From:

(b)(3):10 USC 424;(b)(3):50 USC 3024(i)

To: Cc:

Subject: Date:

Re: Fw: DIA Request for ODNI Prepub Review Tuesday, February 04, 2014 12:40:46 PM

Attachments:

14-030 Comedy and Terror in Guantanamo Bay Article.pdf

Classification: UNCLASSIFIED#F6W6

(b)(3):10 USC 424

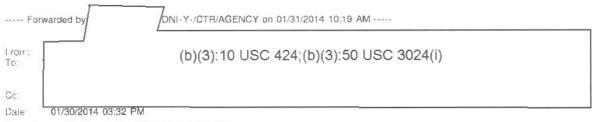
DNI Pre Pub has reviewed the attached article and clears it for release. No DNI equities requiring protection were noted.

Thank you,

(b)(3):50 USC 3024(i)

ODNI/CIO/IMD

CUI/Classification Branch/Prepublication Review
TECH I Bldg, Room 365
Secure:
Open:
AIN:



Suged. DIA Request for ODNI Prepub Review

CLASSIFICATION: UNCLASSIFIED//FOUO

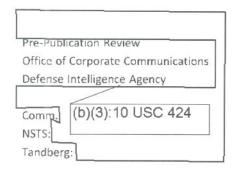
Good Afternoon. This is to request ODNI prepublication review of the attached article, "Comedy and Terror in Guantanamo Bay," by Michael Richter, a former DIA and ODNI intelligence officer.

The author intends to submit the article for open publication.

Would appreciate it if ODNI review could be completed by 18 February.

If you have questions or require additional information, please let me know.

Regards,



Classification: UNCLASSIFIED//FOUC

Classification: UNCLASSIFIED//FOUC

#15

October 21, 2014

By Email Only

(b)(6)

Darrell Walker (secrev1@whs.mil and Darrell.W.Walker.civ@mail.mil)
Department of Defense
Office of Security Review
1155 Defense Pentagon
Washington DC 20301-1155

Re: DOPSR Case No. 14-S-0806

Dear Mr. Walker,

It has now been more than seven months since I submitted the above-referenced appeal dated March 17, 2014, and you still have not rendered a decision that requires an analysis of one sentence, in one paragraph, citing one document. You have repeatedly promised a response, set your own deadlines, and then blown those deadlines with no reasonable justification. Your most recent update was on September 29, 2014, stating that the decision was with the appellate authority and you "expect a quick return from that office." Nearly another month has passed and you have not responded to my email and phone call requesting an update on whether the Department of Defense intends to respond to the appeal or not to respond to the appeal. Please indicate whether the Department of Defense intends to respond or not, and if so, please set a date certain by which a response will be delivered.

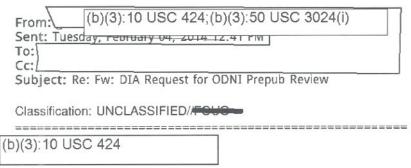
I waive no rights and preserve all.

ichael Richter

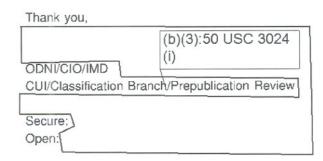
From: To: Cc:	(b)(3):10 USC 424;(b) (3):50 USC 3024(i)
Subject: Date:	RE: Fw: DIA Request for ODNI Prepub Review Tuesday, February 04, 2014 3:06:57 PM
CLASSIFIC	CATION: UNCLASSIFIED#FOUC
Thank you,	We appreciate the rapid response.
Regards,	(b)(3):50 USC 3024(i)
Office of Co	(b)(3):10 USC ion Reviev 424 rporate Communications elligence Agency

Comm.

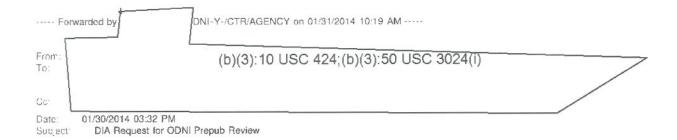
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DNI Pre Pub has reviewed the attached article and clears it for release. No DNI equities requiring protection were noted.







CLASSIFICATION: UNCLASSIFIED/FOUC

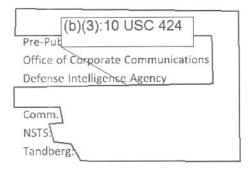
Good Afternoon. This is to request ODNI prepublication review of the attached article, "Comedy and Terror in Guantanamo Bay," by Michael Richter, a former DIA and ODNI intelligence officer.

The author intends to submit the article for open publication.

Would appreciate it if ODNI review could be completed by 18 February.

If you have questions or require additional information, please let me know.

Regards,



CLASSIFICATION: UNCLASSIFIED//FOLIO attachment "14-030_Comedy and Terror in Guantanamo Bay_Article.pdf" deleted by (b)(3):50 USC 3024(i)

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CLASSIFICATION: UNCLASSIFIED/#FOUC

From: To:	(b)(3) 10.U.S.C 424
Cc: Subject: Date:	RESPONSE: Doc R+w- Comedy and Terror in Guantanamo Bay (14-00935 Monday, February 03, 2014 9:58:20 AM (b)(3):10 USC 42
CLASSIFICA	TION: UNCLASSIFIED/#FOUO
Good Morning	(b)(3):10 USC 424
reviewed approved by	the document and has no legal objection to public release. This response has been GC.
V/r (b)(3):10 USC	(b)(3) 10.U.S.C 424
(b)(3). 10 030	, 424
From:	.U.S.C 424
To:	(b)(3):10 USC (vw- Comedy and Terror in Guantanamo Bay (14-00935 (b)(3):10 USC
	oc Rvw- Comedy and Terror in Guantanamo Bay (14-00935 (b)(3):10 USC
Guidance cre	eated by: DI) on 01/31/2014 Action: Suspense: 13 stached article, prepared by a former DIA and ODNI intelligence officer, is
intended to be	e openly published. It has been submitted for review for public release clearance
private attorne	with DIA requirements. The paper discusses the author's observations as a ey on the pre-trial proceedings against Abd al Rahim Hussayn Muhammed al
about al Nashi	lleged mastermind behind the attack on the USS Cole. It also includes details iri's background and the charges against him. (U) Request DI review the paper
public disclosi	whether there are any objections to its public release. If there are objections to ure of any information, please identify the specific information for which there (b)(3) 10.U.S.C 424
substantive co	and provide explanation or rationale for the objection. Review is not for ordination. Review will not imply endorsement of views or factual accuracy. U)
	hay be provided to OCC POC, via JWICs.(U) Enter closing task when action is complete. (U) Please note. A copy of this paper is being
	y for the purpose of conducting an official prepublication review. Copies removed from DIA-controlled space. Copies may only be shared with
employees and	d contractors of the Defense Intelligence Agency who, as part of their official

Task POC:(U) (b)(3) 10.U.S.C

Reference Guidance:(U) Attached article entitled Comedy and Terror in Guantanamo Bay **Background Guidance:**(U) The attached article, prepared by a former DIA and ODNI intelligence officer, is intended to be openly published. It has been submitted for review for public release clearance in accordance with DIA requirements. The paper discusses the author's observations as a private attorney on the pre-trial proceedings against Abd al Rahim Hussayn Muhammed al Nashiri, the alleged mastermind behind the attack on the USS Cole. It also includes details about al Nashiri's background and the charges against him.

Action Guidance: (U) Request DI review the paper to determine whether there are any objections to its public release. If there are objections to public disclosure of any information, please identify the specific information for which there are objections and provide explanation or rationale for the objection. Review is not for substantive coordination. Review will not imply endorsement of views or factual accuracy. Master Guidance created by: On 01/31/2014(U) Reviewers should identify information known to be classified; information which in the judgment of reviewers warrants classification; or otherwise sensitive information which if disclosed would jeopardize legitimate Governmental interests. If there are objections to public disclosure of any information, please identify the specific information for which there are objections or concerns and provide explanation/rationale for the objection. Editorial review is not necessary. (U) DI response may be provided to OCC POC, Via email. (U) Please note. A copy of this paper is being provided solely for the purpose of conducting an official prepublication review. Copies should not be removed from DIA-controlled space. Copies may only be shared with employees and contractors of the Defense Intelligence Agency who, as part of their official duties, will participate in the prepublication review process. Action Office: DI (b)(3):10	2 424
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(b)(3):50 l	USC 3507;(b)(6)	#36	
From: To: Cc:		(b)(3):10 USC 424	(b)(3):50 USC 3507
Subject:	DIA Referral: Publications Review	Board Completion of Manuscript Review	w - Michael Richter (PRB 29050-14)
Date:	Wednesday, February 26, 2014 1	0:25:04 AM	
Attachments:	29050-14 Richter 12 Feb 14 Com	edy and Terror in Guantanamo Bay - A	C.pdf
	cation: CONFIDENTE C 3024(i);(b)(3):50 USC 3		

The Publications Review Board has completed its review of Michael Richter's manuscript "Comedy and Terror in Guantanamo Bay." The Board has determined that the following information in the manuscript is inappropriate for disclosure in the public domain (i.e., is considered to be classified information) and must be revised or deleted prior to publication.

(b)(3):50 USC 3024(i);(b)(5)	11	

Please see the edited pages attached.

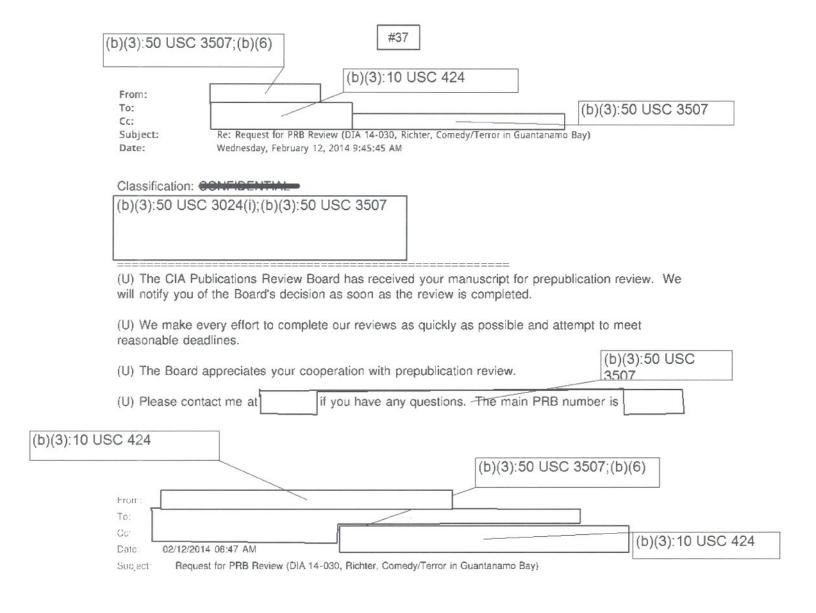
If the author adds material to or changes the text the Board has approved for publication, please submit these additions or changes to us before the author shares them with anyone else. In such a case, please mark or otherwise clearly indicate the new material so we can expedite our review.

If the author disagrees with the Board's determination, the Department of Defense may ask the Board to reconsider its initial determination. Please include any and all information or explanation of the facts the author believes the Board should know. Citations or copies of similar references that show this information to have been previously released and already in the public domain are appropriate, although a mere listing of published citations may not necessarily be sufficient to change the Board's decision. If the Board upholds its initial decision, the Department of Defense on behalf of the author, may then formally appeal the Board's reconsideration decision. Such appeals go to the Agency's Executive Director for a final Agency decision. If Department of Defense wishes to appeal, please do so within 30 days of the Board's reconsideration decision. The appeal must be in writing and must be sent to the Board's Chairman. Appeal documentation must include the material intended for publication and any supporting material the Executive Director should consider. Please note that in all cases, the decision of the ExDir/CIA is final. If an appeal is NOT brought to the attention of ExDir/CIA within applicable time limits, the original decision of the PRB will be adopted.

Please contact PRB with any questions.

Sincerely PRB Staff	
PRB (b)(3):50 USC 3507	
======================================	==
	PRB Staff PRB (b)(3):50 USC 3507

Classification: CONFIDENTIAL



CLASSIFICATION: UNCLASSIFIED//FOUC

This is to request CIA/PRB review of the attached article, "Comedy and Terror in Guantanamo Bay," by Michael P. Richter. The author is a former DIA employee.

We are referring this article for PRB review because it potentially contains CIA equities.

If you have questions or require additional information, please let me know.

Prepublication Review
Office of Corporate Communications
Defense Intelligence Agency

(b)(3):10 USC 424	
	(b)(3):50 USC 3507;(b) (6)
CLASSIFICATION: UNCLASSIFIED/AFOUC attachment "14-036 Guantanamo Bay_Article.pdf" deleted by STF/	Comedy and Terror in 'AGENCY'
Classification:	

#46

October 24, 2014

By Email Only

(b)(6)

Michael L. Rhodes
Director, Office of the Deputy Chief Management Officer
Department of Defense
9010 Defense Pentagon
Washington, D.C. 20301-9010

C/O: Darrell Walker (secrev1@whs.mil and Darrell.W.Walker.civ@mail.mil)

Mark Langerman (Mark.M.Langerman.civ.@mail.mil)

Re: DOPSR Case No. 14-S-0806

Dear Mr. Rhodes.

I write in response to your letter dated October 22, 2014, regarding the above-referenced appeal dated March 17, 2014 and supplemented on April 6, 2014 (the "Appeal"). Please confirm that I have now exhausted all administrative remedies with respect to the Appeal. If there are any additional administrative remedies available, please advise me of the procedures to invoke those remedies.

I note that your half-page response to the Appeal took over seven months, even though it pertained to just one sentence referred to in one document. I further note that your response did not address any of the existing law set forth in the Appeal, and relied solely on a June 7, 2013 Defense Department memorandum from Timothy A. Davis, Director of Security, with the subject line "Notice to DoD Employees and Contractors on Protecting Classified Information and the Integrity of Unclassified Government Information Technology Systems," for support (the "Memo"). It is well settled that an executive memorandum cannot trump the law as set forth by our Federal Courts. Indeed, not even the President can achieve such an outcome. Chamber of Commerce v. Reich, 74 F.3d 1322 (D.C. Cir. 1996) (invalidating executive order because it conflicted with decision in NLRB v. Mackay Radio & Telegraph Company, 304 U.S. 333 (1938)).

Moreover, even if the Memo did trump established law as set forth by our Federal Courts (it does not), it is irrelevant and your citation to it is bizarre. First, it pertains to current Defense Department employees and contractors. I am neither. I resigned from the Defense Department in 2011, and only thereafter submitted this article for prepublication review. Second, the Memo was promulgated in 2013, two years after I resigned. You have no authority to retroactively and unilaterally re-write my non-disclosure agreement by incorporating the Memo. Accordingly, the Memo does not even apply to me and your attempt to impose its strictures upon me is improper.

I received your letter on October 23, 2014.

Plus, even if the Memo trumped established law (it can't) and did apply to me (it doesn't), it does not even pertain to any of the arguments mustered in the Appeal. The Memo merely states that just because a classified document is made public does not mean it is unclassified. My appeal does not contest that; it does not even address that. What the Appeal clearly contests is the Defense Department's use of my non-disclosure agreement to preclude me from citing, referencing or discussing in any way information that I did not learn as a consequence of possessing a security clearance.

As demonstrated in the Appeal, the Courts have already ruled that I have as much right to speak on matters in the public domain as any other person, so long as I do not disclose what I learned as a consequence of possessing a security clearance. Appeal at 1-2. The Appeal even cites an article posted on CIA's website regarding pre-publication review that concedes this settled point. Appeal at Ex. C. In the over seven months that you have had the Appeal you have not contested the fact that I only learned of this information by virtue of having access to the New York Times website.

I must concede that it is most frustrating to wait seven months for a decision on the Appeal to only receive a response that appears intentionally vague, arbitrary and capricious, especially as it is inconsistent with and completely ignores existing law, the CIA article posted on CIA's website regarding pre-publication review, and attempts to unilaterally re-write my non-disclosure agreement by relying on a memorandum that cannot trump existing law and does not even apply to me. Accordingly, I object to the Defense Department's efforts to unilaterally expand the scope of my non-disclosure agreement and will avail myself of all legal and equitable remedies to ensure that the Defense Department complies with the law and does not infringe upon those free speech rights I did not sacrifice in accepting employment with the Defense Department.

	I waive no rights and preserve all.		
		 Regards, (b)(6)	1
Cc:	(b)(3):10 USC 424	Michael Richter	
CC:			