

From: (b)(3):10 USC 424;(b)(3):50 USC 3024(i)  
 To:  
 Cc:  
 Subject: Re: Fw: DIA Request for ODNI Prepub Review  
 Date: Tuesday, February 04, 2014 12:40:46 PM  
 Attachments: 14-030 Comedy and Terror in Guantanamo Bay Article.pdf

Classification: UNCLASSIFIED//~~FOUO~~

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(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:

----- Forwarded by (b)(3):50 USC 3024(i) DNI-Y-/CTR/AGENCY on 01/31/2014 10:19 AM -----

From: (b)(3):10 USC 424;(b)(3):50 USC 3024(i)  
 To:  
 Cc:  
 Date: 01/30/2014 03:32 PM  
 Subject: 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,

[Redacted]  
Pre-Publication Review  
Office of Corporate Communications  
Defense Intelligence Agency  
[Redacted]  
Comm: (b)(3):10 USC 424  
NSTS:  
Tandberg: [Redacted]

CLASSIFICATION: UNCLASSIFIED//~~FOUO~~ attachment "14-030\_Comedy and Terror in Guantanamo Bay\_Article.pdf" deleted by (b)(3):50 USC 3024(i) [Redacted] DNI-Y-/CTR/AGENCY]

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Classification: UNCLASSIFIED//~~FOUO~~

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Classification: UNCLASSIFIED//~~FOUO~~

October 21, 2014

(b)(6)

***By Email Only***

Darrell Walker ([secrev1@whs.mil](mailto:secrev1@whs.mil) and [Darrell.W.Walker.civ@mail.mil](mailto: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.

Regards,

(b)(6)

Michael Richter

Cc:

(b)(3):10 USC 424

From: (b)(3):10 USC 424;(b)  
To: (3):50 USC 3024(i)  
Cc:  
Subject: RE: Fw: DIA Request for ODNI Prepub Review  
Date: Tuesday, February 04, 2014 3:06:57 PM

CLASSIFICATION: UNCLASSIFIED//~~FOUO~~

Thank you, [redacted] We appreciate the rapid response.

Regards, [redacted] (b)(3):50 USC 3024(i)

[redacted] (b)(3):10 USC  
Pre-Publication Review 424  
Office of Corporate Communications  
Defense Intelligence Agency

Comm.  
NSTS:  
Tandberg:

From: [redacted] (b)(3):10 USC 424;(b)(3):50 USC 3024(i)  
Sent: Tuesday, February 04, 2014 12:41 PM  
To:  
Cc:  
Subject: Re: Fw: DIA Request for ODNI Prepub Review

Classification: UNCLASSIFIED//~~FOUO~~

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(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,

[redacted] (b)(3):50 USC 3024  
(i)  
ODNI/CIO/IMD  
CUI/Classification Branch/Prepublication Review

Secure:  
Open:

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

----- Forwarded by (b)(3):10 USC 424; (b)(3):50 USC 3024(i) DNI-Y-/CTR/AGENCY on 01/31/2014 10:19 AM -----

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

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

Date: 01/30/2014 03:32 PM

Subject: DIA Request for ODNI Prepub Review

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

Regards,

(b)(3):10 USC 424

Pre-Pub  
Office of Corporate Communications  
Defense Intelligence Agency

Comm.

NSTS:

Tandberg:

CLASSIFICATION: UNCLASSIFIED//~~FOUO~~ attachment "14-030\_Comedy and Terror in Guantanamo Bay\_Article.pdf" deleted by (b)(3):50 USC 3024(i) DNI-Y-/CTR/AGENCY]

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Classification: UNCLASSIFIED//~~FOUO~~

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Classification: UNCLASSIFIED//~~FOUO~~

CLASSIFICATION: UNCLASSIFIED//~~FOUO~~



From: (b)(3) 10.U.S.C 424  
 To: [REDACTED]  
 Cc: [REDACTED]  
 Subject: RESPONSE: Doc Rvw- Comedy and Terror in Guantanamo Bay (14-00935) [REDACTED]  
 Date: Monday, February 03, 2014 9:58:20 AM [REDACTED] (b)(3):10 USC 42

CLASSIFICATION: UNCLASSIFIED//~~FOUO~~

Good Morning, (b)(3):10 USC 424

[REDACTED] reviewed the document and has no legal objection to public release. This response has been approved by [REDACTED] GC.

(b)(3) 10.U.S.C 424

V/r

(b)(3):10 USC 424

From: (b)(3) 10.U.S.C 424  
 Sent: Friday, January 31, 2014 11:24 AM  
 To: (b)(3) 10.U.S.C 424  
 Subject: Doc Rvw- Comedy and Terror in Guantanamo Bay (14-00935) [REDACTED] (b)(3):10 USC 424

**Task Title:** Doc Rvw- Comedy and Terror in Guantanamo Bay (14-00935) [REDACTED]

**Classification:** UNCLASSIFIED//~~FOUO~~

**Guidance created by:** [REDACTED] (DI) on 01/31/2014 Action: [REDACTED] Suspense: 13 Feb(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. (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. (U) DI response may be provided to OCC POC, [REDACTED] via JWICs. (U) Enter closing remarks in e-task when action is complete. (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.

(b)(3)  
10.U.S.C 424

Task POC:(U) (b)(3) 10.U.S.C 424

**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. (b)(3) 10.U.S.C 42

**Master Guidance created by:** (b)(3) 10.U.S.C 42 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, (b)(3) 10.U.S.C 424 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 USC 424

[Click to view the task](#)

CLASSIFICATION: UNCLASSIFIED//~~FOUO~~

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CLASSIFICATION: UNCLASSIFIED//~~FOUO~~



(b)(3):50 USC 3507;(b)(6)

#36

From:

To:

Cc:

Subject:

Date:

Attachments:

DIA Referral: Publications Review Board Completion of Manuscript Review - Michael Richter (PRB 29050-14)

Wednesday, February 26, 2014 10:25:04 AM

29050-14 Richter 12 Feb 14 Comedy and Terror in Guantanamo Bay - AC.pdf

(b)(3):10 USC 424

(b)(3):50 USC  
3507

Classification: ~~CONFIDENTIAL~~

(b)(3):50 USC 3024(i);(b)(3):50 USC 3507

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)(3):50 USC 3507

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.

(b)(3):50 USC 3507;(b)(6)

Sincerely,

PRB Staff

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PRB

(b)(3):50 USC 3507

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Classification: ~~CONFIDENTIAL~~

=====  
Classification: ~~CONFIDENTIAL~~

(b)(3):50 USC 3507;(b)(6)

#37

(b)(3):10 USC 424

From:

To:

Cc:

Subject:

Date:

Re: Request for PRB Review (DIA 14-030, Richter, Comedy/Terror in Guantanamo Bay)  
Wednesday, February 12, 2014 9:45:45 AM

(b)(3):50 USC 3507

Classification: ~~CONFIDENTIAL~~

(b)(3):50 USC 3024(i);(b)(3):50 USC 3507

(U) The CIA Publications Review Board has received your manuscript for prepublication review. We will notify you of the Board's decision as soon as the review is completed.

(U) We make every effort to complete our reviews as quickly as possible and attempt to meet reasonable deadlines.

(U) The Board appreciates your cooperation with prepublication review.

(b)(3):50 USC 3507

(U) Please contact me at [redacted] if you have any questions. The main PRB number is [redacted]

(b)(3):10 USC 424

(b)(3):50 USC 3507;(b)(6)

From:

To:

Cc:

Date: 02/12/2014 08:47 AM

Subject: Request for PRB Review (DIA 14-030, Richter, Comedy/Terror in Guantanamo Bay)

(b)(3):10 USC 424

CLASSIFICATION: UNCLASSIFIED//~~FOUO~~

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.

Thank you.

(b)(3):10 USC 424

Prepublication Review  
Office of Corporate Communications  
Defense Intelligence Agency

[Redacted]

(b)(3):10 USC 424

(b)(3):50 USC 3507;(b)  
(6)

CLASSIFICATION: UNCLASSIFIED//~~FOUO~~ attachment "14-030\_Comedy and Terror in  
Guantanamo Bay\_Article.pdf" deleted by [Redacted] [STF/AGENCY]

=====  
Classification: ~~CONFIDENTIAL~~



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](mailto:secrev1@whs.mil) and [Darrell.W.Walker.civ@mail.mil](mailto:Darrell.W.Walker.civ@mail.mil))  
Mark Langerman ([Mark.M.Langerman.civ@mail.mil](mailto: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").<sup>1</sup> 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 pre-publication 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.

---

<sup>1</sup> 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)

Michael Richter

Cc:

(b)(3):10 USC 424