

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

AMERICAN CIVIL LIBERTIES UNION and  
AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION,

Plaintiffs,

v.

15 Civ. 9002 (PKC)

U.S. DEPARTMENT OF JUSTICE including  
its components OFFICE OF LEGAL  
COUNSEL and OFFICE OF INFORMATION  
POLICY,

Defendants.

**DECLARATION OF ELIZA SWEREN-BECKER**

I, Eliza Sweren-Becker, pursuant to 28 U.S.C. § 1746, declare as follows:

1. My name is Eliza Sweren-Becker. I am an attorney with the American Civil Liberties Union Foundation and counsel for Plaintiffs in this litigation. I am familiar with and have personal knowledge of the facts set forth herein and could and would testify competently thereto if called upon to do so.

2. I submit this declaration in support of Plaintiffs' Cross-Motion for Summary Judgment and Opposition to Defendant's Motion for Partial Summary Judgment.

3. Plaintiffs submitted a Freedom of Information Act ("FOIA") request on March 10, 2015 for the legal opinion concerning "common commercial service agreements" authored by the Department of Justice's Office of Legal Counsel ("OLC Opinion or Opinion").

4. The government has withheld the Opinion in full under FOIA Exemption 5, 5 U.S.C. § 552(b)(5), specifically the deliberative-process and attorney-client privileges, and Exemptions 1 and 3, *id.* § 552(b)(1), (b)(3).

5. The government has provided extremely limited factual information about the requested record. The factual information is limited to two paragraphs in the Colburn Declaration, *see* ¶¶ 11–13.

6. Among other things, the government has not provided information about the circumstances related to the creation of the OLC Opinion; the agencies or executive branch components that requested or received the Opinion; any other circulation or distribution of the Opinion; whether and how any agencies or components used or relied on the Opinion; and whether and how any agencies or components continue to rely on the Opinion.

7. Attached to this declaration are true and correct copies of the following documents:

Letter from Sen. Ron Wyden to Attorney Gen. Eric Holder (Jul. 23, 2012) (“2012 Letter”) .....	A
Letter from Sen. Ron Wyden to John O. Brennan, Assistant to the President for Homeland Security and Counterterrorism (Jan. 14, 2013) (“2013 Letter”) .....	B
<i>Open Hearing on Foreign Intelligence Surveillance Authorities Before the S. Select Comm. on Intelligence</i> , 113th Cong. (2013) (Questions for the Record from Sen. Wyden) (“Questions for the Record”) .....	C
Letter from Sen. Ron Wyden to Attorney Gen. Eric Holder (Feb. 2, 2015) (“2015 Letter”) .....	D
Letter from Sen. Ron Wyden to Attorney Gen. Loretta Lynch (Mar. 24, 2016) (“2016 Letter”) .....	E
Plaintiffs’ March 10, 2015 Freedom of Information Act request .....	F
Government’s March 16, 2015 denial of Plaintiffs’ Freedom of Information Act request .....	G
Plaintiffs’ May 14, 2015 appeal from the government’s denial of Plaintiffs’ Freedom of Information Act request.....	H
First Bradbury Decl., <i>Elec. Privacy Info. Ctr. v. Dep’t of Justice</i> , Nos. 1:06-CV-00096, 1:06-CV-00214 (HHK) (Sept. 15, 2006) .....	I

Second Bradbury Decl., *Elec. Privacy Info. Ctr. v. Dep't of Justice*,  
Nos. 1:06-CV-00096, 1:06-CV-00214 (HHK), 2007 WL  
4457946 (Oct. 19, 2007) .....J

8. A video of the *Nomination of Caroline Diane Krass to be General Counsel of the Central Intelligence Agency: Hearing before the Senate Intelligence Committee*, 113 Cong. (2013) (“Krass Hearing”) is available at: <http://1.usa.gov/1M71FiE>. For the convenience of the Court, an unofficial transcript of the portion of the hearing upon which Plaintiffs rely is attached hereto as Exhibit K.

9. I declare under penalty of perjury that the foregoing is true and correct, based on my personal knowledge, information, and belief.

Dated: April 4, 2016  
New York, New York

Respectfully submitted,

/s/ Eliza Sweren-Becker  
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