

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN CIVIL LIBERTIES UNION,
et al.,

Plaintiffs,

v.

CENTRAL INTELLIGENCE AGENCY,

Defendant.

Case No. 1:18-CV-02784-CJN

**SUPPLEMENTAL DECLARATION OF VANNA BLAINE,
INFORMATION REVIEW OFFICER FOR THE
LITIGATION INFORMATION REVIEW OFFICE
CENTRAL INTELLIGENCE AGENCY**

I, VANNA BLAINE, hereby declare and state:

I. INTRODUCTION

1. I am the Information Review Officer ("IRO") for the Litigation Information Review Office ("LIRO") at the Central Intelligence Agency ("CIA" or "Agency"). I am a senior CIA official and hold original classification authority ("OCA") 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). I am also 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 ("FOIA"), 5 U.S.C. § 552. Through the exercise of my official duties, as

detailed in my previous declaration, which is incorporated by reference, 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.

2. As discussed in my previous declaration, this case involves a FOIA request for records concerning CIA efforts to support Ms. Haspel's nomination for Director. On January 11, 2021, I understand that plaintiffs filed their opposition primarily challenging the Agency's withholdings under FOIA Exemption (b)(5). Plaintiffs also challenged the Agency's withholdings, if any, under FOIA Exemptions 1 and 3 that pertained to Ms. Haspel's original classification authority as the then acting CIA Director. Finally, plaintiffs challenged the sufficiency of the Agency's segregability analysis. The purpose of this supplemental declaration and the attached supplemental *Vaughn* index, which I hereby incorporate by reference, is to provide additional detail in support of the withholdings pursuant to those FOIA exemptions. The supplemental *Vaughn* index includes additional detail for the following entries: 17, 21-25, 33, 36, 40, 44-45, 49, 64, 67, 72-74, 76, 77-80, 84-85, 87-88, 93-95, 97-101, 110, 112-114, 115,

118-126, and 129.¹ Furthermore, this declaration also provides additional detail regarding the Agency's reasonable and proper segregability analysis.

II. Exemption (b) (5)

A. Deliberative Process Privilege

3. As described in the Agency's initial declaration, the CIA asserted Exemption (b) (5) to withhold 111 of the 113 documents in full as well as discrete portions of one document released in part, pursuant to the deliberative process privilege because the information contained inter-agency or intra-agency communications reflecting the CIA's role in support of Ms. Haspel's nomination for CIA Director. The documents withheld in full can be grouped into several general categories of information that reflect the Agency's deliberative process. These categories include draft responses to Senate inquiries, the Agency's correspondence with the White House, draft written material in support of Ms. Haspel's nomination, and draft written responses and deliberations regarding how to address media inquiries concerning Ms. Haspel's nomination. I will provide additional detail of the deliberative process for each category separately.

¹ In its initial *Vaughn* index, the Agency inadvertently misstated the page counts for entries 35, 36, and 129 and document dates for entries 10, 29, 44, and 56. The supplemental *Vaughn* index has been revised to include the correct page counts and document dates for these entries. In addition, the Agency also revised minor typographical errors in entries 18, 28, and 42.

4. With respect to the Senate inquiries, the Agency coordinated its response to many inquiries from various Senators on the U.S. Senate Select Committee on Intelligence (SSCI) regarding Ms. Haspel's Agency career and her position on specific issues relevant to the CIA as its nominated Director. The responses were drafted by, and coordinated among, various components within the Agency with subject matter expertise and circulated for review and edits prior to finalization and submission to the SSCI. These withheld documents consisted of email exchanges between Agency personnel forwarding draft responses for review, comment, and/or providing edits and recommendations regarding the draft responses. Additionally, some of the emails also contained attached draft documents with comments, edits, recommendations, and discussions on relevant information about the requested topic. These drafts, included in emails and/or attached documents, did not express a final decision but reflect the Agency's multi-step decision-making process because the drafters did not hold final decision-making authority and/or the draft documents were circulated internally for further consideration.

5. The Agency also conducted intra-agency deliberations concerning separate White House inquiries regarding Ms. Haspel's CIA Director nomination. These documents included internal discussions, suggestions, and opinions concerning the Agency's

responses to related White House inquiries prior to a final determination. This written correspondence did not reflect a final decision or action, but, illustrates the Agency's internal consideration and deliberation prior to its adoption of a final decision.

6. The Agency and White House also drafted written material about Ms. Haspel's background and Agency career to encourage Congressional and public support for her nomination as CIA Director. These draft documents were either circulated within the CIA or between the Agency and the White House for review and comment prior to their finalization for dissemination to Congress or the public. Additionally, the Agency drafted other written material that addressed issues related to Ms. Haspel's nomination in preparation for the Senate nomination hearings and inquiries, such as her opening statement and various talking points. The drafts included edits, recommendations, and comments on wording, accuracy, and other opinions concerning the draft material and did not provide a final Agency determination.

7. Finally, the Agency also received requests for information from the media or deliberated on whether to engage the media regarding Ms. Haspel's career or her nomination process for CIA Director. Agency personnel internally discussed and coordinated responses to media inquiries and prospective

media outreach. These deliberations did not reflect the Agency's final determination as the communications either solicited or forwarded suggestions and comments for the proposed media responses or engagement and requested opinions and approval on whether to engage with the media on particular topics related to Ms. Haspel's nomination.

8. As demonstrated above, the draft documents withheld in full under these categories demonstrate the Agency's decision-making process in support of Ms. Haspel's nomination as CIA Director. To the extent that there was factual information included in the documents, it is part and parcel of the deliberations and is therefore inextricably intertwined with the deliberative material in the document. Release of this information would disclose pertinent and significant pre-decisional recommendations, opinions, and considerations undertaken by Agency personnel in deliberations regarding how best to support the CIA Director nomination. Accordingly, the Agency invoked the deliberative process privilege covered by Exemption (b)(5) to protect these records in their entirety.

B. Attorney-Client Privilege

9. The Agency also withheld discrete pieces of information under Exemption (b)(5) pursuant to the attorney-client privilege. The attorney-client privilege protects confidential communications between an attorney and his or her

client relating to a legal matter for which the client has sought professional advice. As described in the initial declaration and *Vaughn* index and the supplemental *Vaughn* index, the Agency withheld information that reflects confidential communications between Agency personnel and CIA attorneys regarding Ms. Haspel's CIA Director nomination. As the Agency deliberated on particular topics as a result of Senate, White House, or media inquiries regarding the CIA Director nomination, in some instances, various Agency personnel solicited and received legal guidance and analysis from CIA attorneys in their area of expertise based on relevant and factual CIA information prior to an Agency final determination. The communications between Agency personnel and CIA attorneys, to include the legal guidance and the underlying CIA information, are confidential and were not disclosed beyond the attorney-client relationship. As a result, the Agency withheld these confidential communications between Agency personnel and CIA attorneys based on particular CIA information pursuant to the attorney-client privilege.²

² In its initial *Vaughn* index, CIA inadvertently asserted FOIA exemption (b)(5) to withhold a discrete piece of information within document C06800041 (entry 37) pursuant to the deliberative process privilege and the attorney client privilege. Upon subsequent review, I find that only the deliberative process privilege applies. Therefore, the supplemental *Vaughn* index has been revised accordingly.

III. Exemptions (b) (1) and (b) (3)

10. Plaintiffs challenge any Agency claims under Exemptions (b) (1) and (b) (3) for information pertaining to Ms. Haspel's original classification authority as the then acting Director of the CIA and any conflict of interest as a result of such authority. The Agency did not withhold any information on the ground that it related to Ms. Haspel's original classification or any potential conflicts of interest as a result of such authority. The Agency did withhold certain records that it determined are responsive to part two of plaintiff's request but it did so because the records were otherwise exempt. For example, certain responsive records were withheld under Exemption (b) (5) because they are subject to the deliberative process privilege and/or attorney-client privilege. Some of those records also reflect withholding under Exemptions (b) (1) and (b) (3) because the records contained protected information about Ms. Haspel's Agency career. I incorporate the Agency's justification for these assertions as described in my previous declaration and *Vaughn* index by reference.

IV. SEGREGABILITY

11. As stated in my previous declaration, the Agency has conducted a careful review of the documents at issue in order to release all reasonably segregable non-exempt information. Furthermore, as explained above, information withheld in full

pursuant to the deliberative process privilege per Exemption (b) (5), is deliberative in nature and any factual information is inextricably intertwined with the deliberative material. Disclosure of such information could reveal the basis and nature of the pre-decisional information prior to a final Agency determination. Furthermore, the information withheld in full is also protected by additional FOIA Exemptions previously described in my declaration and Vaughn index and the supplemental Vaughn index. In connection with the instant filing, I have again conducted a page-by-page, line-by-line review of the documents at issue in this case and have determined that there is no reasonably segregable non-exempt and meaningful information left to disclose.

* * *

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

Executed this 26th day of February 2020.



Vanna Blaine
Information Review Officer
Litigation Information Review Office
Central Intelligence Agency

