personal identifiers (e.g., employee signatures or initials), titles, file numbers, and internal organizational data, have been deleted from the documents at issue.

48. The names of CIA employees are withheld 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. Revelation of their affiliation with the CIA could compromise past, present, or future intelligence operations or activities, identify them as targets for recruitment by hostile intelligence services, impair the usefulness of such individuals to the Agency, or place their lives, the lives of members of their families, and the lives of intelligence sources they have worked with, in jeopardy.

49. Additionally, to carry out its legislated mission of gathering and disseminating intelligence information, the Agency must employ a variety of cover mechanisms to conceal the true affiliation of its employees who are involved in collecting intelligence information or conducting intelligence operations by clandestine means. A CIA officer's cover protects him in current and future assignments; it also protects the security of past intelligence operations in which the officer has been engaged, and of future intelligence operations in which the officer will engage.

50. The purpose of cover is to provide a believable, non-threatening reason for a CIA officer to move around and meet individuals of intelligence interest to the United States, and to do so without attracting the undue attention of the local security services. The names of specific CIA employees who work or have worked under official cover are, with few exceptions, classified at least CONFIDENTIAL. The mechanism of such cover is always classified at the CONFIDENTIAL level or higher. Disclosure of official cover mechanisms would expose and officially confirm those mechanisms, hindering the effectiveness of the official cover program for ongoing and future intelligence gathering operations.

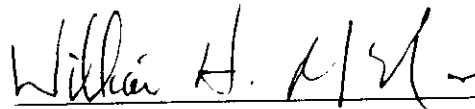
51. In addition, the disclosure of the names of various CIA employees who work, have worked, or may in the future work undercover, could jeopardize the life or physical safety of the employee, his family, and intelligence sources and innocent individuals with whom he has had contact and impair the usefulness of such employees to the Agency. Compromise of an officer's cover not only reveals his status as an intelligence officer, but allows an easy way for hostile intelligence services and terrorist organizations to find out precisely the location in which that person works.

52. Internal CIA filing information has also been withheld since it tends to reveal information pertaining to the structure of the CIA records systems. Additionally, the titles or other organizational identifiers and filing instructions of CIA internal organizational components have been deleted. This information has been withheld to prevent detailed knowledge of CIA personnel, structure, organization, and procedures from becoming publicly available and possibly used as a tool for hostile penetration or manipulation. Since such information is covered by 50 U.S.C. § 403g, it is properly exempt from disclosure pursuant to FOIA exemption (b)(3).

53. Although I believe that the information contained in this Declaration provides a sufficient evidentiary basis for this Court's resolution, to the extent that additional information may be required by this Court for the adjudication of this case, I would be pleased to provide any further information in the context of a classified, ex parte, in camera submission if requested by the Court.

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

Executed this 13 day of August, 1999.



William H. McNair

Information Review Officer,
Directorate of Operations,
United States Central Intelligence
Agency

APPENDIX A. Document Index

54. This index describes three CIA documents being withheld. The index describes the documents, identifies the applicable exemptions, and cross-references the justifications described in Section IV of the Declaration.

Document 1 - CIA document dated June 1998.

Document Number 1, a 139 page history, is a CIA document titled "Zendeabad, Shah" The Central Intelligence Agency and the Fall of Iranian Prime Minister Mohammed Mossadeq, August 1953. The information is currently and properly classified at the TOP SECRET level. This information is denied in full pursuant to FOIA exemption (b)(1) and (b)(3) as there are no meaningful, segregable, non-exempt portions that can be released to Plaintiff. Disclosure of this information would identify information pertaining to foreign policy concerns (see paragraphs 31-34), intelligence sources and methods (see paragraphs 28-41), overseas installations (see paragraph 42), names of CIA employees (see paragraph 47), cryptonym's (see paragraphs 43-44), and information from/pertaining to foreign liaison (see paragraphs 45-52).

Document 2 - CIA document undated

Document Number 2 is an 11 page history. This information is currently and properly classified at the SECRET level. This information is denied in full pursuant

to FOIA exemption (b)(1) and (b)(3) as there are no meaningful, segregable, non-exempt portions that can be released to Plaintiff. Disclosure of this information would identify information pertaining to foreign policy concerns (see paragraphs 31-34), intelligence sources and methods (see paragraphs 28-41), overseas installations (see paragraph 42), names of CIA employees (see paragraph 47), cryptonym's (see paragraphs 43-44) and information from/pertaining to foreign liaison (see paragraphs 45-52).
Document 3 - CIA document dated November 1952-August 1953

Document Number 3 is a 200 page history. One line on page 64, "Headquarters spent a day featured by depression and despair" is the only part of this document that can be released (see paragraph 5). The withheld information is currently and properly classified at the SECRET level. This information is denied in part pursuant to FOIA exemption (b)(1) and (b)(3) as there are no meaningful, segregable, non-exempt portions that can be released to Plaintiff. Disclosure of this information would identify information pertaining to foreign policy concerns (see paragraphs 31-34), intelligence sources and methods (see paragraphs 28-41), overseas installations (see paragraph 42), names of CIA employees (see paragraphs 47), cryptonym's (see paragraphs 43-44), and information from/pertaining to foreign liaison (see paragraphs 45-52).