

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MUCKROCK, LLC)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.
)	1:14-CV-00997 (KBJ)
)	
CENTRAL INTELLIGENCE AGENCY)	
)	
Defendant.)	

DECLARATION OF ANTOINETTE B. SHINER,
INFORMATION REVIEW OFFICER,
LITIGATION INFORMATION REVIEW OFFICE,
CENTRAL INTELLIGENCE AGENCY

I. INTRODUCTION

I, ANTOINETTE B. SHINER, hereby declare and state:

1. I currently serve as the Information Review Officer ("IRO") for the Litigation Information Review Office at the Central Intelligence Agency ("CIA" or "Agency"). I assumed this position in January 2016.

2. Prior to becoming the IRO for the Litigation Information Review Office, I served as the IRO for the Directorate of Support for over sixteen months. In that capacity, I was responsible for making classification and release determinations for information originating within the Directorate of Support. Prior to that, I was the Deputy IRO for the Director's Area of the CIA for over three years. In that

role, I was responsible for making classification and release determinations for information originating within the Director's Area, which included, among other offices, the Office of the Director of the CIA, the Office of Congressional Affairs, the Office of Public Affairs, and the Office of General Counsel. I have held other administrative and professional positions within the CIA since 1986, and have worked in the information review and release field since 2000.

3. I am a senior CIA official and hold original classification authority at the TOP SECRET level under written delegation of authority pursuant to section 1.3(c) of Executive Order 13526, 75 Fed. Reg. 707 (Jan. 5, 2010). This means that I am authorized to assess the current, proper classification of CIA information, up to and including TOP SECRET information, based on the classification criteria of Executive Order 13526 and applicable regulations.

4. Among other things, I am responsible for the classification review of CIA documents and information that may be the subject of court proceedings or public requests for information under the Freedom of Information Act, 5 U.S.C. § 552, and the Privacy Act of 1974, 5 U.S.C. § 552a. Pursuant to authority delegated by the Associate Deputy Director of the CIA, I have also been appointed as a Records Validation Officer ("RVO"). As an RVO, I am authorized to sign on behalf of the

CIA regarding searches for records and the contents of any located or referred records, including those containing information under the cognizance of any or all CIA directorates or areas.

5. I refer the Court to the Declarations previously submitted by my predecessor, Martha M. Lutz, dated January 16, 2015 ("Lutz Declaration"), February 13, 2015 ("Supplemental Lutz Declaration"), and July 23, 2015 ("Second Supplemental Declaration"), which I incorporate by reference.

6. Through the exercise of my official duties, I have become familiar with this civil action and the underlying FOIA requests. In particular, I have reviewed the Plaintiff's Sur-Reply in Opposition to Defendant's Motion for Partial Summary Judgment and Reply in Support of Plaintiff's Cross-Motion for Partial Summary Judgment ("Plaintiff's Sur-Reply") and the Court's September 23, 2016, Order Requiring Supplemental Briefing ("the Court's Order"). I am submitting this declaration in support of the Government's Supplemental Brief. The purpose of this Declaration is to address the Court's requests for (1) more specificity regarding the CIA's searches for responsive records in response to MuckRock's request for "any objections to agency data gathering practices received by this agency from telecommunications and web service providers;" (2) a response from CIA to MuckRock's contentions, raised for

the first time in its reply brief, that the information CIA has withheld from four specific documents is not information regarding intelligence sources or methods as covered by the National Security Act; and (3) additional detail regarding the impact on the Agency of MuckRock's request for an electronic copy of the complete CREST database. For the Court's convenience, I have divided the remainder of this declaration into four sections. Section II addresses the Court's requirement for more specificity as to the searches conducted in response to Count 5 of Plaintiff's Complaint. Section III will explain why CIA properly applied FOIA exemption (b)(3) to the records responsive to Plaintiff's FOIA Request which Plaintiff cites in its Sur-Reply. Finally, Section IV explains the additional burden that would be placed on the Agency if required to prepare an electronic copy of the CREST database for Plaintiff.

II. THE CIA'S SEARCH FOR RESPONSIVE RECORDS

7. In this section, I further clarify the processing done in response to the portion of Plaintiff's FOIA request at issue in Count 5 of the Complaint. The CIA originally processed Plaintiff's request for "a copy of any objections to agency data gathering practices received by this agency from telecommunications and web service providers," following the

procedures discussed in my previous declarations. (See Lutz Decl. at ¶¶ 46-47; Sec. Supp. Lutz Decl. at ¶¶ 12-14).

8. Upon receiving the Court's Order, the CIA reconfirmed the previously stated facts described in Ms. Lutz's Second Supplemental Declaration, but was unable to confirm whether the Directorates tasked with the searches had used any additional search terms. Therefore, in an abundance of caution, the CIA elected to re-task and re-run new searches following the same procedures that were used the first time we processed Plaintiff's request. This was done in order to ensure that the Directorates' prior searches were reasonable, and to provide the Court with more specificity as to how the Directorates' searches were conducted and what search terms were used.

9. In addition to the search terms discussed in my predecessor's prior declarations, the subject matter experts within the three Directorates¹ tasked with the search had the latitude to add additional terms they deemed most likely to return responsive documents. However, in this case, the subject matter experts did not add any additional terms to the search,

¹ The three Directorates tasked with the initial search, as described in my predecessor's previous declarations, were the DIR, NCS, and DS&T. Since the initial searches were performed, the CIA has undergone a modernization and among other things, changed the name of the NCS to the Directorate of Operations ("DO"), and added an additional directorate, the Directorate of Digital Innovation ("DDI"). One of the offices that performed a search for records in this case, previously located in the DIR, is now a part of the DDI.

as they judged that the suggested terms were the ones most likely to return documents responsive to the request.

10. Additional hard copy searches were conducted again by hand of four different repositories of records in two offices, for an even more thorough search. (For a description of CIA's prior searches by hand, please see Lutz Decl. at ¶¶ 46-47; Sec. Supp. Lutz Decl. at ¶¶ 12-14). The hard copy files searched included the records of the Office of General Counsel, as well as Policy Staff records in the front office of an entity of the DDI. Those by-hand, hard copy searches were conducted by subject matter experts in the field of information management who work with records in both the Office of General Counsel and the Policy Staff on a daily basis.

11. No additional records were located as a result of conducting these supplemental searches.

III. THE CIA PROPERLY APPLIED EXEMPTION 3 BASED ON THE NATIONAL SECURITY ACT

12. Upon receipt of the Court's Order, CIA re-reviewed the four documents for which Plaintiff questioned the validity of the withholdings under Section 3 of the National Security Act, to determine whether any additional information could be released, with the following results:

- a. Document 3, C06109746: This is a two-page document entitled "Original Classification Authority Quick

Reference Guide," which was previously released in segregable form with one redaction made on the basis of FOIA exemption (b)(3). Upon further review, this document is now being released in full.

b. Document 13, C06245959: This is a fifty-four (54) page document entitled "Classification Management Tools (CMT) User Manual," which was previously withheld in full on the basis of FOIA exemption (b)(3) based on the CIA Act and the National Security Act. Upon further review, the CIA has found that it has previously released screenshots of certain pages of the manual. As a result, CIA is now reprocessing the document and will release it in part, consistent with those previous releases. The remainder of the document remains exempt under FOIA exemption (b)(3), pursuant to the CIA Act and National Security Act, because by viewing the document in its entirety and seeing all of the classification management tools available and the different ways in which they have been applied in previous contexts, a reader is reasonably likely to ascertain source revealing information, methods by which intelligence collection is obtained, and the reasons why certain intelligence is collected.

c. Document 9, C06109753: This is a two-page document which was previously released in segregable form with

information withheld pursuant to FOIA exemption (b)(3). Although the Plaintiff speculates that the information redacted refers to the Classification Management and Collaboration Group ("CMCG"), and is the same information disclosed in another document, this speculation is incorrect. The withheld information Plaintiff describes refers to a different entity whose name and purpose have not been previously released. The name of this entity would reveal the methods it uses in accomplishing its mission, and thus remains properly withheld under FOIA exemption (b)(3) on the basis of the National Security Act.

d. Document 14, C06244490: This is a nine-page document discussing certain covert capabilities of the CIA. As such, it reveals intelligence sources and methods and is properly withheld in full pursuant to FOIA exemption (b)(3) and the National Security Act.

IV. THE BURDEN IMPOSED BY CREATING AN ELECTRONIC VERSION OF THE CREST DATABASE

13. As described in detail in my predecessor's previous declaration, providing MuckRock with its own electronic version of the CREST database would require four time-consuming steps. (See Supp. Lutz Decl., at ¶¶ 12-16). This section provides

additional information regarding the burden imposed on the CIA, as required by the Court.

14. Of the limited number of Data Transfer Officers ("DTOs"), the CIA has identified three who would have the appropriate database accesses to create this electronic version of CREST, all of whom would be performing this work as a collateral duty in addition to their full-time employment in various CIA offices.

15. One of these DTOs is the only employee with DTO capabilities in an office with fewer than 35 employees, and is the system administrator tasked with keeping a specific Agency stand-alone network functioning, and performing all security efforts necessary to maintain that network's accreditation. This DTO also supports the employees who are tasked with processing, scanning, and indexing the documents involved in the CIA's automatic declassification review program under Executive Order 13526, as well as working with documents which are to be archived. If this DTO does not perform his duties with respect to maintaining the security of the network and supporting the employees of the office, this would significantly impair this office's ability to process documents, which would lead to significant backlogs in the Agency's ability to meet its requirements under the automatic declassification review program. Under section 3.3(a) of Executive Order 13526, all

classified records shall be automatically declassified at 25 years unless the information is reviewed and deemed to be exempt from declassification. Therefore, a significant backlog in the Agency's automatic declassification review program may result in the inadvertent automatic declassification of information that is currently and properly classified. While it is possible that this DTO could work overtime to complete MuckRock's electronic copy of CREST in addition to the DTO's regular duties, such overtime would be costly and would need to be approved by senior management in the DTO's office.

16. The second DTO that the CIA has identified as a potential candidate for creating MuckRock's electronic copy of the CREST database is a contractor working in IT development. This DTO would be unable to perform the mandatory duties under his contract that contribute to keeping the CADRE document processing system functional, which would negatively impact the ability of CIA employees working with CADRE to process other FOIA and Privacy Act requests². Removing an IT developer from CADRE support would also lead to a slowdown in responding to and troubleshooting CADRE system problems. Removing this contractor from his typical duties would also mean that the CIA would be unable to perform certain work for the National Archives and

² For each of the past two years, the CIA has received an average of 2,500 FOIA requests per year.

Records Administration ("NARA"), which could impact the ability of NARA to both refer documents to other government agencies for coordination and make CIA records available in the CREST database for members of the public to come to the computer terminals maintained at NARA to view. In short, if this DTO were to take time away from his current duties to make MuckRock's personal electronic copy of the CREST database, this might inhibit the CIA's ability to make those same records available to all members of the public.

17. The third potential DTO that would be able to assist in making MuckRock's copy of the CREST database is a contractor working in CADRE customer support. If this DTO were to be pulled away from the mandatory duties of that contract, he would be unavailable to respond to employee emails and requests for troubleshooting, or to answer general questions about the CADRE system. Without this customer support employee, other members of this small team would need to take time away from maintaining CADRE's security accreditation, running reports, and performing other duties in order to assist CIA employees with general questions and concerns with the CADRE system. This could potentially affect the ability of this team to complete the mandatory security accreditation work they are contracted to complete on schedule in order to keep the system in compliance with CIA regulations, because fewer hours could be devoted to


this task. If CADRE's security accreditation is slowed down or not completed on schedule, this could have a ripple effect on all CIA employees who use CADRE to perform a number of functions in various Agency offices, including offices such as mine, which support ongoing litigation, and the office of the Information and Privacy Coordinator, which processes all incoming FOIA and Privacy Act requests.

18. Despite the challenges, given the high public interest in the CREST database, the CIA has continued its efforts towards placing the entire CREST database online and has recently surged resources to make it available for the general public as soon as possible. As a result of these efforts, the CIA anticipates that the entire CREST database will be publicly available online in an electronic reading room within the next year, and is preparing to commence uploading documents to that reading room on a periodic basis beginning in the first quarter of 2017.

* * *

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

Executed this 18th day of November 2016.


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