

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

VIETNAM VETERANS OF AMERICA, *et al.*,

Plaintiffs,

v.

CENTRAL INTELLIGENCE AGENCY, *et al.*,

Defendants.

Case No. CV 09-0037-CW (JL)

DECLARATION OF MARTHA M. LUTZ  
INFORMATION REVIEW OFFICER  
DIRECTOR'S AREA  
CENTRAL INTELLIGENCE AGENCY

I, MARTHA M. LUTZ, hereby declare and say:

1. I am the Information Review Officer (IRO) for the Director's Area of the Central Intelligence Agency (CIA). The Director's Area encompasses not only the Offices of the Director and Deputy Director of the CIA, but also several components that are not organized under one of the CIA's four main directorates (Support, Intelligence, National Clandestine Service, and Science & Technology), such as the Office of the Chief Information Officer and the Office of Congressional Affairs. I have held this position since 19 January 1999. I have also held

various administrative and professional positions with the CIA since 1989.

2. As the IRO for the Director's Area, I am authorized, *inter alia*, to assess the current, proper classification of CIA information based on the classification criteria of Executive Order 13526 and applicable CIA regulations. I am also responsible for the review of documents and information originated by the Director's Area or otherwise implicating the Director's Area interests, including documents which may be the subject of court proceedings. As part of my official duties, I ensure that any determinations as to the public release or withholding of such documents are proper and do not jeopardize the national security. I review these documents to protect not only classified information, but also information that is exempted from disclosure by the statutory privileges set forth in the Central Intelligence Agency Act of 1949 ("CIA Act"), 50 U.S.C. § 403g, as amended, and the National Security Act of 1947, 50 U.S.C. § 403-1, as amended.

3. Through the exercise of my official duties, I have become familiar with this civil action and the documents described below. I make the following statements based upon my personal knowledge and information made available to me in my official capacity.

4. In this case the CIA has produced documents concerning several of the individual plaintiffs ("Plaintiff Documents"). The Plaintiff Documents fall primarily into two categories: (1) correspondence concerning various Freedom of Information Act ("FOIA") and Privacy Act requests submitted by the individual plaintiffs and internal communications related thereto and (2) correspondence with members of Congress related to the individual plaintiffs and internal communications related thereto. These documents were generated prior to the commencement of this litigation.

5. The CIA reviewed these documents prior to their production in this case and withheld a small amount of information from them pursuant to the CIA Act. The Plaintiff Documents from which information was withheld on the basis of the CIA Act are listed in the revised privilege log that is attached as Exhibit A,<sup>1</sup> which is hereby incorporated into this

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<sup>1</sup> This privilege log has been altered compared to when it was originally produced in this litigation. The Defendants produced a consolidated privilege log in July 2010 that contained 21 entries describing the CIA documents that were withheld in part or in full on the basis of privilege. I understand that some of the entries in the July 2010 log actually described several CIA documents that were similar in nature (e.g., a series of FOIA letters containing nearly identical redactions). To aid the Court in reviewing these documents, the Defendants are herein producing a revised privilege log, which now contains 55 entries that describe the documents in a more individualized manner (and as they are kept in the normal course of business). Due to the fact that more individualized log entries have been created,

declaration. I understand that the Plaintiffs have challenged all of these withholdings and that the Court has requested a declaration from the CIA specifically addressing the basis for them.<sup>2</sup>

6. The purpose of this declaration is to describe, to the greatest extent possible on the public record, the information withheld from these documents pursuant to the CIA Act. The CIA is also prepared to provide the Court with unredacted versions of these documents for *ex parte*, *in camera* review, subject to the arrangements being made by the Department of Justice.

7. Section 6 of the CIA Act provides that the "Agency shall be exempted from . . . the provisions of any other law which require the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency." In this case, I have determined that certain information contained within the Plaintiff Documents is subject to protection by the CIA Act.

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some of the entries on the log describe documents that were previously released in full. For convenience I am attaching the July 2010 version of the privilege log as Exhibit B, although all references herein are to the revised log attached as Exhibit A.

<sup>2</sup> Information also was redacted from these documents on the basis of the Privacy Act and the attorney-client and attorney work product privileges. These redactions are not addressed herein because they are not being challenged by the Plaintiffs, but they are still listed on the attached privilege log.

8. Names of CIA Personnel: The CIA has withheld the names of CIA personnel from the Plaintiff Documents. These personnel include individuals who work on FOIA and Privacy Act matters, in the Office of Congressional Affairs, and in the Office of General Counsel. Please see documents ending in Bates number VVA029278, VVA029334, VVA029351, VVA029529, VVA029533, VVA029546, VVA029547, VVA029549-65, VVA029569, VVA029570, VVA029571, VVA029572, and VVA029576 for examples of documents where the CIA redacted the names of CIA personnel.

9. To be clear, the CIA has not redacted the name of every CIA employee that appears in the Plaintiff Documents. For example, the CIA has not redacted the names of senior CIA officials who routinely interact with the general public, such as the CIA Information and Privacy Coordinator or the head of the Office of Congressional Affairs. Conversely, it has redacted the names of lower-level CIA employees who report to those more senior officials.

10. Information Concerning the CIA's Organization and Functions: The CIA has also withheld a small amount of information concerning the internal organization and functions of the CIA. Examples of such withholdings include the following:

- Internal filing and routing information: At the end of most official CIA correspondence in the Plaintiff Documents, the CIA has redacted a limited amount of organizational information concerning how the letters are saved on CIA computer systems and distributed internally, as well as other internal notations relating to those letters. This information is not provided to the recipient of the letter and is only used internally. Disclosure of this information would reveal how the CIA stores, handles, and processes this information. Examples of documents where information was redacted for this reason include VVA029271, VVA029277, VVA029306, VVA029317, VVA029319, VVA029321, VVA029324, VVA029325, VVA029327, VVA029330, VVA029333, VVA029337, VVA029339, VVA029340, VVA029354, VVA029357, and VVA029532.
- The titles of certain CIA offices and their locations within CIA buildings: Please see documents ending in Bates numbers VVA029268, VVA029533, VVA029565, and VVA029566 for examples of such redactions.
- External and internal CIA phone numbers and fax numbers: Please see documents ending in Bates number VVA029533, VVA029546, VVA029549, VVA029550, VVA029563, and VVA02957 for examples of such redactions.

11. Although most of the responsive Plaintiff Documents have been released with minimal redactions, it was necessary to withhold a small portion of them in full. These documents are reflected in entries 43-55 on the attached privilege log, which contains descriptions of each of these documents. Generally speaking, these documents reflect internal administrative functions performed by CIA employees related to the processing of FOIA and Privacy Act requests. Some of the documents reflect internal taskings to CIA components to conduct records searches, while others reflect the administrative responses of those components to the search requests. The results of these internal searches are then used to formulate the formal, public response to the FOIA or Privacy Act requestor. Because these internal documents are replete with information concerning the internal organization and functions of the CIA, including information about the organization and operation of internal CIA computer databases as well as the names, phone numbers, and titles of CIA personnel, it was necessary to withhold them in full pursuant to the CIA Act.


12. I have conducted a line-by-line review of the Plaintiff Documents to identify and release all reasonably segregable, non-protected information from them. Based on this review, I have determined that the information released to the

Plaintiffs has been released in segregable form while the remaining information is exempt from disclosure for the reasons described above.

13. In closing, I note that in providing the CIA with the ability to withhold information concerning the organization and functions of the CIA and the names, salaries, and titles of its employees notwithstanding the "provisions of any other law," Congress recognized that it was important to this nation's security that this type of information be protected from disclosure. Accordingly, when invoking the CIA Act, it is not necessary for the CIA to conduct an examination of the harm to national security that could result from the disclosure of each individual piece of protected information. Congress has already made that determination.

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

Executed this 20th day of December, 2010.

  
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Martha M. Lutz  
Information Review Officer  
Central Intelligence Agency