

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JUDICIAL WATCH, INC.,	)	
	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case: 1:11-cv-00890
	)	
U.S. DEPARTMENT OF DEFENSE,	)	
et al.	)	
	)	
Defendants.	)	
_____	)	

DECLARATION OF ELIZABETH ANNE CULVER
INFORMATION REVIEW OFFICER
NATIONAL CLANDESTINE SERVICE
CENTRAL INTELLIGENCE AGENCY

I, ELIZABETH ANNE CULVER, hereby declare and state:

1. I am the Information Review Officer ("IRO") for the National Clandestine Service ("NCS") of the Central Intelligence Agency ("CIA"). I was appointed to this position in May 2011. I have held administrative, operational, and managerial positions in the CIA since 1993.

2. The NCS is the organization within the CIA responsible for conducting the CIA's foreign intelligence and counterintelligence activities. As the IRO for the NCS, I am authorized to assess the current, proper classification of CIA information based on the classification criteria of Executive Order 13526. As the IRO, I am responsible for the

classification review of records and information originated by the NCS or otherwise implicating NCS interests, including records which may be the subject of court proceedings or public requests for information under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. As part of my official duties, I ensure that any determinations regarding the public release or withholding of any such records or information are proper and do not jeopardize the national security by disclosing classified intelligence activities, methods, operational targets, or endanger United States government personnel, facilities, or sources.

3. As a senior CIA official and under a written delegation of authority pursuant to Section 1.3(c) of Executive Order 13526, I hold original classification authority at the TOP SECRET level. Therefore, I am authorized to conduct classification reviews and to make original classification and declassification decisions. This classification and declassification authority extends to all CIA information, not just that belonging to the NCS.

4. Pursuant to authority delegated by the Associate Deputy Director of the CIA, I also have been appointed Records Validation Officer ("RVO"). As RVO, I am authorized to sign declarations on behalf of the CIA regarding searches for records, and the contents of any located records, including

those located in, or containing information under the cognizance of CIA directorates or areas other than the NCS.

5. I am submitting this declaration in support of the CIA's motion for summary judgment in this proceeding. Through the exercise of my official duties, I have become familiar with this civil action and the underlying FOIA request. I make the following statements based upon my personal knowledge and information made available to me in my official capacity.

6. This declaration supplements the declaration of John Bennett, the Director of the CIA's National Clandestine Service, which was filed in this case on 26 September 2011. The purpose of that declaration was to explain to the Court why the responsive records at issue in this litigation are exempt from release under FOIA exemptions (b)(1) and (b)(3), with an emphasis on the harm to national security that reasonably could be expected to result from the unauthorized disclosure of those records. I understand that the Plaintiff subsequently challenged, among other things, whether those records satisfied the procedural requirements of Executive Order 13526. The purpose of this declaration is to address that specific claim.

7. I have personally reviewed each of the fifty-two (52) unique responsive records at issue in this litigation, and I am familiar with the circumstances in which these records have been maintained by the CIA. Based on this review, I have confirmed

that each of these records satisfies the procedural requirements of Executive Order 13526. At the time of Mr. Bennett's declaration, these records were marked "TOP SECRET" and were otherwise maintained in a manner that satisfied the procedural requirements of the Executive Order under the circumstances.¹ Since then the CIA has, out of an abundance of caution, taken additional steps to ensure that each of these records contains all of the markings required by the Executive Order and its implementing directives, including information that reveals the identity of the person who applied derivative classification markings, citations to the relevant classification guidance and reasons for classification, and the applicable declassification instructions.

8. As for Plaintiff's inquiry concerning the identity of the original classification authority (OCA), after the CIA received these records, they were derivatively classified in accordance with the guidance provided by the CIA's designated "senior agency official," as authorized by Part 2 of the Executive Order. The CIA official who provides this classification guidance - and is therefore the OCA for these records - is the CIA's Director of Information Management

¹ Contrary to Plaintiff's suggestion, after their creation these extraordinarily sensitive images were always considered to be classified by the CIA and were consistently maintained in a manner appropriate for their classification level.

Services, who is the authorized OCA who has been designated to direct and administer the CIA's program under which information is classified, safeguarded, and declassified. When Mr. Bennett, who is himself is an OCA acting under the direction of the CIA Director, later reviewed each of these records for the purpose of this litigation, he reaffirmed that these prior classification determinations were correct and that the records continued to meet the criteria of the Order.

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

Executed this 25th day of January 2012.



Elizabeth Anne Culver
Information Review Officer
Central Intelligence Agency