

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ULLAH., et al.,

Plaintiffs,

v.

CENTRAL INTELLIGENCE AGENCY,

Defendant.

Case No. 1:18-CV-02785 (JEB)

DECLARATION OF ANTOINETTE B. SHINER,
INFORMATION REVIEW OFFICER FOR THE
LITIGATION INFORMATION REVIEW OFFICE
CENTRAL INTELLIGENCE AGENCY

I, ANTOINETTE B. SHINER, hereby declare and state:

I. INTRODUCTION

1. I currently serve as the Information Review Officer ("IRO") for the Litigation Information Review Office ("LIRO") at the Central Intelligence Agency ("CIA" or "Agency"). I have held this position since 19 January 2016 and have worked in the information review and release field since 2000.

2. I am a senior CIA official and hold original classification authority 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). This means that I am authorized to assess the current, proper classification of CIA information, up to and including TOP SECRET information,

based on the classification criteria of Executive Order 13526 and applicable regulations.

3. Among other things, I am 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, and the Privacy Act of 1974, 5 U.S.C. § 552a.

4. 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. I am submitting this declaration and the accompanying Vaughn index, attached as Exhibit A, in support of the Motion for Summary Judgment to be filed by the United States Department of Justice in this proceeding.

5. Part II of this Declaration chronicles Plaintiffs' FOIA request and the CIA's responses in this case; and Parts III -IV address, in turn, each purported issue. Part V addresses the CIA's review of the segregability of the information contained in the documents.

II. BACKGROUND

6. By letter dated 18 April 2018, Plaintiffs sought records pertaining to the death of Gul Rahman, an individual detained by CIA in connection with the former detention and

interrogation program. Specifically, Plaintiffs sought records pertaining to:

- The United States' (or its agents') disposition of Mr. Rahman's body after his death in CIA custody in November 2002;
- Any and all documents referencing the location of Mr. Rahman's body; and
- Procedures, protocols, or guidelines to be followed in the event of a CIA detainee's death while in United States' custody, including family notification, investigation, and disposition of the body.

Plaintiffs also requested expedited processing. A true and correct copy of the FOIA Request is attached as Exhibit "B".

7. By letter dated 20 April 2018, the CIA acknowledged receipt of Plaintiffs' February FOIA request and assigned it the reference number F-2018-01415. CIA also denied Plaintiffs' request for expedited processing, as the request did not demonstrate a "compelling need" for the information, which is required by CIA regulations. A true and correct copy of this letter is attached as Exhibit "C".

8. On 29 November 2018, Plaintiffs filed a complaint in this Court naming CIA as a defendant.

9. By letter dated 31 May 2019, the CIA provided a final response to Plaintiffs, producing nine documents in part and withholding twenty-nine documents in full. Redactions and withholdings were both made pursuant to FOIA Exemptions (b)(1), (b)(3), (b)(5), (b)(6), and (b)(7)(C). A true and correct copy of this letter is attached as Exhibit "D". However, upon further review of the documents in the process of completing this declaration and accompanying Vaughn index, it was determined that three of the documents withheld in full were not responsive. Therefore, this declaration will only address the thirty-five responsive documents at issue.

10. By email dated 14 June 2019, Plaintiffs limited their challenges, noting they would not challenge the redaction or withholding of classified code words and pseudonyms; classification and dissemination control markings; or identities of CIA personnel who have not been officially identified with the CIA's former rendition, detention, and interrogation program (the "RDI Program"). Accordingly, any redactions or withholdings of this information are not addressed in this declaration.

III. CIA'S SEARCHES FOR RECORDS

11. Given that Plaintiffs' request dealt with aspects of the former RDI program, the CIA determined that the Rendition, Detention, and Interrogation Network, or "RDINet," a central

repository containing materials gathered from across the Agency detailing the former detention and interrogation program, was the main location that would contain records responsive to Plaintiffs' request. In addition, although RDINet is a comprehensive collection of materials related to the former detention and interrogation program, search professionals also conducted searches in the Office of the Inspector General (OIG); the Office of the General Counsel (OGC); the Office of the Director (to include the files of the Director, Deputy Director, and Chief Operating Officer); the Office of Congressional Affairs (OCA), and the Office of Medical Services (OMS).

12. A small team of search professionals and subject matter experts with access to the highly classified RDINet, and search teams for each of the other offices, conducted searches to find documents responsive to the three categories of information sought in the Plaintiffs' request. For the first two portions of Plaintiffs' request, searches were conducted for documents containing any references to "Rahman" in combination with terms including "body," "death," "corpse," "remains" and variations of those terms. For the last part of Plaintiffs' request, the search teams also performed searches for documents using the words "death" and "detainee" where they appeared with words like "policy", "protocol", or "guidelines", and consulted persons knowledgeable about the topic.

13. Upon conducting searches across the various office databases and hard copy files, CIA personnel then conducted a document-by-document review of the search results to determine responsiveness, and processed the responsive documents pursuant to FOIA. The disposition of the thirty-five responsive records is discussed below and is addressed in additional detail in the attached Vaughn index.

IV. APPLICABLE FOIA EXEMPTIONS

A. Exemption (b) (1)

14. Exemption (b) (1) provides that the FOIA does not require the production of records that are: "(A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order." 5 U.S.C. § 552(b) (1). Here, the Exemption (b) (1) withholdings in the documents at issue satisfy the procedural and the substantive requirements of Executive Order 13526, which governs classification. See E.O. 13526 § 1.1(a), § 1.4(c), and § 1.4(d).

15. As an original classification authority, I have determined that the information at issue in this case is currently and properly classified, and appropriately withheld from disclosure. Additionally, this information is owned by, and is under the control of, the U.S. Government. As described

below, the information falls under classification category § 1.4(c) of the Executive Order because it concerns "intelligence activities (including covert action), [or] intelligence sources or methods," or under § 1.4(d) because it concerns "foreign relations or foreign activities of the United States." Further, its unauthorized disclosure could reasonably be expected to result in damage to national security. None of the information at issue has been classified in order to conceal violations of law, inefficiency, or administrative error; prevent embarrassment to a person, organization, or agency; restrain competition; or prevent or delay the release of information that does not require protection in the interests of national security. Further, the classified information is properly marked in accordance with § 1.6 of the Executive Order.

16. More specifically, the classified information at issue consists of details about foreign liaison services; locations of covert CIA installations and former detention centers located abroad; and descriptions of specific intelligence methods and activities, including specific details related to intelligence collection and attempts to identify and capture certain terrorists. To the greatest extent possible, I have attempted to explain on the public record the nature of the information subject to Exemption (b)(1). As described below, disclosure of these details, which would reveal intelligence sought by the

Agency and the means by which it is acquired, could reasonably be expected to cause harm, and in some instances exceptionally grave damage, to the CIA's continued ability to collect this information and to the Agency's relationships with foreign partners, thereby damaging the national security. Additionally, I note that, as a result of the Senate Select Committee on Intelligence review of the former RDI program and related disclosures, certain details about the program have been declassified. The CIA has not asserted Exemption (b)(1) for this information.

17. Foreign Liaison and Government Information. The documents at issue contain certain details regarding foreign liaison and government information. Foreign liaison services and foreign government officials provide sensitive intelligence to the CIA in confidence. In order to ensure the uninterrupted flow of that information, the Agency protects the content of those communications as well as the mere fact of the existence of the U.S. Government's relationships with particular intelligence services and foreign government officials. Disclosure of these details could damage the relations with the entities mentioned in the documents and with other foreign partners working with the Agency, in turn, harming intelligence sharing and cooperation on other areas of importance to national security.

18. Field Installations. The documents also contain details regarding the locations of covert CIA installations and former detention centers located abroad. The places where the CIA maintains a presence constitute intelligence methods of the Agency. Official acknowledgment that the CIA has or had a facility in a particular location abroad could cause the government of the country in which the installation is or was located to take countermeasures, either on its own initiative or in response to public pressure, to eliminate the CIA's presence within its borders or curtail cooperation with the CIA. Disclosing the location of a particular CIA facility could result in terrorists and foreign intelligence services targeting that installation and the persons associated with it. Given the sensitive and politically charged nature of the former detention and interrogation program, even releasing information about the location of former facilities could harm relationships with foreign countries that housed those installations. In order to protect bilateral relations with these foreign partners, the CIA has consistently refused to confirm or deny the location of these facilities. In fact, these details were redacted from the Executive Summary publicly released by SSCI because of this sensitivity. As discussed above, damage to those relationships with foreign governments could harm the CIA's continued ability to obtain accurate and timely foreign intelligence.

19. Intelligence Methods and Activities. Finally, the documents also contain details that would disclose other intelligence methods and activities of the CIA. Intelligence methods are the means by which the CIA accomplishes its mission. Intelligence activities refer to the actual implementation of intelligence methods in an operational context. Intelligence activities are highly sensitive because their disclosure often would reveal details regarding specific methods which, in turn, could provide adversaries with valuable insight into CIA operations that could impair the effectiveness of CIA's intelligence collection.

20. For example, the CIA routinely protects information such as dates because they would reveal intelligence methods and activities. Although these may be viewed as seemingly innocuous details, dates associated with a particular program or aspect of an operation could reveal how certain intelligence is gathered, particularly when juxtaposed with publicly-available information. For example, releasing precise dates of different operations or communications could reveal the CIA's involvement, or lack thereof, in world events that are reported in the press.

21. In addition to dates, the CIA protected other undisclosed details about the practice of intelligence gathering and Agency tradecraft, which continue to have application to other types of CIA operations and activities. These methods and

activities continue to be used in connection with current counterterrorism operations. From these details, a picture of the breadth, capabilities, and limitations of the Agency's intelligence collection or activities would begin to emerge. Such disclosures could provide adversaries with valuable insight into CIA operations that would damage their effectiveness. Adversaries could use this information to develop measures to detect and counteract the Agency's intelligence methods and the operational exercise of those methods. Additionally, the Agency withheld specific, actionable intelligence that was collected in the pursuit of terrorist targets. Disclosing those details would show the focus of, or gaps in, the CIA's intelligence collection.

22. In sum, I have determined that disclosure of the information withheld pursuant to Exemption (b)(1) could reasonably be expected to damage the national security.

B. Exemption (b)(3)

23. Exemption (b)(3) protects information that is specifically exempted from disclosure by statute. To justify withholding under Exemption (b)(3), a statute must either (i) require that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establish particular criteria for withholding or refer to particular types of matters to be withheld. 5 U.S.C. § 552(b)(3).

24. Section 6 of the Central Intelligence Agency Act of 1949, as amended, 50 U.S.C. § 3507 (the "CIA Act"), provides that the CIA shall be exempted from the provisions of "any other law" (in this case, FOIA) which requires the publication or disclosure of, the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency. The CIA Act has been recognized by courts to constitute a federal statute that "establish[es] particular criteria for withholding or refer[s] to particular types of matters to be withheld" and is well-established as a qualifying withholding statute under Exemption (b)(3). 5 U.S.C. § 552(b)(3). The documents at issue contain information concerning the organization, names, or official titles of personnel employed by the CIA, the disclosure of which the CIA Act expressly prohibits.

25. Additionally, Section 102A(i)(1) of the National Security Act of 1947, as amended, 50 U.S.C. § 3024 (the "National Security Act"), which provides that the Director of National Intelligence ("DNI") "shall protect intelligence sources and methods from unauthorized disclosure," applies to certain responsive records. Courts have also found the National Security Act to constitute a federal statute which "requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue." 5 U.S.C. § 552(b)(3).

Under the direction of the DNI pursuant to section 102A of the National Security Act, as amended, and section 1.6(d) of Executive Order 12333,¹ the Director of the CIA is responsible for protecting CIA intelligence sources and methods from unauthorized disclosure. Accordingly, the CIA relies on the National Security Act as well as the CIA Act to withhold information that would reveal intelligence sources and methods and their application by Agency personnel.

26. Although neither the CIA Act nor the National Security Act requires the CIA to identify or describe the damage to national security that reasonably could be expected to result from the unauthorized disclosure of information covered by the statutes, for the same reasons discussed above, release of this information could impair the CIA's ability to carry out its core mission of gathering and analyzing intelligence.

C. Exemption (b) (5)

27. Exemption (b) (5) protects "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." 5 U.S.C. § 552(b) (5). This has been construed to exempt documents that are normally protected in the civil discovery

¹ Section 1.6(d) of Executive Order 12333, as amended by Executive Order 13470 (July 30, 2008) requires the Director of the Central Intelligence Agency to "[p]rotect intelligence and intelligence sources, methods, and activities from unauthorized disclosure"

context. Here, the CIA invoked the deliberative process privilege and/or the attorney-client privilege, which are recognized as protected by Exemption (b)(5), to protect the internal communications described broadly below and in the attached Vaughn index.

28. Deliberative Process Privilege. The deliberative process privilege protects Agency communications that are pre-decisional and deliberative. The purpose of the privilege is to prevent injury to the quality of agency decision making.

29. The majority of the documents for which the deliberative process privilege was claimed are labeled as drafts, reflect information at the interim stages, and/or are associated with a given deliberation concerning how to handle different policies and/or procedures related to the former RDI program. These communications do not convey final Agency viewpoints on a particular matter, but rather reflect different considerations, opinions, options, and approaches that preceded an ultimate decision and are part of a policymaking process. For example, as noted in the attached Vaughn index, certain responsive documents contain recommendations or deliberations at interim stages of Agency inquiries and/or the CIA OIG's investigation into Rahman's death. Other documents discuss a draft policy regarding internal procedures to be followed in the event of a detainee death in CIA custody. There is no indication

that the policy was ever finalized, and it is likely that the end of the RDI program obviated the need for such procedures. These versions are undated and it is unclear which version is the latest in time. As noted in the Vaughn index, certain drafts were circulated via email or memorandum and request that personnel from various offices provide comments and/or edits. Each of these copies is deliberative insofar as it represents a particular stage in the drafting process and reflects different considerations contemplated by Agency employees.

30. I have examined the documents or portions of the documents withheld pursuant to the deliberative process privilege and have determined that, to the extent there is any factual material, it is part and parcel of the deliberations and cannot be segregated. In some instances, the selection of facts in these documents would reveal the nature of the preliminary recommendations and opinions preceding final determinations.

31. Disclosure of these documents would significantly hamper the ability of Agency personnel to candidly discuss and assess the viability of certain courses of action. Additionally, revealing this information could mislead or confuse the public by disclosing rationales that were not the basis for the Agency's final decisions. Moreover, none of the information withheld pursuant to Exemption 5 has otherwise been publicly disclosed.

32. 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. In this case, the attorney-client privilege applies to confidential client communications between Agency employees and attorneys within the CIA on issues related to the former RDI program that were made for the purpose of obtaining legal advice. Here, the attorney-client privilege only applies to a portion of the CIA OIG Report of Investigation entitled "Death of a Detainee in [REDACTED] (2003-7402-IG)" (Document 2), which recounts discrete pieces of legal analysis and advice from Agency attorneys to senior leadership and the field regarding aspects of the RDI program.

33. The confidentiality of these communications must be maintained. If this confidential information - and other confidential information of this nature - were to be disclosed, it would inhibit open communication between CIA personnel and their attorneys, thereby depriving the Agency of full and frank legal counsel. Communications made pursuant to the attorney-client privilege are also covered by the deliberative process privilege inasmuch as the legal advice is one consideration in making a final decision.

34. Attorney Work-Product Privilege. The attorney work-product privilege protects material prepared by Agency attorneys

in reasonable anticipation of litigation. Here, the attorney-work product privilege was asserted to protect work product in Document 14 created by the attorney who documented and identified certain details that could pose a litigation risk. If this information were to be released, it would expose the attorney's work to scrutiny and could reveal preliminary litigation risk analysis and strategy.

D. Exemption (b) (6)

35. I have also determined that certain information must be withheld pursuant to FOIA Exemption (b) (6). 5 U.S.C. § 552(b) (6) exempts from disclosure "personnel and medical files and similar files when the disclosure of such information would constitute a clearly unwarranted invasion of personal privacy."

36. Courts have broadly construed the term "similar files" to cover any personally identifying information. Here, Exemption 6 applies to personally-identifying information of CIA officers and non-CIA personnel mentioned in these records.² The disclosure of this information would constitute a clearly unwarranted invasion of personal privacy and has been properly withheld under Exemption (b) (6).

37. Each of these individuals maintains a strong privacy interest in this information because its release could subject

²As indicated in the Vaughn index, the Agency asserted Exemption 7(C) in conjunction with Exemption 6 for certain personally-identifying information that was compiled for law enforcement purposes.

them to intimidation, harassment, reputational damage or physical harm. The extensive media coverage and the sensitivity and controversy surrounding the former detention and interrogation program further heightens those privacy concerns. Conversely, the release of individuals' identities or other personal information would not further the core purpose of the FOIA -- informing the public as to the operations or activities of the government. Because there are significant privacy concerns and no corresponding, qualifying public interest in disclosure, I have determined that the release of this information would constitute a clearly unwarranted invasion of these individuals' personal privacy under Exemption 6. I note that to the extent that the identifying information is that of Agency personnel, foreign liaison, and human sources of intelligence, the protections of Exemption 3 in conjunction with Section 6 of the CIA Act jointly apply.

E. Exemption (b) (7)

38. Certain records and information were generated by CIA's OIG and were "compiled for law enforcement purposes" within the meaning of Exemption 7. Exemption 7 protects, in pertinent part:

Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information ... (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy and (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local or foreign

agency or authority or any private institute which furnished information on a confidential basis and, in the case of a record or information compiled by a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source.

39. With respect to Exemption (b)(7)(c), much of the analysis is duplicative of Exemption (b)(6), which is discussed above. Although the balancing test for Exemption (b)(6) uses a "would constitute a clearly unwarranted invasion of personal privacy" standard, and the test for (b)(7)(c) uses the lower standard of "could reasonably be expected to constitute an unwarranted invasion of personal privacy," the analysis and balancing required by both exemptions is sufficiently similar to warrant a consolidated discussion. The privacy interests are balanced against the public's interest in disclosure under the analysis of both exemptions. Therefore, for additional analysis of Exemption (b)(7)(C), please refer to Part IV-D above.

40. With respect to Exemption (b)(7)(D), as a matter of Agency policy, the OIG does not disclose the identities of persons it interviews or the substance of their statements unless such disclosure is determined to be necessary for the full reporting of a matter or the fulfillment of other OIG or Agency responsibilities. Here, Exemption 7(D) was applied to protect the identities of individuals interviewed by the OIG and the information that they provided. Certain documents contain

details that would tend to identify the interviewed parties by virtue of their position in the Agency and or their role in, or knowledge of, the underlying events. Additionally, as the OIG and Department of Justice investigations were criminal nature, all information provided by these confidential sources was protected pursuant to Exemption 7(D).

41. Exemption 7(D) requires no showing of harm, or balancing of privacy and public interests. However, the performance of the OIG's mission to conduct independent audits, investigations, and reviews of CIA programs and operations is heavily reliant upon its access to unfiltered information provided by confidential sources. Disclosure of the sources and the information that they provided would severely compromise the OIG's ability to perform those duties.

V. SEGREGABILITY

42. In evaluating the responsive documents, the CIA conducted a document-by-document and line-by-line review and released all reasonably segregable non-exempt information. In instances where no segregable, non-exempt portions of documents could be released without potentially compromising classified or privileged information or other information protected under the FOIA, then such documents were withheld from Plaintiffs in full. In this case, much of the withheld information is protected by several, overlapping FOIA exemptions. After reviewing all of

the records at issue, I have determined that no additional information can be released without jeopardizing classified or privileged material, individuals' personal privacy, and/or other protected information that falls within the scope of one or more FOIA exemptions.

43. Therefore, for the reasons set forth above, the documents are redacted in part or withheld in full pursuant to Exemptions (b)(1), (b)(3), and (b)(5); and, to the extent that they are personally-identifying, Exemptions (b)(6), (b)(7)(C), and (b)(7)(D).

* * *

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

Executed this 28th day of August 2019.

Antoinette B. Shiner
Antoinette B. Shiner
Information Review Officer
Litigation Information Review Office
Central Intelligence Agency

Exhibit A

ULLAH et al v. CENTRAL INTELLIGENCE AGENCY, No. 1:18-cv-02785 (D.D.C.)
Central Intelligence Vaughn Index

Entry No.	CADRE No.	Description of Document and Information Withheld	Date of Doc.	No. of Pages	RELEASE DECISION	Exemptions Cited
1	C06114243	<p>Rahman Death Investigation - Interview of [REDACTED]</p> <p>The first page was a non-responsive record. This is a draft memorandum for the record regarding the investigation into the death of Gul Rahman which contains comments for the author. Exemption (b)(1) was asserted to protect classified intelligence sources and methods. Exemption (b)(3) (CIA Act of 1949) was asserted to protect the organization, functions, names, official titles, or numbers of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including locations of sensitive facilities and dates. Exemption (b)(5) was asserted to protect pre-decisional, intra-agency deliberations regarding the investigation into the death of Gul Rahman, specifically suggesting edits and comments for the draft, protected by the Deliberative Process Privilege. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved. Exemption (b)(7)(c) was asserted to protect information that would reasonably be expected to constitute an unwarranted invasion of personal privacy in the context of a previous active law enforcement investigation.</p>	12/3/2002	5	Release in Part (RIP)	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act, (b)(5), (b)(6), (b)(7)(c)

2	C06541713	<p>CIA OIG Report of Investigation entitled "Death of a Detainee in [REDACTED] (2003-7402-IG)"</p> <p>This is the OIG Report on the death of Gul Rahman. Exemption (b)(1) was asserted to protect classified intelligence sources and methods. Exemption (b)(3) (CIA Act of 1949) was asserted to protect the organization, functions, names, official titles, or numbers of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including locations of sensitive facilities, dates, and foreign liaison information. Exemption (b)(5) was asserted to protect privileged communications within the Agency, including legal advice provided to the field by Agency attorneys in response to questions related to the RDI program protected by the Attorney-Client Privilege. Exemption (b)(5) was also applied to protect pre-decisional, intra-agency deliberations, including draft comments, proposed language, preliminary report language, and recommendations pursuant to the Deliberative Process Privilege; as each of these were a part of the Agency's deliberation process regarding the RDI program as a whole, and discipline in response to the death of Gul Rahman. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved. Exemption (b)(7)(c) was asserted to protect information that would reasonably be expected constitute an unwarranted invasion of personal privacy in the context of a previous active law enforcement investigation.</p>	4/27/2005	68	RIP	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act, (b)(5), (b)(6), (b)(7)(c)
3	C06548229	<p>Death of Detainee Gul Rahman</p> <p>Exemption (b)(1) was asserted to protect classified intelligence methods and sources, and controlled access and dissemination control markings. Exemption (b)(3) (CIA Act of 1949) was asserted to protect names, official titles, and numbers of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including locations of sensitive facilities, dates, and foreign liaison information. Exemption (b)(6) which protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved, was asserted to protect the signature of the Director of the Office of Congressional Affairs.</p>	5/2/2003	12	RIP	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act, (b)(6)

4	C0655318	<p>Death Investigation - Gul Rahman</p> <p>Exemption (b)(1) was asserted to protect classified intelligence sources and methods. Exemption (b)(3) (CIA Act of 1949) was asserted to protect the organization, functions, names, official titles, or numbers of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including locations of sensitive facilities, foreign liaison information, and dates. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved. Exemption (b)(7)(c) was asserted to protect information that would reasonably be expected to constitute an unwarranted invasion of personal privacy in the context of a previous active law enforcement investigation.</p>	1/28/2003	36	RIP	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act, (b)(6), (b)(7)(c)
5	C06598254	<p>Gul Rahman: Chronology of Events</p> <p>Exemption (b)(1) was asserted to protect classified intelligence sources and methods. Exemption (b)(3) (CIA Act of 1949) was asserted to protect organization, functions, names, official titles, or numbers of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including locations of sensitive facilities, intelligence targets and interests, and dates.</p>	11/20/2002	3	RIP	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act
6	C06598283	<p>Rahman Death Investigation - Interview of [REDACTED]</p> <p>The first paragraph on this page is the end of a different cable and is not responsive to this request. Exemption (b)(1) was asserted to protect classified intelligence sources and methods. Exemption (b)(3) (CIA Act of 1949) was asserted to protect the organization, functions, names, official titles, or numbers of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including locations of sensitive facilities, foreign liaison information, and dates. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved. Exemption (b)(7)(c) was asserted to protect information that would reasonably be expected to constitute an unwarranted invasion of personal privacy in the context of a previous active law enforcement investigation.</p>	12/3/2002	3	RIP	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act, (b)(6), (b)(7)(c)

7	C06630281	Chronology of Significant Events Exemption (b)(1) was asserted to protect classified intelligence sources and methods. Exemption (b)(3) (CIA Act of 1949) was asserted to protect organization, functions, names, official titles, or numbers of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including locations of sensitive facilities, foreign liaison information, and dates. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved.	1/1/2002	3	RIP	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act, (b)(6)
8	C06728114	Final Autopsy Findings Exemption (b)(1) was asserted to protect classified intelligence sources and methods. Exemption (b)(3) (CIA Act of 1949) was asserted to protect organization, functions, names, official titles, or numbers of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including locations of sensitive facilities, intelligence targets and interests, and dates. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved.	Undated	7	RIP	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act, (b)(6)
9	C06796362	Outcome of Accountability Board Review of Death of Detainee Gul Rahman Exemption (b)(1) was asserted to protect classified intelligence sources and methods. Exemption (b)(3) (CIA Act of 1949) was asserted to protect the organization, functions, names, official titles, or numbers of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including locations of sensitive facilities, dates, and foreign liaison information. Exemption (b)(5) was applied to protect pre-decisional, intra-agency deliberations including factors considered when making a final decision for the accountability board pursuant to the Deliberative Process Privilege. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved. Exemption (b)(7)(c) was asserted to protect information that would reasonably be expected to constitute an unwarranted invasion of personal privacy in the context of a previous active law enforcement investigation.	1/28/2008	5	RIP	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act, (b)(5), (b)(6), (b)(7)(c)

10	C05313513	Email Exemption (b)(1) was asserted to protect classified intelligence sources and methods. Exemption (b)(3) (CIA Act of 1949) was asserted to protect the organization, functions, names, official titles, or numbers of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including locations of sensitive facilities, dates, and foreign liaison information. Exemption (b)(5) was asserted to protect pre-decisional, intra-agency deliberations including suggested edits regarding a final report related to the RDI program, pursuant to the Deliberative Process Privilege. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved. Exemption (b)(7)(c) was asserted to protect information that would reasonably be expected to constitute an unwarranted invasion of personal privacy in the context of a previous active law enforcement investigation.	3/13/2004	1	DIF	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act, (b)(5), (b)(6), (b)(7)(c)
11	C05330378	Internal Memorandum Exemption (b)(1) was asserted to protect classified intelligence sources and methods. Exemption (b)(3) (CIA Act of 1949) was asserted to protect the organization, functions, names, official titles, or numbers of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including locations of sensitive facilities, dates, and foreign liaison information. Exemption (b)(5) was asserted to protect pre-decisional, intra-agency deliberations regarding the investigation into the death of Gul Rahman, pursuant to the Deliberative Process Privilege. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved. Exemption (b)(7)(c) was asserted to protect information that would reasonably be expected to constitute an unwarranted invasion of personal privacy in the context of a previous active law enforcement investigation.	12/2/2002	3	DIF	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act, (b)(5), (b)(6), (b)(7)(c)

12	C05330379	<p>Internal Memorandum</p> <p>Exemption (b)(1) was asserted to protect classified intelligence sources and methods. Exemption (b)(3) (CIA Act of 1949) was asserted to protect the organization, functions, names, official titles, or numbers of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including locations of sensitive facilities, dates, and foreign liaison information. Exemption (b)(5) was asserted to protect pre-decisional, intra-agency deliberations regarding the investigation into the death of Gul Rahman, pursuant to the Deliberative Process Privilege. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved. Exemption (b)(7)(c) was asserted to protect information that would reasonably be expected to constitute an unwarranted invasion of personal privacy in the context of a previous active law enforcement investigation.</p>	12/6/2002	3	DIF	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act, (b)(5), (b)(6), (b)(7)(c)
13	C05330381	<p>Internal Memorandum</p> <p>Exemption (b)(1) was asserted to protect classified intelligence sources and methods. Exemption (b)(3) (CIA Act of 1949) was asserted to protect the organization, functions, names, official titles, or numbers of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including locations of sensitive facilities, dates, and foreign liaison information. Exemption (b)(5) was asserted to protect pre-decisional, intra-agency deliberations regarding the investigation into the death of Gul Rahman, pursuant to the Deliberative Process Privilege. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved. Exemption (b)(7)(c) was asserted to protect information that would reasonably be expected to constitute an unwarranted invasion of personal privacy in the context of a previous active law enforcement investigation.</p>	1/29/2003	3	DIF	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act, (b)(5), (b)(6), (b)(7)(c)

14	C06114235	<p>Internal Memorandum</p> <p>Exemption (b)(1) was asserted to protect classified intelligence sources and methods. Exemption (b)(3) (CIA Act of 1949) was asserted to protect the organization, functions, names, official titles, or numbers of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including locations of sensitive facilities, dates, and foreign liaison information. Exemption (b)(5) was asserted to protect pre-decisional, intra-agency deliberations, including comments and considerations regarding the investigation into the death of Gul Rahman, pursuant to the Deliberative Process Privilege. Additionally, the attorney work-product privilege was asserted to protect this document as it reflects attorney notes created in reasonable anticipation of litigation following the death of Gul Rahman. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved. Exemption (b)(7)(c) was asserted to protect information that would reasonably be expected to constitute an unwarranted invasion of personal privacy in the context of a previous active law enforcement investigation. Exemption (b)(7)(d) protects information that would disclose the identity of and/or information provided by a confidential source.</p>	11/23/2003	43	DIF	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act, (b)(5), (b)(6), (b)(7)(c), (b)(7)(d)
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15	C06114236	<p>Draft Internal Memorandum with comments and edits suggested for the author.</p> <p>Exemption (b)(1) was asserted to protect classified intelligence sources and methods. Exemption (b)(3) (CIA Act of 1949) was asserted to protect the organization, functions, names, official titles, or numbers of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including locations of sensitive facilities, dates, and foreign liaison information. Exemption (b)(5), pursuant to the Deliberative Process Privilege, was asserted to protect pre-decisional, intra-agency deliberations regarding the investigation into the death of Gul Rahman included in a draft. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved. Exemption (b)(7)(c) was asserted to protect information that would reasonably be expected to constitute an unwarranted invasion of personal privacy in the context of a previous active law enforcement investigation.</p>	12/6/2002	4	DIF	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act, (b)(5), (b)(6), (b)(7)(c)
16	C06114238	<p>Draft Internal Memorandum with comments and edits suggested for the author</p> <p>Exemption (b)(1) was asserted to protect classified intelligence sources and methods. Exemption (b)(3) (CIA Act of 1949) was asserted to protect the organization, functions, names, official titles, or numbers of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including locations of sensitive facilities, dates, and foreign liaison information. Exemption (b)(5), pursuant to the Deliberative Process Privilege, was asserted to protect pre-decisional, intra-agency deliberations regarding the investigation into the death of Gul Rahman included in a draft. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved. Exemption (b)(7)(c) was asserted to protect information that would reasonably be expected to constitute an unwarranted invasion of personal privacy in the context of a previous active law enforcement investigation.</p>	12/7/2002	4	DIF	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act, (b)(5), (b)(6), (b)(7)(c)

17	C06114239	<p>Draft Internal Memorandum with comments and edits suggested for the author.</p> <p>Exemption (b)(1) was asserted to protect classified intelligence sources and methods. Exemption (b)(3) (CIA Act of 1949) was asserted to protect the organization, functions, names, official titles, or numbers of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including locations of sensitive facilities, dates, and foreign liaison information. Exemption (b)(5), pursuant to the Deliberative Process Privilege, was asserted to protect pre-decisional, intra-agency deliberations regarding the investigation into the death of Gul Rahman included in a draft. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved. Exemption (b)(7)(c) was asserted to protect information that would reasonably be expected to constitute an unwarranted invasion of personal privacy in the context of a previous active law enforcement investigation.</p>	12/6/2002	4	DIF	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act, (b)(5), (b)(6), (b)(7)(c)
18	C06644765	<p>Internal Memorandum containing comments on the draft OIG report.</p> <p>Exemption (b)(1) was asserted to protect classified intelligence sources and methods. Exemption (b)(3) (CIA Act of 1949) was asserted to protect the organization, functions, names, official titles, or numbers of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including locations of sensitive facilities, dates, and foreign liaison information. Exemption (b)(5), pursuant to the Deliberative Process Privilege, was asserted to protect pre-decisional, intra-agency deliberations regarding the investigation into the death of Gul Rahman, including comments and considerations to be used in the creation of a final report. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved. Exemption (b)(7)(c) was asserted to protect information that would reasonably be expected to constitute an unwarranted invasion of personal privacy in the context of a previous active law enforcement investigation.</p>	3/24/2005	8	DIF	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act, (b)(5), (b)(6)

19	C06732871	<p>Internal Memorandum</p> <p>Exemption (b)(1) was asserted to protect classified intelligence sources and methods. Exemption (b)(3) (CIA Act of 1949) was asserted to protect the organization, functions, names, official titles, or numbers of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including locations of sensitive facilities, dates, and foreign liaison information. Exemption (b)(5), pursuant to the Deliberative Process Privilege, was asserted to protect pre-decisional, intra-agency deliberations regarding the investigation into the death of Gul Rahman. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved. Exemption (b)(7)(c) was asserted to protect information that would reasonably be expected to constitute an unwarranted invasion of personal privacy in the context of a previous active law enforcement investigation.</p>	12/6/2002	3	DIF	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act, (b)(5), (b)(6), (b)(7)(c)
20	C06737567	<p>Internal Memorandum</p> <p>Exemption (b)(1) was asserted to protect classified intelligence sources and methods. Exemption (b)(3) (CIA Act of 1949) was asserted to protect the organization, functions, names, official titles, or numbers of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including locations of sensitive facilities, dates, and foreign liaison information. Exemption (b)(5), pursuant to the Deliberative Process Privilege, was asserted to protect pre-decisional, intra-agency deliberations regarding the investigation into the death of Gul Rahman. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved. Exemption (b)(7)(c) was asserted to protect information that would reasonably be expected to constitute an unwarranted invasion of personal privacy in the context of a previous active law enforcement investigation.</p>	12/7/2002	3	DIF	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act, (b)(6), (b)(7)(c)

21	C06737569	<p>Internal Memorandum</p> <p>Exemption (b)(1) was asserted to protect classified intelligence sources and methods. Exemption (b)(3) (CIA Act of 1949) was asserted to protect the organization, functions, names, official titles, or numbers of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including locations of sensitive facilities, dates, and foreign liaison information. Exemption (b)(5), pursuant to the Deliberative Process Privilege, was asserted to protect pre-decisional, intra-agency deliberations regarding the investigation into the death of Gul Rahman. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved. Exemption (b)(7)(c) was asserted to protect information that would reasonably be expected to constitute an unwarranted invasion of personal privacy in the context of a previous active law enforcement investigation.</p>	12/7/2002	2	DIF	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act, (b)(5), (b)(6), (b)(7)(c)
22	C06796062	<p>Email discussing draft policy</p> <p>Exemption (b)(1) was asserted to protect classified intelligence sources and methods. Exemption (b)(3) (CIA Act of 1949) was asserted to protect the organization, functions, names, or official titles of Agency personnel. Exemption (b)(3) (National Security Act of 1947) was asserted to protect dissemination controls and classification markings only. Exemption (b)(5) was asserted to protect privileged communications within the Agency protected by both the Deliberative Process Privilege and the Attorney-Client Privilege. The deliberative process privilege protects pre-decisional, intra-agency deliberations regarding a final policy for dealing with the death of a detainee. Additionally, the attorney-client privilege protects legal advice provided to senior agency officials in response to a draft policy document. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved.</p>	9/6/2005	2	DIF	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act, (b)(5), (b)(6)

23	C06796063	Email discussing draft policy Exemption (b)(1) was asserted to protect classified intelligence sources and methods. Exemption (b)(3) (CIA Act of 1949) was asserted to protect the organization, functions, names, or official titles of Agency personnel. Exemption (b)(3) (National Security Act of 1947) was asserted to protect dissemination controls and classification markings only. Exemption (b)(5), pursuant to the Deliberative Process Privilege, was asserted to protect pre-decisional, intra-agency deliberations regarding a final policy for dealing with the death of a detainee. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved.	7/25/2005	2	DIF	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act, (b)(5), (b)(6)
24	C06796064	Email discussing draft policy Exemption (b)(1) was asserted to protect classified intelligence sources and methods, including controlled access and dissemination control markings. Exemption (b)(3) (CIA Act of 1949) was asserted to protect organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including dissemination controls. Exemption (b)(5), pursuant to the Deliberative Process Privilege, was asserted to protect pre-decisional, intra-agency deliberations regarding a final policy for dealing with the death of a detainee. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved.	12/27/2005	3	DIF	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act, (b)(5), (b)(6)
25	C06796065	Email circulating draft policy Exemption (b)(1) was asserted to protect classified intelligence sources and methods, including controlled access and dissemination control markings. Exemption (b)(3) (CIA Act of 1949) was asserted to protect organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including dissemination controls. Exemption (b)(5), pursuant to the Deliberative Process Privilege, was asserted to protect pre-decisional, intra-agency deliberations regarding a final policy for dealing with the death of a detainee. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved.	1/4/2007	2	DIF	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act, (b)(5), (b)(6)

26	C06796066	<p>Email discussing draft policy</p> <p>Exemption (b)(1) was asserted to protect classified intelligence sources and methods, including controlled access and dissemination control markings. Exemption (b)(3) (CIA Act of 1949) was asserted to protect organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including dissemination controls. Exemption (b)(5), pursuant to the Deliberative Process Privilege, was asserted to protect pre-decisional, intra-agency deliberations regarding a final policy for dealing with the death of a detainee. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved.</p>	1/5/2007	6	DIF	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act, (b)(5), (b)(6)
27	C06796067	<p>Draft Policy</p> <p>Exemption (b)(1) was asserted to protect classified intelligence sources and methods, including controlled access and dissemination control markings. Exemption (b)(3) (CIA Act of 1949) was asserted to protect organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including dissemination controls. Exemption (b)(5), pursuant to the Deliberative Process Privilege was asserted to protect pre-decisional, intra-agency deliberations regarding a final policy for dealing with the death of a detainee. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved.</p>	Undated	3	DIF	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act, (b)(5), (b)(6)

28	C06796069	<p>Interview Report</p> <p>Exemption (b)(1) was asserted to protect classified intelligence sources and methods. Exemption (b)(3) (CIA Act of 1949) was asserted to protect the organization, functions, names, official titles, or numbers of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including locations of sensitive facilities, dates, and foreign liaison information. Exemption (b)(5) was asserted to protect pre-decisional, intra-agency deliberations regarding the investigation into the death of Gul Rahman, pursuant to the Deliberative Process Privilege. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved. Exemption (b)(7)(c) was asserted to protect information that would reasonably be expected to constitute an unwarranted invasion of personal privacy in the context of a previous active law enforcement investigation.</p>	3/5/2003	6	DIF	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act, (b)(5), (b)(6), (b)(7)(c)
29	C06796070	<p>Draft Internal Memorandum with comments and edits suggested for the author.</p> <p>Exemption (b)(1) was asserted to protect classified intelligence sources and methods. Exemption (b)(3) (CIA Act of 1949) was asserted to protect the organization, functions, names, official titles, or numbers of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including locations of sensitive facilities, dates, and foreign liaison information. Exemption (b)(5) was asserted to protect pre-decisional, intra-agency deliberations regarding the investigation into the death of Gul Rahman, pursuant to the Deliberative Process Privilege. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved. Exemption (b)(7)(c) was asserted to protect information that would reasonably be expected to constitute an unwarranted invasion of personal privacy in the context of a previous active law enforcement investigation.</p>	12/2/2002	4	DIF	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act, (b)(5), (b)(6), (b)(7)(c)

30	C06796080	Internal Memorandum Exemption (b)(3) (CIA Act of 1949) was asserted to protect organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including foreign liaison information and dissemination controls. Exemption (b)(5) was asserted to protect pre-decisional, intra-agency deliberations regarding creation of a final policy for dealing with the death of a detainee, pursuant to the Deliberative Process Privilege. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved.	5/5/2006	2	DIF	(b)(3) CIA Act, (b)(3) National Security Act, (b)(5), (b)(6)
31	C06796081	Email responding to opinions and changes in the OIG report Exemption (b)(1) was asserted to protect classified intelligence sources and methods. Exemption (b)(3) (CIA Act of 1949) was asserted to protect the organization, functions, names, official titles, or numbers of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including locations of sensitive facilities, dates, and foreign liaison information. Exemption (b)(5) was asserted to protect pre-decisional, intra-agency deliberations regarding the investigation into the death of Gul Rahman, pursuant to the Deliberative Process Privilege. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved. Exemption (b)(7)(c) was asserted to protect information that would reasonably be expected to constitute an unwarranted invasion of personal privacy in the context of a previous active law enforcement investigation.	11/28/2005	7	DIF	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act, (b)(5), (b)(6), (b)(7)(c)
32	C06796315	Letter Exemption (b)(3) (CIA Act of 1949) was asserted to protect organization, functions, names, or official titles of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including intelligence targets and interests, and a strategic relationship. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved.	10/28/2010	2	DIF	(b)(3) CIA Act, (b)(3) National Security Act, (b)(6)

33	C06796316	<p>Letter</p> <p>Exemption (b)(3) (CIA Act of 1949) was asserted to protect organization, functions, names, or official titles of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including locations of sensitive facilities, intelligence targets and interests, and a strategic relationship. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved.</p>	6/22/2010	4	DIF	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act, (b)(6)
34	C06805743	<p>Individual and Component comments on the OIG report</p> <p>Exemption (b)(1) was asserted to protect classified intelligence sources and methods. Exemption (b)(3) (CIA Act of 1949) was asserted to protect the organization, functions, names, official titles, or numbers of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including locations of sensitive facilities, dates, and foreign liaison information. Exemption (b)(5) was asserted to protect pre-decisional, intra-agency deliberations regarding the investigation into the death of Gul Rahman, pursuant to the Deliberative Process Privilege. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved. Exemption (b)(7)(c) was asserted to protect information that would reasonably be expected to constitute an unwarranted invasion of personal privacy in the context of a previous active law enforcement investigation.</p>	10/3/2005	44	DIF	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act, (b)(5), (b)(6), (b)(7)(c)

35	C06805752	<p>Internal Memorandum regarding the investigation into the death of Gul Rahman</p> <p>Exemption (b)(1) was asserted to protect classified intelligence sources and methods. Exemption (b)(3) (CIA Act of 1949) was asserted to protect the organization, functions, names, official titles, or numbers of personnel employed by the Agency. Exemption (b)(3) (National Security Act of 1947) was asserted to protect intelligence sources and methods, including locations of sensitive facilities, dates, and foreign liaison information. Exemption (b)(5) was asserted to protect pre-decisional, intra-agency deliberations regarding the investigation into the death of Gul Rahman, pursuant to the Deliberative Process Privilege. Exemption (b)(6) protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved. Exemption (b)(7)(c) was asserted to protect information that would reasonably be expected to constitute an unwarranted invasion of personal privacy in the context of a previous active law enforcement investigation.</p>	1/27/2003	39	DIF	(b)(1), (b)(3) CIA Act, (b)(3) National Security Act, (b)(5), (b)(6), (b)(7)(c)
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Exhibit B

F-2018-01415

April 18, 2018

Central Intelligence Agency
Information and Privacy Coordinator
Washington, D.C. 20505
Fax: (703) 613-3007

APR 19 2017



AMERICAN CIVIL LIBERTIES UNION
FOUNDATION

National Office
125 Broad Street, 18th floor
New York, NY 10004
(212) 549-2500
aclu.org

Re: Request Under Freedom of Information Act
(Expedited Processing & Fee Waiver Requested)

To Whom It May Concern:

Obaid Ullah, in his capacity as the personal representative of Mr. Gul Rahman, and the American Civil Liberties Union and the American Civil Liberties Union Foundation (together, the "ACLU")¹ submit this Freedom of Information Act ("FOIA") request (the "Request") for records relating to the United States' disposal and the current whereabouts of the body of Mr. Gul Rahman, an Afghan citizen who the United States has acknowledged died while in the custody of the U.S. Central Intelligence Agency ("CIA") in November, 2002.

I. Background

Mr. Obaid Ullah and the ACLU seek information on what agents of the United States did with the body of Mr. Gul Rahman, an Afghan citizen, following his death in CIA custody in November 2002.

Since 2010, U.S. media outlets have reported extensively on Mr. Rahman's death, describing in detail the circumstances of his death, investigations into the incident that precipitated it, and government efforts to cover it up. See, e.g., Adam Goldman & Katherine Gannon, *Death Shed Light*

¹ The American Civil Liberties Union Foundation is a 26 U.S.C. § 501(c)(3) organization that provides legal representation free of charge to individuals and organizations in civil rights and civil liberties cases, educates the public about civil rights and civil liberties issues across the country, directly lobbies legislators, and mobilizes the American Civil Liberties Union's members to lobby their legislators. The American Civil Liberties Union is a separate non-profit, 26 U.S.C. § 501(c)(4) membership organization that educates the public about the civil liberties implications of pending and proposed state and federal legislation, provides analysis of pending and proposed legislation, directly lobbies legislators, and mobilizes its members to lobby their legislators.



on CIA 'Salt Pit' Near Kabul, Associated Press (Mar. 28, 2010), http://www.nbcnews.com/id/36071994/ns/us_news-security/t/death-shed-light-cia-salt-pit-near-kabul/#.WsafsS7waUk; Jane Mayer, *Who Killed Gul Rahman*, New Yorker (Mar. 31, 2010), <https://www.newyorker.com/news/news-desk/who-killed-gul-rahman>; CBS News/Associated Press, *Did CIA Torture Victim Once Rescue Hamid Karzai?* CBS News (Apr. 6, 2010, 1:42 pm), <https://www.cbsnews.com/news/did-cia-torture-victim-once-rescue-hamid-karzai/>. In 2011, then-Attorney General Eric H. Holder announced that the U.S. Department of Justice had opened a full criminal investigation into the deaths of two detainees in CIA custody, including reportedly, Mr. Rahman's. See, e.g., Peter Finn & Julie Tate, *Justice Department to Investigate Deaths of Two Detainees in CIA Custody*, Wash. Post (July 1, 2011), https://www.washingtonpost.com/politics/federal-prosecutor-probes-deaths-of-2-cia-held-detainees/2011/06/30/AGsFmUsH_story.html. In August, 2012, Holder subsequently announced the closure of the investigation. See, e.g., U.S. Dep't of Justice, *Statement of Attorney General Eric Holder on Closure of Investigation into the Interrogation of Certain Detainees* (Aug. 30, 2012), <https://www.justice.gov/opa/pr/statement-attorney-general-eric-holder-closure-investigation-interrogation-certain-detainees>. These media reports identify Mr. Rahman by name, the country in which he was first captured (Pakistan), the torture methods that were used to interrogate and kill him, and the location of the CIA-run facility (the 'Salt Pit') where Mr. Rahman was tortured to death (Afghanistan).

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Much of this information was subsequently confirmed in official declassified U.S. government reports and other documents. The Executive Summary of the Senate Select Committee on Intelligence Study of the CIA's Detention and Interrogation Program, <https://www.feinstein.senate.gov/public/cache/files/7/c/7c85429a-ec38-4bb5-968f-289799bf6d0e/D87288C34A6D9FF736F9459ABCF83210.sscistudy1.pdf> ("SSCI Report"), which was publicly released in December 2014, documents that CIA personnel subjected Mr. Rahman to abuses including forced nudity, sleep and food deprivation, "auditory overload," "rough treatment," and cold showers. SSCI Report at 54. The SSCI Report also explains that in the days preceding his death, Mr. Rahman had been chained to the wall of his cell, naked from the waist down, in a position that forced his lower body into continuous contact with a freezing concrete floor. *Id.* A declassified CIA autopsy report, referenced in the SSCI Report, concludes that Mr. Rahman, weakened by cold and hunger and other forms of cruel, inhuman and degrading treatment, died of hypothermia in a CIA-run facility (identified as COBALT) in November 2002. *Id.* at 54-55.

In October 2015, Mr. Rahman's family, represented by Mr. Obaid Ullah, and two survivors of the CIA's torture program filed a civil lawsuit against two CIA contracted psychologists who designed the CIA program and helped the agency implement it, *Salim v. Mitchell and Jessen*, Case No. 2:15-cv-00286-JLQ (E.D. Wa., 2015). The CIA, in response to discovery requests in the

litigation, declassified and released numerous documents relating to Mr. Rahman's death in CIA custody, including many of the CIA cables cited in the SSCI Report, Mr. Rahman's autopsy report, and the results of two separate investigations into his death. These specific documents and the other discovery in the litigation are publicly available at *The Torture Database*, ACLU, <https://www.thetorturedatabase.org>. See also Greg Miller, Karen DeYoung & Julie Tate, *Newly Released CIA Files Expose Grim Details of Agency Interrogation Program*, Wash. Post (June 14, 2016), https://www.washingtonpost.com/world/national-security/newly-released-cia-files-expose-grim-details-of-agency-interrogation-program/2016/06/14/6d04a01e-326a-11e6-95c02a6873031302_story.html?utm_term=.64ef04709a65. Official statements publicly released by the CIA also admitted that Mr. Rahman died "in CIA custody" and that its own leadership "erred in not holding anyone formally accountable for the actions and failure of management related to the death of Gul Rahman." See, e.g., Memorandum from Director, CIA, to Hon. Dianne Feinstein & Hon. Saxby Chambliss, *CIA Comments on the Senate Select Committee on Intelligence's Study of the CIA's Former Detention and Interrogation Program* at 9 ¶ 26 (Dec. 8, 2014), https://www.cia.gov/library/reports/CIAs_June2013_Response_to_the_SSCI_Study_on_the_Former_Detention_and_Interrogation_Program.pdf.

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On June 13, 2016, the CIA declassified and released redacted reports of its own investigations of Mr. Rahman's death in CIA custody. The CIA posted those reports to its website. See, e.g., *Death Investigation – Gul Rahman*, <https://www.cia.gov/library/readingroom/document/6555318>.

Despite this substantial public record of the circumstances of Mr. Rahman's death and official acknowledgement and accounts of Mr. Rahman's death in declassified documents, the U.S. government has never notified the family of Mr. Rahman's death or the disposition of his body, and has never publicly disclosed information about the location of his remains. The United States' continuing failure to provide this information constitutes an on-going violation of the prohibition of forced disappearance, conduct which Congress has long recognized as a gross human rights violation. See 22 U.S.C. §§ 2304(a)(2), 2304(d)(1) (defining "causing the disappearance of persons" as a "gross violation [...] of internationally recognized human rights).

The light shed on Mr. Rahman's death by the release of the SSCI Report, the discovery in the *Salim* lawsuit, and other official documents has generated significant and continuing media coverage. See, e.g., Scott Shane, *Report Portrays a Broken C.I.A. Devoted to a Failed Approach*, N.Y. Times (Dec. 9, 2014), <https://www.nytimes.com/2014/12/10/world/senate-torture-report-shows-cia-infighting-over-interrogation-program.html>; Greg Miller, Adam Goldman & Julie Tate, *Senate Report on CIA Program details brutality, dishonesty*, Wash. Post (Dec. 9, 2014), <https://www.washingtonpost.com/world/national-security/senate-report-on-cia-program-details-brutality-dishonesty/>

2014/12/09/1075c726-7f0e-11e4-9f38-95a187e4c1f7_story.html; Ken Silverstein, *The Charmed Life of a CIA Torturer: How Fate Diverged for Matthew Zirbel, aka CIA OFFICER 1, and Gul Rahman*, Intercept (Dec. 15, 2014), <https://theintercept.com/2014/12/15/charmed-life-cia-torturer/>; Sheri Fink & James Risen, *Lawsuit Aims to Hold 2 Contractors Accountable for C.I.A. Torture*, N.Y. Times (Nov. 27, 2016), <https://www.nytimes.com/2016/11/27/us/lawsuit-aims-to-hold-2-contractors-accountable-for-cia-torture.html>; Larry Siems, *Inside the CIA's Black Site Torture Room*, Guardian (Oct. 9, 2017), <https://www.theguardian.com/us-news/ng-interactive/2017/oct/09/cia-torture-black-site-enhanced-interrogation>. Therefore, in addition to Mr. Rahman's family's interest in the information sought, the circumstances of Mr. Rahman's death and the disposition of his body are matters of clear public interest.

To provide Mr. Rahman's family and the American public with information on the whereabouts of Mr. Rahman's body, and to end the U.S. government's continuing violation of the prohibition of enforced disappearance, Mr. Obaid Ullah and the ACLU seek such information through this FOIA request.

II. Requested Records

Mr. Obaid Ullah and the ACLU seek the release of records—including cables, reports of investigations, legal and policy memoranda; guidance documents; instructions; directives; contracts or agreements; and memoranda of understanding—concerning the following:

- (1) The United States' (or its agents') disposition of Mr. Rahman's body after his death in CIA custody in November 2002;
- (2) Any and all documents referencing the location of Mr. Rahman's body; and
- (3) Procedures, protocols, or guidelines to be followed in the event of a CIA detainee's death while in United States' custody, including family notification, investigation and disposition of the body.

With respect to the form of production, *see* 5 U.S.C. § 552(a)(3)(B), Mr. Obaid Ullah and the ACLU request that responsive electronic records be provided electronically in their native file format, if possible. Alternatively, Mr. Obaid Ullah and the ACLU request that the records be provided electronically in a text-searchable, static-image format (PDF), in the best image quality in the agency's possession, and that the records be provided in separate, Bates-stamped files.

III. Application for Expedited Processing

The ACLU requests expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E).² There is a “compelling need” for these records, as defined in the statute, because the information requested is “urgen[tly]” needed by an organization primarily engaged in disseminating information “to inform the public concerning actual or alleged Federal Government activity.” 5 U.S.C. § 552(a)(6)(E)(v)(II).

A. *The ACLU is an organization primarily engaged in disseminating information in order to inform the public about actual or alleged government activity.*

The ACLU is “primarily engaged in disseminating information” within the meaning of the statute. 5 U.S.C. § 552(a)(6)(E)(v)(II).³ Obtaining information about government activity, analyzing that information, and widely publishing and disseminating that information to the press and public are critical and substantial components of the ACLU’s work and are among its primary activities. *See ACLU v. DOJ*, 321 F. Supp. 2d 24, 29 n.5 (D.D.C. 2004) (finding non-profit public interest group that “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience” to be “primarily engaged in disseminating information”).⁴

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The ACLU regularly publishes *STAND*, a print magazine that reports on and analyzes civil liberties-related current events. The magazine is disseminated to over 990,000 people. The ACLU also publishes regular updates and alerts via email to over 3.1 million subscribers (both ACLU members and non-members). These updates are additionally broadcast to over 3.8 million social media followers. The magazine as well as the email and social-media alerts often include descriptions and analysis of information obtained through FOIA requests.

The ACLU also regularly issues press releases to call attention to documents obtained through FOIA requests, as well as other breaking news,⁵

² See also 32 C.F.R. § 286.8(e); 32 C.F.R. § 1900.34; 22 C.F.R. § 171.11(f).

³ See also 32 C.F.R. § 286.8(c)(1)(i)(B); 22 C.F.R. § 171.11(f)(2); 32 C.F.R. § 1900.34(c)(2).

⁴ Courts have found that the ACLU as well as other organizations with similar missions that engage in information-dissemination activities similar to the ACLU are “primarily engaged in disseminating information.” See, e.g., *Leadership Conference on Civil Rights v. Gonzales*, 404 F. Supp. 2d 246, 260 (D.D.C. 2005); *ACLU*, 321 F. Supp. 2d at 29 n.5; *Elec. Privacy Info. Ctr. v. DOD*, 241 F. Supp. 2d 5, 11 (D.D.C. 2003).

⁵ See, e.g., Press Release, American Civil Liberties Union, U.S. Releases Drone Strike ‘Playbook’ in Response to ACLU Lawsuit (Aug. 6, 2016), <https://www.aclu.org/news/us-releases-drone-strike-playbook-response-aclu-lawsuit>; Press Release, American Civil Liberties Union, Secret Documents Describe Graphic Abuse and Admit Mistakes (June 14, 2016), <https://www.aclu.org/news/cia-releases-dozens-torture-documents-response-aclu-lawsuit>; Press

and ACLU attorneys are interviewed frequently for news stories about documents released through ACLU FOIA requests.⁶

Similarly, the ACLU publishes reports about government conduct and civil liberties issues based on its analysis of information derived from various sources, including information obtained from the government through FOIA requests. This material is broadly circulated to the public and widely available to everyone for no cost or, sometimes, for a small fee. ACLU national projects regularly publish and disseminate reports that include a description and analysis of government documents obtained through FOIA requests.⁷ The ACLU also regularly publishes books, "know your rights" materials, fact sheets, and

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Release, American Civil Liberties Union, U.S. Releases Targeted Killing Memo in Response to Long-Running ACLU Lawsuit (June 23, 2014), <https://www.aclu.org/national-security/us-releases-targeted-killing-memo-response-long-running-aclu-lawsuit>; Press Release, American Civil Liberties Union, Justice Department White Paper Details Rationale for Targeted Killing of Americans (Feb. 4, 2013), <https://www.aclu.org/national-security/justice-department-white-paper-details-rationale-targeted-killing-americans>; Press Release, American Civil Liberties Union, Documents Show FBI Monitored Bay Area Occupy Movement (Sept. 14, 2012), <https://www.aclu.org/news/documents-show-fbi-monitored-bay-area-occupy-movement-insidebayareacom>.

⁶ See, e.g., Cora Curtier, *TSA's Own Files Show Doubtful Science Behind Its Behavioral Screen Program*, Intercept (Feb. 8, 2017), <https://theintercept.com/2017/02/08/tsas-own-files-show-doubtful-science-behind-its-behavior-screening-program/> (quoting ACLU attorney Hugh Handeyside); Karen DeYoung, *Newly Declassified Document Sheds Light on How President Approves Drone Strikes*, Wash. Post (Aug. 6, 2016), <http://wapo.st/2jy62cW> (quoting former ACLU deputy legal director Jameel Jaffer); Catherine Thorbecke, *What Newly Released CIA Documents Reveal About 'Torture' in Its Former Detention Program*, ABC (June 15, 2016), <http://abcn.ws/2jy40d3> (quoting ACLU staff attorney Dror Ladin); Nicky Woolf, *US Marshals Spent \$10M on Equipment for Warrantless Stingray Device*, Guardian (Mar. 17, 2016), <https://www.theguardian.com/world/2016/mar/17/us-marshals-stingray-surveillance-airborne> (quoting ACLU attorney Nate Wessler); David Welna, *Government Suspected of Wanting CIA Torture Report to Remain Secret*, NPR (Dec. 9, 2015), <http://n.pr/2jy2p71> (quoting ACLU project director Hina Shamsi).

⁷ See, e.g., Hugh Handeyside, *New Documents Show This TSA Program Blamed for Profiling Is Unscientific and Unreliable — But Still It Continues* (Feb. 8, 2017, 11:45 am), <https://www.aclu.org/blog/speak-freely/new-documents-show-tsa-program-blamed-profiling-unscientific-and-unreliable-still>; Carl Takei, *ACLU-Obtained Emails Prove that the Federal Bureau of Prisons Covered Up Its Visit to the CIA's Torture Site* (Nov. 22, 2016, 3:15 pm), <https://www.aclu.org/blog/speak-freely/aclu-obtained-emails-prove-federal-bureau-prisons-covered-its-visit-cias-torture>; Brett Max Kaufman, *Details Abound in Drone 'Playbook' — Except for the Ones That Really Matter Most* (Aug. 8, 2016, 5:30 pm), <https://www.aclu.org/blog/speak-freely/details-abound-drone-playbook-except-ones-really-matter-most>; Nathan Freed Wessler, *ACLU- Obtained Documents Reveal Breadth of Secretive Stingray Use in Florida* (Feb. 22, 2015, 5:30 pm), <https://www.aclu.org/blog/free-future/aclu-obtained-documents-reveal-breadth-secretive-stingray-use-florida>; Ashley Gorski, *New NSA Documents Shine More Light into Black Box of Executive Order 12333* (Oct. 30, 2014, 3:29 pm), <https://www.aclu.org/blog/new-nsa-documents-shine-more-light-black-box-executive-order-12333>; ACLU, *ACLU Eye on the FBI: Documents Reveal Lack of Privacy Safeguards and Guidance in Government's "Suspicious Activity Report" Systems* (Oct. 29, 2013), https://www.aclu.org/sites/default/files/assets/eye_on_fbi_-_sars.pdf.

educational brochures and pamphlets designed to educate the public about civil liberties issues and government policies that implicate civil rights and liberties.

The ACLU publishes a widely read blog where original editorial content reporting on and analyzing civil rights and civil liberties news is posted daily. See <https://www.aclu.org/blog>. The ACLU creates and disseminates original editorial and educational content on civil rights and civil liberties news through multi-media projects, including videos, podcasts, and interactive features. See <https://www.aclu.org/multimedia>. The ACLU also publishes, analyzes, and disseminates information through its heavily visited website, www.aclu.org. The website addresses civil rights and civil liberties issues in depth, provides features on civil rights and civil liberties issues in the news, and contains many thousands of documents relating to the issues on which the ACLU is focused. The ACLU's website also serves as a clearinghouse for news about ACLU cases, as well as analysis about case developments, and an archive of case-related documents. Through these pages, and with respect to each specific civil liberties issue, the ACLU provides the public with educational material, recent news, analyses of relevant Congressional or executive branch action, government documents obtained through FOIA requests, and further in-depth analytic and educational multi-media features.

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The ACLU website includes many features on information obtained through the FOIA.⁸ For example, the ACLU's "Predator Drones FOIA" webpage, <https://www.aclu.org/national-security/predator-drones-foia>, contains commentary about the ACLU's FOIA request, press releases, analysis of the FOIA documents, numerous blog posts on the issue, documents related to litigation over the FOIA request, frequently asked questions about targeted killing, and links to the documents themselves. Similarly, the ACLU maintains an online "Torture Database," a compilation of over 100,000 pages of FOIA documents that allows researchers and the public to conduct sophisticated searches of FOIA documents relating to government policies on rendition,

⁸ See, e.g., Nathan Freed Wessler & Dyan Cortez, *FBI Releases Details of 'Zero-Day' Exploit Decisionmaking Process* (June 26, 2015, 11:00 am), <https://www.aclu.org/blog/free-future/fbi-releases-details-zero-day-exploit-decisionmaking-process>; Nathan Freed Wessler, *FBI Documents Reveal New Information on Baltimore Surveillance Flights* (Oct. 30, 2015, 8:00 am), <https://www.aclu.org/blog/free-future/fbi-documents-reveal-new-information-baltimore-surveillance-flights>; *ACLU v. DOJ – FOIA Case for Records Relating to the Killing of Three U.S. Citizens*, ACLU Case Page, <https://www.aclu.org/national-security/anwar-al-awlaki-foia-request>; *ACLU v. Department of Defense*, ACLU Case Page, <https://www.aclu.org/cases/aclu-v-department-defense>; *Mapping the FBI: Uncovering Abusive Surveillance and Racial Profiling*, ACLU Case Page, <https://www.aclu.org/mappingthefbi>; *Bagram FOIA*, ACLU Case Page <https://www.aclu.org/cases/bagram-foia>; *CSRT FOIA*, ACLU Case Page, <https://www.aclu.org/national-security/csrt-foia>; *ACLU v. DOJ – Lawsuit to Enforce NSA Warrantless Surveillance FOIA Request*, ACLU Case Page, <https://www.aclu.org/aclu-v-doj-lawsuit-enforce-nsa-warrantless-surveillance-foia-request>; *Patriot FOIA*, ACLU Case Page, <https://www.aclu.org/patriot-foia>; *NSL Documents Released by DOD*, ACLU Case Page, <https://www.aclu.org/nsl-documents-released-dod?redirect=cpreirect/32088>.

detention, and interrogation.⁹

The ACLU has also published a number of charts and explanatory materials that collect, summarize, and analyze information it has obtained through the FOIA. For example, through compilation and analysis of information gathered from various sources—including information obtained from the government through FOIA requests—the ACLU created an original chart that provides the public and news media with a comprehensive summary index of Bush-era Office of Legal Counsel memos relating to interrogation, detention, rendition, and surveillance.¹⁰ Similarly, the ACLU produced an analysis of documents released in response to a FOIA request about the TSA's behavior detection program¹¹; a summary of documents released in response to a FOIA request related to the FISA Amendments Act¹²; a chart of original statistics about the Defense Department's use of National Security Letters based on its own analysis of records obtained through FOIA requests¹³; and an analysis of documents obtained through FOIA requests about FBI surveillance flights over Baltimore.¹⁴

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The ACLU plans to analyze, publish, and disseminate to the public the information gathered through this Request. The records requested are not sought for commercial use and the requesters plan to disseminate the information disclosed as a result of this Request to the public at no cost.

B. The records sought are urgently needed to inform the public about actual or alleged government activity.

⁹ *The Torture Database*, ACLU, <https://www.thetorturedatabase.org>; see also *Countering Violent Extremism FOIA Database*, ACLU, <https://www.aclu.org/foia-collection/cve-foia-documents>; *TSA Behavior Detection FOIA Database*, ACLU, <https://www.aclu.org/foia-collection/tsa-behavior-detection-foia-database>; *Targeted Killing FOIA Database*, ACLU, <https://www.aclu.org/foia-collection/targeted-killing-foia-database>.

¹⁰ *Index of Bush-Era OLC Memoranda Relating to Interrogation, Detention, Rendition and/or Surveillance*, ACLU (Mar. 5, 2009), https://www.aclu.org/sites/default/files/pdfs/safefree/olcmemos_2009_0305.pdf.

¹¹ *Bad Trip: Debunking the TSA's 'Behavior Detection' Program*, ACLU (2017), https://www.aclu.org/sites/default/files/field_document/dem17-tsa_detection_report-v02.pdf.

¹² *Summary of FISA Amendments Act FOIA Documents Released on November 29, 2010*, ACLU, <https://www.aclu.org/files/pdfs/natsec/foia20101129/20101129Summary.pdf>.

¹³ *Statistics on NSL's Produced by Department of Defense*, ACLU, <https://www.aclu.org/other/statistics-nsls-produced-dod>.

¹⁴ Nathan Freed Wessler, *FBI Documents Reveal New Information on Baltimore Surveillance Flights* (Oct. 30, 2015, 8:00 AM), <https://www.aclu.org/blog/free-future/fbi-documents-reveal-new-information-baltimore-surveillance-flights>.

These records are urgently needed to inform the public about actual or alleged government activity. See 5 U.S.C. § 552(a)(6)(E)(v)(II).¹⁵ Specifically, the requested records relate to the United States' continuing failure to provide information on what it did with Mr. Rahman's body after his death in CIA custody and the present location of his remains. As discussed in Part I, *supra*, Mr. Rahman's enforced disappearance, and in particular the United States' failure to provide information on the whereabouts of Mr. Rahman's body are the subject of widespread public controversy and media attention.¹⁶ The records sought relate to a matter of widespread and exceptional media interest.¹⁷

Indeed, the scandal associated with the CIA's former Rendition, Detention, and Interrogation program is presently a subject of urgent national attention with the nomination of Gina Haspel, currently the CIA's deputy director, to serve as Director of the Agency. Ms. Haspel reportedly played a key role in the CIA's program from its outset. See e.g., Adam Goldman, *Gina Haspel, Trump's Choice for C.I.A., Played Role in Torture Program*, N.Y. Times (Mar. 13, 2018), <https://www.nytimes.com/2018/03/13/us/politics/gina-haspel-cia-director-nominee-trump-torture-waterboarding.html>; Karoun Demirjian, *McCain asks CIA Director nominee Haspel to explain role in post-9/11 interrogations*, Wash Post (Mar. 23, 2018), https://www.washingtonpost.com/powerpost/mccain-asks-cia-director-nominee-haspel-to-explain-her-record-tied-to-torture/2018/03/23/227e76a6-2ea2-11e8-b0b0-f706877db618_story.html?utm_term=.36c89c073689; Manu Raju, Jeremy Herb & Jenna McLaughlin, *How Gina Haspel is trying to overcome her past to become the next CIA Director*, CNN (Mar. 27, 2018, 1:41 pm), <https://www.cnn.com/2018/03/27/politics/gina-haspel-cia-confirmation/index.html>. The requested records will serve to inform the public about one of the most controversial aspects of the CIA's Program, at a time when Congress and the American people seek a more complete understanding of that Program.

Given the foregoing, the ACLU has satisfied the requirements for expedited processing of this Request.

IV. Application for Waiver or Limitation of Fees

The ACLU requests a waiver of document search, review, and duplication fees on the grounds that disclosure of the requested records is in the public interest and because disclosure is "likely to contribute significantly to public understanding of the operations or activities of the government and is not

¹⁵ See also 22 C.F.R. § 171.11(f)(2); 32 C.F.R. § 286.8(e)(1)(i)(B); 32 C.F.R. § 1900.34(c)(2).

¹⁶ See *supra* Part I.

¹⁷ See *id.*

primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii).¹⁸ The ACLU also requests a waiver of search fees on the grounds that the ACLU qualifies as a "representative of the news media" and the records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii)(II).

A. The Request is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the ACLU.

As discussed above, given the ongoing and widespread media attention to this issue, the records sought will significantly contribute to public understanding of an issue of profound public importance. Because there is no information on what the United States did with Mr. Rahman's body after his death in CIA custody, the records sought are certain to contribute significantly to the public's understanding of this issue, and what rules and procedures are in place for similar such incidents. In addition the records will shed light on the United States' role in Mr. Rahman's continuing enforced disappearance.

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Neither Mr. Obaid Ullah nor the ACLU is filing this Request to further their commercial interests. As described above, any information disclosed by Mr. Obaid Ullah and the ACLU as a result of this FOIA Request will be available to the public at no cost. Thus, a fee waiver would fulfill Congress's legislative intent in amending FOIA. *See Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) ("Congress amended FOIA to ensure that it be liberally construed in favor of waivers for noncommercial requesters." (quotation marks omitted)).

B. The ACLU is a representative of the news media and the records are not sought for commercial use.

The ACLU also requests a waiver of search fees on the grounds that the ACLU qualifies as a "representative of the news media" and the records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii)(II).¹⁹ The ACLU meets the statutory and regulatory definitions of a "representative of the news media" because it is an "entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience." 5 U.S.C. § 552(a)(4)(A)(ii)(III)²⁰; *see also Nat'l Sec. Archive v. DOD*, 880 F.2d 1381, 1387 (D.C. Cir. 1989) (finding that an organization that gathers information,

¹⁸ *See also* 32 C.F.R. § 286.12(l)(1); 22 C.F.R. § 171.16(a); 32 C.F.R. § 1900.13(b)(2).

¹⁹ *See also* 32 C.F.R. § 286.12(l)(2)(ii)(b); 22 C.F.R. § 171.16(a)(iii); 32 C.F.R. § 1900.13(i)(2).

²⁰ *See also* 32 C.F.R. § 286.12(b)(6); 22 C.F.R. § 171.14(b)(5)(ii)(C); 32 C.F.R. § 1900.02(h)(3).

exercises editorial discretion in selecting and organizing documents, “devises indices and finding aids,” and “distributes the resulting work to the public” is a “representative of the news media” for purposes of the FOIA); *Serv. Women’s Action Network v. DOD*, 888 F. Supp. 2d 282 (D. Conn. 2012) (requesters, including ACLU, were representatives of the news media and thus qualified for fee waivers for FOIA requests to the Department of Defense and Department of Veterans Affairs); *ACLU of Wash. v. DOJ*, No. C09-0642RSL, 2011 WL 887731, at *10 (W.D. Wash. Mar. 10, 2011) (finding that the ACLU of Washington is an entity that “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience”); *ACLU*, 321 F. Supp. 2d at 30 n.5 (finding non-profit public interest group to be “primarily engaged in disseminating information”). The ACLU is therefore a “representative of the news media” for the same reasons it is “primarily engaged in the dissemination of information.”

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Furthermore, courts have found other organizations whose mission, function, publishing, and public education activities are similar in kind to the ACLU’s to be “representatives of the news media” as well. *See, e.g., Cause of Action v. IRS*, 125 F. Supp. 3d 145 (D.C. Cir. 2015); *Elec. Privacy Info. Ctr.*, 241 F. Supp. 2d at 10–15 (finding non-profit public interest group that disseminated an electronic newsletter and published books was a “representative of the news media” for purposes of the FOIA); *Nat’l Sec. Archive*, 880 F.2d at 1387; *Judicial Watch, Inc. v. DOJ*, 133 F. Supp. 2d 52, 53–54 (D.D.C. 2000) (finding Judicial Watch, self-described as a “public interest law firm,” a news media requester).²¹

On account of these factors, fees associated with responding to FOIA requests are regularly waived for the ACLU as a “representative of the news media.”²² As was true in those instances, the ACLU meets the requirements for a fee waiver here.

²¹ Courts have found these organizations to be “representatives of the news media” even though they engage in litigation and lobbying activities beyond their dissemination of information / public education activities. *See, e.g., Elec. Privacy Info. Ctr.*, 241 F. Supp. 2d 5; *Nat’l Sec. Archive*, 880 F.2d at 1387; *see also Leadership Conference on Civil Rights*, 404 F. Supp. 2d at 260; *Judicial Watch, Inc.*, 133 F. Supp. 2d at 53–54.

²² In June 2017, the DOS granted a fee-waiver request regarding a FOIA request for records relating to the Trump administration’s plans to redefine the United States’ role in the international human rights system. In August 2017, CBP granted a fee-waiver request regarding a FOIA request for records relating to a muster sent by CBP in April 2017. In May 2017, CBP granted a fee-waiver request regarding a FOIA request for documents related to electronic device searches at the border. In April 2017, the CIA and the Department of State granted fee-waiver requests in relation to a FOIA request for records related to the legal authority for the use of military force in Syria. In March 2017, the Department of Defense Office of Inspector General, the CIA, and the Department of State granted fee-waiver requests regarding a FOIA request for documents related to the January 29, 2017 raid in al Ghayil, Yemen. In May 2016, the FBI granted a fee-waiver request regarding a FOIA request issued to the DOJ for documents

* * *

Pursuant to applicable statutes and regulations, the ACLU expects a determination regarding expedited processing within 10 days. See 5 U.S.C. § 552(a)(6)(E)(ii); 32 C.F.R. § 286.8(e)(1); 22 C.F.R. § 171.11(f)(4); 32 C.F.R. § 1900.34(c).

If the Request is denied in whole or in part, Mr. Obaid Ullah and the ACLU ask that you justify all deletions by reference to specific exemptions to FOIA. The ACLU expects the release of all segregable portions of otherwise exempt material. The requesters reserve the right to appeal a decision to withhold any information or deny a waiver of fees.


Thank you for your prompt attention to this matter. Please furnish the applicable records to:

AMERICAN CIVIL LIBERTIES
UNION FOUNDATION

Steven M. Watt
American Civil Liberties Union
125 Broad Street—18th Floor
New York, New York 10004
T: 212.519.7870
F: 212.549.2654
swatt@aclu.org

I affirm that the information provided supporting the request for expedited processing is true and correct to the best of my knowledge and belief. See 5 U.S.C. § 552(a)(6)(E)(vi).

Respectfully,



Steven M. Watt

related to Countering Violent Extremism Programs. In April 2013, the National Security Division of the DOJ granted a fee-waiver request with respect to a request for documents relating to the FISA Amendments Act. Also in April 2013, the DOJ granted a fee-waiver request regarding a FOIA request for documents related to "national security letters" issued under the Electronic Communications Privacy Act. In August 2013, the FBI granted the fee-waiver request related to the same FOIA request issued to the DOJ. In June 2011, the DOJ National Security Division granted a fee waiver to the ACLU with respect to a request for documents relating to the interpretation and implementation of a section of the PATRIOT Act. In March 2009, the State Department granted a fee waiver to the ACLU with regard to a FOIA request for documents relating to the detention, interrogation, treatment, or prosecution of suspected terrorists.

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AMERICAN CIVIL LIBERTIES
UNION FOUNDATION



National Headquarters
Legal Department
125 Broad Street • New York, NY 10004
FAX: (212) 549-2654

FAX TRANSMITTAL SHEET

TO: *Information and Privacy Coordinator, CIA*

FAX NUMBER: *(703) 613-3007*

FROM: *Steven Watt, ACLU*

DATE: *4-18-18*

TOTAL NUMBER OF PAGES (INCLUDING THIS COVER PAGE): *14*

This transmission is intended for the sole use of the individual and entity to whom it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. You are hereby notified that any dissemination, distribution or duplication of this transmission by someone other than the addressee or its designated agent is strictly prohibited.

Exhibit C

Central Intelligence Agency



Washington, D.C. 20505

20 April 2018

Mr. Steven M. Watt
American Civil Liberties Union
125 Broad Street – 18th Floor
New York, NY 10004

Reference: F-2018-01415

Dear Mr. Watt:

On 18 April 2018 the office of the Information and Privacy Coordinator received your 18 April 2018 Freedom of Information Act request, submitted on behalf of the American Civil Liberties Union, for **records relating to the United States' disposal and the current whereabouts of the body of Mr. Gul Rahman, an Afghan citizen who the United States has acknowledged died while in the custody of the Central Intelligence Agency ("CIA") in November 2002.**

You have requested expedited processing. Generally, we handle all requests in the order we receive them; that is "first-in, first out." We make exceptions to this rule when a requester establishes a compelling need in accordance with our regulations. We have reviewed your request and determined it does not meet the criteria for expedited processing. Specifically, the request neither involves an imminent threat to the life or physical safety of an individual, nor is it-made "by a person primarily engaged in disseminating information, and the information is relevant to a subject of public urgency concerning an actual or alleged or Federal activity." Therefore, we have determined that you have not established a "compelling need" for the information as set forth in 32 CFR § 1900.34. Your request for expedited processing is hereby denied. You may appeal this decision, in my care, within 90 days from the date of this letter. Should you choose to appeal the denial of your request for expedited processing, you are encouraged to provide an explanation supporting your appeal.

Our officers will review your request and will advise you should they encounter any problems or if they cannot begin the search without additional information. We have assigned your request the reference number above. Please use this number when corresponding so that we can identify it easily. In accordance with our regulations, as a matter of administrative discretion, the Agency has waived the fees for this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Allison Fong".

Allison Fong
Information and Privacy Coordinator

Exhibit D

Central Intelligence Agency



Washington, D.C. 20505

31 May 2019

Steven M. Watt
American Civil Liberties Union Foundation
National Office
125 Broad Street, 18th Floor
New York, NY 10004

Reference: F-2018-01415; 18-cv-02785

Dear Mr. Watt:

This letter is a final response to your 18 April 2018 Freedom of Information Act (FOIA) request, submitted on behalf of Obaid Ullah and the American Civil Liberties Union and the American Civil Liberties Union Foundation, for cables, reports of investigations, legal and policy memoranda; guidance documents; instructions; directives; contracts or agreements; and memoranda of understanding concerning the following:

1. The United States' (or its agents') disposition of Mr. Rahman's body after his death in CIA custody in November 2002;
2. Any and all documents referencing the location of Mr. Rahman's body; and
3. Procedures, protocols, or guidelines to be followed in the event of a CIA detainee's death while in United States' custody, including family notification, investigation and disposition of the body.

We processed the request in accordance with the FOIA, 5 U.S.C. § 552, as amended, and the CIA Information Act, 50 U.S.C. § 3141, as amended.

We completed a thorough search for records responsive to the request and nine (9) documents can be released in segregable form with redactions made on the basis of FOIA exemptions (b)(1), (b)(3), (b)(5), and (b)(6). In addition, it has been determined that twenty nine (29) documents must be denied in their entirety on the bases of FOIA exemptions (b)(1), (b)(3), (b)(5), (b)(6), and (b)(7)(c). Exemption (b)(3) pertains to Section 6 of the Central Intelligence Agency Act of 1949, 50 U.S.C. § 3507, noted as exemption "(b)(3)CIAAct" on the enclosed documents, and/or Section 102A(i)(1) of the National Security Act of 1947, 50 U.S.C § 3024(i)(1), noted as exemption "(b)(3)NatSecAct" on the enclosed documents.

This concludes our response to the above referenced request.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Lilly".

Mark Lilly
Information and Privacy Coordinator

Enclosure