

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JUDICIAL WATCH, INC.,

Plaintiff,

v.

U.S. DEPARTMENT OF DEFENSE, and
CENTRAL INTELLIGENCE AGENCY,

Defendants.

Civil Action 12-cv-49 (RC)

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

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

1. I am the Information Review Officer ("IRO") for the Director of Central Intelligence ("Director's Area") of the Central Intelligence Agency ("CIA" or "Agency"). The Director's Area encompasses not only the Office of the Director of the CIA but also several components not organized under one of the CIA's four main directorates, such as the Office of General Counsel and the Office of Public Affairs. I have held this position since 19 January 1999. I have held various administrative and professional positions within the CIA since 1989.

2. As the IRO for the Director's Area, I am authorized to assess the current, proper classification of CIA information based on the classification criteria of Executive Order 13526.

As the IRO, I am responsible for the classification review of records and information originated by the Director's Area or otherwise implicating Director's Area interests, including records which may be the subject of court proceedings or public requests for information under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. As part of my official duties, I ensure that any determinations regarding the public release or withholding of any such records or information are proper and do not jeopardize CIA interests, personnel, or facilities, and, on behalf of the Director of the CIA, do not jeopardize intelligence activities, sources, and methods.

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

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

those located in, or containing information under the cognizance of CIA directorates or areas other than the Director's Area.

5. I am submitting this declaration in support of the Government's motion for summary judgment in this proceeding. Through the exercise of my official duties, I have become familiar with this case and the underlying FOIA requests. I have also personally reviewed all of the responsive documents located by the CIA in this case. I make the following statements based upon my personal knowledge and information made available to me in my official capacity.

6. This declaration will explain, to the greatest extent possible on the public record,¹ the basis for the CIA's redactions to several documents that are being challenged by the plaintiff in this case, Judicial Watch.

7. On 9 August 2011, Judicial Watch sent a FOIA request to CIA seeking several categories of documents concerning the Agency's interactions with Kathryn Bigelow and Mark Boal ("filmmakers"), the makers of an upcoming film about the killing of Usama Bin Laden ("UBL"). A true and correct copy of Judicial Watch's 9 August 2011 letter is attached to this declaration as Exhibit A.

¹ At the Court's request, I am also prepared to submit a classified declaration for the Court's *in camera*, *ex parte* review that contains information that cannot be filed on the public record, as well as unredacted versions of the documents at issue.

8. On 16 August 2011, the CIA accepted Judicial Watch's request but advised that it was unlikely to respond to the request within 20 working days. A true and correct copy of the CIA's 16 August 2011 letter is attached hereto as Exhibit B.

9. On 12 January 2012, Judicial Watch initiated the present lawsuit. Pursuant to an agreed-upon schedule, the CIA produced 67 responsive documents to Judicial Watch on 18 May 2012 and withheld 27 responsive documents in full, primarily on the grounds of the attorney-client privilege. After subsequently discovering a small stack of records that were inadvertently overlooked during its initial processing of the request, the CIA produced 53 additional records on 24 August 2012 and withheld one document in full.² On 14 September 2012, the CIA produced updated versions of four of these documents, in which a limited amount of previously-withheld information was released.

10. Through letters accompanying the productions, Judicial Watch was informed that the documents being produced contained redactions that were made pursuant to FOIA exemptions (b)(1), (b)(3), (b)(5), and (b)(6). The CIA also informed Judicial Watch that the responsive documents that were not produced were

² I personally supervised the CIA's search for records in response to Judicial Watch's FOIA request. The CIA's search efforts were described in detail in a letter to Judicial Watch that accompanied the 24 August production, which is attached hereto as Exhibit C. I have personal knowledge of the facts described in that letter, and I hereby incorporate it into my declaration by reference.

withheld in full on the basis of FOIA exemption (b)(5) and in part on the basis of FOIA exemptions (b)(1), (b)(3), and (b)(6).³

11. I understand that Judicial Watch has informed the Department of Justice that it is challenging certain redactions to the following documents: C05807298, C05876857, and C05882735.⁴ The redacted versions of these documents are attached hereto as Exhibits D-F. In each instance, I understand that Judicial Watch is challenging the application of FOIA exemptions (b)(1), (b)(3), and (b)(6) to the extent that the information being redacted on these bases was shared with the filmmakers.

12. As described below, the only redactions being challenged by Judicial Watch in the documents at issue are those that withheld the names and/or pseudonyms of certain CIA officers who met with the filmmakers. Each of the officers at issue played a role in the U.S. Government's planning for the UBL operation. It is my understanding that when the meetings

³ These withheld documents were primarily attorney-client communications among CIA attorneys and other employees. In response to an inquiry from Judicial Watch, I can represent that none of these withheld documents were communications with the filmmakers or any other officer or employee of Annapurna Pictures, nor were any of these internal CIA communications shown to those individuals. In one instance, a copy of the release form that the filmmakers submitted to the Agency was attached to a privileged internal communication. A copy of that release form was produced separately at C05882733.

⁴ Several of Judicial Watch's potential challenges were resolved by the CIA's 14 September production, and therefore they are not addressed in this declaration. I also understand that the CIA's remaining withholdings are not being challenged by Judicial Watch, and therefore I do not address them in this declaration.

with the filmmakers took place at the CIA Headquarters, the guidance provided to the officers who were undercover or were otherwise in sensitive positions was that they should provide the filmmakers with their true first names only. Moreover, it is my understanding that such officer's first names were provided to the filmmakers only for the purpose of facilitating these private meetings, and that the Agency did not authorize the filmmakers to publicly release the officers' first names or use them in their film.

13. I will now discuss the redactions that Judicial Watch is challenging in each of the documents at issue:

14. C05807298: In this internal email chain among CIA officers, I understand that Judicial Watch is challenging all of the redactions to the extent any of the redacted information was shared with the filmmakers. To my knowledge, the only redacted information in this email that may have been shared with the filmmakers during the meetings was the first name of one of the officers who is in the email chain's distribution line. This email also contains that officer's last name, but, as noted above, it is my understanding that the officer was instructed not to provide his last name to the filmmakers. This officer is undercover, and therefore any information that associates his last name or other identifying information with the CIA is classified. The only other information redacted in this

document reflects classification control markings; internal email addresses, room numbers, and phone numbers; the names and positions of officers who did not meet with the filmmakers; and the pseudonyms of two officers who met with the filmmakers. The Agency has no reason to believe that any of this information would have been shared with the filmmakers during their meetings with the officers.

15. C05876857: This document is another internal email between two CIA officers. I understand that Judicial Watch is challenging the redactions to the paragraphs that begin with "The mtgs on Friday..." and "Tomorrow, they'll be meeting...." The redacted information in these two paragraphs reflects the true first names of four CIA officers who met with the filmmakers. These officers are undercover, and one of them is the same officer whose full true name was withheld in C05807298. As noted above, it is my understanding that these officers' true first names most likely would have been shared with the filmmakers during the meetings.

16. C05882735: For this internal email chain, it is my understanding that Judicial Watch is challenging the redactions to the sentences immediately below the "Saturday TBD" and "Monday TBD" headings - the sentences that begin with "Kathryn chat with..." and "Kathryn would like...." The redactions in these two sentences are for the pseudonyms of two officers who

met with the filmmakers. As noted, it is my understanding these officers would not have shared their pseudonyms with the filmmakers during the meetings; rather, they would have used their true first names (which are not reflected in this document).

17. The names of CIA officers, including their first names, are entitled to absolute protection from disclosure under FOIA exemption (b)(3). FOIA exemption (b)(3) provides that FOIA does not apply to matters that are: specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld 5 U.S.C. § 552(b)(3).

18. Section 6 of the Central Intelligence Agency Act of 1949, as amended, 50 U.S.C. § 403g (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, *inter alia*, the "names" of CIA personnel. The CIA Act therefore constitutes a federal statute which "establishes particular criteria for withholding or refers to particular types of matters to be withheld," 5 U.S.C. § 552(b)(3), and I have determined the names of the CIA officers

in these challenged documents - including first names and pseudonyms - are subject to protection under the Act.⁵

19. In contrast to Executive Order 13526, which governs classified national security information, the CIA Act does not require the CIA to identify and describe the damage to the national security that reasonably could be expected to result from the unauthorized disclosure of the names of CIA officers. Nonetheless, I can represent to the Court that the absolute protection for officers' identities that Congress provided in the CIA Act is extremely important to the functioning of the Agency and the safety and security of its employees. This is true even for the identities of officers who are not undercover, and it is also true with respect to the first names of undercover officers. While such identifying information may not be classified in isolation, the widespread public release of this information creates an unnecessary security and counter-intelligence risk for the Agency and its officers. This risk is particularly acute with respect to the identity of the officers who were involved in the Agency's planning for the successful raid on UBL's Abbottabad compound. Given the widespread public attention given to this event and the individuals involved in

⁵ To the extent Judicial Watch is challenging the internal classification control markings, internal email addresses, room numbers, and phone numbers that were withheld from C05807298, that information is also subject to protection under the CIA Act, which exempts internal information concerning the "organization" and "functions" of the Agency and the "official titles" of its officers.

it, releasing even just the first names of these officers presents an unnecessary and unacceptable risk.

20. Additionally, some of the information being challenged by Judicial Watch is classified and therefore is independently subject to protection by FOIA exemption (b)(1). FOIA exemption (b)(1) provides that 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).

21. Section 1.1(a) of Executive Order 13526 provides that information may be originally classified under the terms of this order only if all of the following conditions are met: (1) an original classification authority is classifying the information; (2) the information is owned by, produced by or for, or is under the control of the U.S. Government; (3) the information falls within one or more of the categories of information listed in section 1.4 of Executive Order 13526; and (4) the original classification authority determines that the unauthorized disclosure of the information reasonably could be expected to result in some level of damage to the national security, and the original classification authority is able to identify or describe the damage.

22. Section 1.2(a) of Executive Order 13526 provides that information shall be classified at one of three levels if the unauthorized disclosure of the information reasonably could be expected to cause damage to the national security and the original classification authority is able to identify or describe the damage. Information shall be classified TOP SECRET if its unauthorized disclosure reasonably could be expected to result in *exceptionally grave damage* to the national security; SECRET if its unauthorized disclosure reasonably could be expected to result in *serious damage* to the national security; and CONFIDENTIAL if its unauthorized disclosure reasonably could be expected to result in *damage* to the national security.

23. There are two types of classified information that were withheld in the redactions being challenged by Judicial Watch: the true full name of an undercover officer and the pseudonyms for two undercover officers. As an original classification authority, I have determined that this information is currently and properly classified, that the documents containing this information are properly marked, and that the unauthorized disclosure of this information reasonably could be expected to harm the national security of the United States. This

information is owned by the U.S. government, and it relates to the CIA's core intelligence activities, sources, and methods.⁶

24. As noted above, C05807298 contains the true first and last name of an undercover CIA employee. In this context, the disclosure of this employee's identity and affiliation with both the Agency and the UBL raid reasonably could be expected to harm the national security of the United States. Given the threats posed by terrorist groups and other adversaries of the United States, and the nature of the operation in which this CIA employee was involved, disclosure of this information could jeopardize the safety of the officer as well as the officer's family. The risk extends to persons who could be linked to the officer, including other CIA officers, human sources, and foreign liaison officers. Because the disclosure of this officer's identity and affiliation with the Agency could endanger the officer, the officer's associates, and past and future CIA intelligence activities, sources, and methods, this information must be protected under FOIA exemption (b)(1).

25. More generally, all covert CIA officers depend on the Agency to provide cover and to mitigate the substantial personal

⁶ In accordance with section 1.7 of Executive Order 13526, I hereby certify that these determinations have not been made to conceal violations of law, inefficiency, or administrative error; to prevent embarrassment to a person, organization, or agency; to restrain competition; or to prevent or delay the release of information that does not require protection in the interests of national security.

risks involved in their professional mission. Being required to reveal the true name of this undercover CIA officer could impede the Agency's ability to recruit, retain, and deploy its covert officers in the future, thus severely undermining the CIA's ability to accomplish its mission and thereby harming the national security of the United States.

26. The other classified information being challenged by Judicial Watch in C05807298 and C05882735 reflects the pseudonyms of two undercover CIA officers. The CIA uses pseudonyms, which are essentially code names, to disguise the true identity of an officer in internal CIA communications. By using these pseudonyms, the CIA adds an extra level of security for these officers, minimizing the damage that would flow from the unauthorized disclosure or compromise of these internal CIA communications. The use of pseudonyms constitutes an intelligence method, and I have determined that the unauthorized disclosure of these particular pseudonyms reasonably could be expected to damage the national security of the United States. Although the harm from the isolated disclosure of a pseudonym in a single document may be manageable, when juxtaposed with other potentially compromised information about the officer, the disclosure could endanger the officer's identity and the operational security of past and future operations involving the officer.

27. Finally, the true names of the CIA officers at issue are also being withheld under FOIA exemption (b)(6). I have determined that the release of this information would constitute a clearly unwarranted invasion of the personal privacy of these individuals. In light of their involvement with the highly sensitive mission that resulted in UBL's death, these individuals have a legitimate privacy interest in their identities that would be threatened if their names were publicly disclosed, for all of the reasons indicated above, and there is no discernable public interest in having this information disclosed. Specifically, the public release of these individuals' names would not shed any light on how the Agency performs its duties.

28. For all these reasons, the withheld information being challenged by Judicial Watch is subject to protection under FOIA exemptions (b)(1), (b)(3), and (b)(6).

Executed this 14th day of September, 2012.

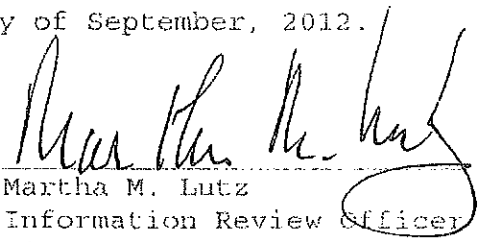

Martha M. Lutz
Information Review Officer
Director's Area
Central Intelligence Agency

EXHIBIT A

**Judicial
Watch®***Because no one
is above the law!*

F-2011-02001

August 9, 2011

VIA CERTIFIED MAIL & FACSIMILE

Information and Privacy Coordinator
Central Intelligence Agency
Washington, DC 20505

Re: Freedom of Information Act Request

Dear Freedom of Information Officer:

Pursuant to the provisions of the Freedom of Information Act (FOIA), 5 U.S.C. § 552, Judicial Watch, Inc. hereby requests that the Central Intelligence Agency produce the following within twenty (20) business days:

1. Any and all records of communication between any officer, official or employee of the Central Intelligence Agency and Ms. Kathryn Bigelow, the director of an upcoming film regarding the killing of Osama bin Laden tentatively titled, "Killing bin Laden."
2. Any and all records of communication between any officer, official or employee of the Central Intelligence Agency and Mr. Mark Boal, the writer of the aforementioned film.
3. Any and all records of communication between any officer, official or employee of the Central Intelligence Agency and Ms. Megan Ellison and/or any other officer or employee of Annapurna Pictures, the financiers of the film.
4. Any and all records concerning, regarding or related to the upcoming film regarding the killing of Osama bin Laden, including all related records of communication between any officer, official or employee of the Central Intelligence Agency and any other individual, entity or government agency.

The time frame for this request is January 1, 2011 through August 9, 2011.

We call your attention to President Obama's January 21, 2009 Memorandum concerning the Freedom of Information Act, in which he states:

AUG 09 2011

Central Intelligence Agency

August 9, 2011

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All agencies should adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA...The presumption of disclosure should be applied to all decisions involving FOIA.¹

The memo further provides that "The Freedom of Information Act should be administered with a clear presumption: In the case of doubt, openness prevails."

Nevertheless, if any responsive record or portion thereof is claimed to be exempt from production under FOIA, please provide sufficient identifying information with respect to each allegedly exempt record or portion thereof to allow us to assess the propriety of the claimed exemption. *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974). In addition, any reasonably segregable portion of a responsive record must be provided, after redaction of any allegedly exempt material. 5 U.S.C. § 552(b).

For purposes of this request, the term "record" shall mean: (1) any written, printed, or typed material of any kind, including without limitation all correspondence, memoranda, notes, messages, letters, cards, facsimiles, papers, forms, telephone messages, diaries, schedules, calendars, chronological data, minutes, books, reports, charts, lists, ledgers, invoices, worksheets, receipts, returns, computer printouts, printed matter, prospectuses, statements, checks, statistics, surveys, affidavits, contracts, agreements, transcripts, magazine or newspaper articles, or press releases; (2) any electronically, magnetically, or mechanically stored material of any kind, including without limitation all electronic mail or e-mail; (3) any audio, aural, visual, or video records, recordings, or representations of any kind; (4) any graphic materials and data compilations from which information can be obtained; and (5) any materials using other means of preserving thought or expression.

Judicial Watch also hereby requests a waiver of both search and duplication fees pursuant to 5 U.S.C. §§ 552(a)(4)(A)(ii)(II) and (a)(4)(A)(iii). Judicial Watch is entitled to a waiver of search fees under 5 U.S.C. § 552(a)(4)(A)(ii)(II) because it is a member of the news media. Cf. *National Security Archive v. Department of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989) (defining news media within FOIA context). Judicial Watch has also been recognized as a member of the news media in other FOIA litigation. See, e.g., *Judicial Watch, Inc. v. U.S. Department of Justice*, 133 F. Supp.2d 52 (D.D.C. 2000); and, *Judicial Watch, Inc. v. Department of Defense*, 2006 U.S. Dist. LEXIS 44003, *1 (D.D.C. June 28, 2006). Judicial Watch regularly obtains information about the operations and activities of government through FOIA and other means, uses its editorial

¹ Freedom of Information Act. Pres. Mem. of January 21, 2009, 74 Fed. Reg. 4683.

Central Intelligence Agency

August 9, 2011

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skills to turn this information into distinct works, and publishes and disseminates these works to the public. It intends to do likewise with the records it receives in response to this request.

Judicial Watch also is entitled to a complete waiver of both search fees and duplication fees pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). Under this provision, records:

shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of government and is not primarily in the commercial interest of the requester.

5 U.S.C. § 552(a)(4)(A)(iii).

In addition, if records are not produced within twenty (20) business days, Judicial Watch is entitled to a complete waiver of search and duplication fees under Section 6(b) of the OPEN Government Act of 2007, which amended FOIA at 5 U.S.C. § (a)(4)(A)(viii).

Judicial Watch is a 501(c)(3), not-for-profit, educational organization, and, by definition, it has no commercial purpose. Judicial Watch exists to educate the public about the operations and activities of government, as well as to increase public understanding about the importance of ethics and the rule of law in government. The particular records requested herein are sought as part of Judicial Watch's ongoing efforts to document the operations and activities of the federal government and to educate the public about these operations and activities. Once Judicial Watch obtains the requested records, it intends to analyze them and disseminate the results of its analysis, as well as the records themselves, as a special written report. Judicial Watch will also educate the public via radio programs, Judicial Watch's website, and/or newsletter, among other outlets. It also will make the records available to other members of the media or researchers upon request. Judicial Watch has a proven ability to disseminate information obtained through FOIA to the public, as demonstrated by its long-standing and continuing public outreach efforts.

Given these circumstances, Judicial Watch is entitled to a public interest fee waiver of both search costs and duplication costs. Nonetheless, in the event our request for a waiver of search and/or duplication costs is denied, Judicial Watch is willing to pay up to \$350.00 in search and/or duplication costs. Judicial Watch requests that it be contacted before any such costs are incurred, in order to prioritize search and duplication efforts.

Central Intelligence Agency

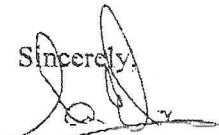
August 9, 2011

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In an effort to facilitate record production within the statutory time limit, Judicial Watch is willing to accept documents in electronic format (e.g. e-mail, .pdfs). When necessary, Judicial Watch will also accept the "rolling production" of documents.

If you do not understand this request or any portion thereof, or if you feel you require clarification of this request or any portion thereof, please contact us immediately at 202-646-5172 or sdunagan@judicialwatch.org. We look forward to receiving the requested documents and a waiver of both search and duplication costs within twenty (20) business days. Thank you for your cooperation.

Sincerely,

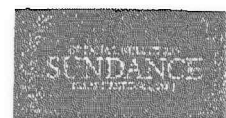


Sean A. Dunagan
Senior Investigator
Judicial Watch

The New York Times

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August 6, 2011

Downgrade Blues

By MAUREEN DOWD

WASHINGTON

BARACK OBAMA must wonder sometimes if his luck has run out.

Maybe he used it all up in 2008.

"Yes, we can!" has devolved into "Hey, we might."

"When I said, 'Change we can believe in,' I didn't say, 'Change we can believe in tomorrow,'" he told an audience at a Chicago fund-raiser on Wednesday. "Not, 'Change we can believe in next week.' We knew this was going to take time, because we've got this big, messy, tough democracy."

True enough, but not F.D.R.-inspiring to a deflated and desperate nation that may face higher borrowing rates after the shock of the first credit downgrade in United States history.

Barack Obama blazed like Luke Skywalker in 2008, but he never learned to channel the Force. And now the Tea Party has run off with his light saber.

The dissonance of his promise and his reality is jarring.

When he had power, he didn't use it. He wanted to be a "transformational" president like Ronald Reagan, but failed to understand that Reagan's strategic shows of strength allowed him to keep the whip hand without raising his voice.

And now, just when the high school principal in the Oval has been browbeating Congress to help create jobs, he is once more distracted from that task as he tries to save his own.

He goes to fund-raisers to tell people to stick with him, but he seems to be trying to reassure himself.

"I have to admit," the president said in Chicago, "I didn't know how steep the climb was going to be."

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At the large fund-raiser in his hometown, he tried to reassure disillusioned liberals about "unfinished business" to help those in need. Later, at a smaller \$35,800-a-head dinner, he defended the unpopular debt package like a proud fiscal conservative.

The president talks fondly of George Bush the elder, just as Bush the elder does of him. Obama thinks Bush is a poignant figure because he did the right thing, breaking his tax pledge to fix the deficit, even though he got punished for it with one term.

It is clear that the once cocky Obama is feeling that same poignancy about his own presidency. Left in a giant pickle by the hot-dogging Bush the younger, the president who gloriously made history is now stuck in Sisyphus mode.

He thinks he's doing the right things to crawl out of W.'s mudslide, but he ends up being castigated by the right as a socialist, by the left as a conservative, and by the middle as wobbly.

The one clear-cut, chesty victory that Obama has had may have come too late for beleaguered Americans to much care.

When the president is asked what it felt like to kill Osama, he's low-key and modest, even though he personally refocused the mission to capture the 9/11 architect after W. dropped the ball.

He has told people what a thrill it was to meet Seal Team 6 — and the dog Cairo — which pulled off the hit, noting that the men looked less young and fearsome than he expected, and more like guys working at Home Depot.

But while Obama takes the high road, his aides have made sure there are proxies to exuberantly brag on him.

The White House clearly blessed the dramatic reconstruction of the mission by Nicholas Schmidle in The New Yorker — so vividly descriptive of the Seals' looks, quotes and thoughts that Schmidle had to clarify after the piece was published that he had not actually talked to any of them.

"I'll just say that the 23 Seals on the mission that evening were not the only ones who were listening to their radio communications," Schmidle said, answering readers' questions in a live chat, after taking flak for leaving some with the impression that he had interviewed the heroes when he wrote in his account that it was based on "some of their recollections."

The White House is also counting on the Kathryn Bigelow and Mark Boal big-screen version of the killing of Bin Laden to counter Obama's growing reputation as ineffectual. The Sony film by the Oscar-winning pair who made "The Hurt Locker" will no doubt reflect the president's cool, gutsy decision against shaky odds. Just as Obamaland was hoping, the movie is scheduled to open on Oct. 12, 2012 — perfectly timed to give a home-stretch boost to a campaign that has grown tougher.

The moviemakers are getting top-level access to the most classified mission in history from an administration that has tried to throw more people in jail for leaking classified information than the Bush administration.

It was clear that the White House had outsourced the job of manning up the president's image to Hollywood when Boal got welcomed to the upper echelons of the White House and the Pentagon and showed up recently — to the surprise of some military officers — at a C.I.A. ceremony celebrating the hero Seals.

Just like W., Obama is going for that "Mission Accomplished" glow (without the suggestive harness). At least in this president's case, though, something has been accomplished.

425 Third St. SW, Suite 800
Washington, DC 20024
Phone: 202-646-5172
Fax: 202-646-5199

Judicial Watch**Fax**

To: Central Intelligence Agency Information and Privacy Coordinator	From: Sean A. Dunagan Judicial Watch
Fax: 703-613-3007	Date: August 9, 2011
Re: Freedom of Information Act Request	Pages: 8 (including cover)
<input checked="" type="checkbox"/> Urgent <input type="checkbox"/> For Review <input type="checkbox"/> Please Comment <input checked="" type="checkbox"/> Please Reply <input type="checkbox"/> Please Recycle	

•Comments: If you do not receive all pages, please call 202-646-5172.

FREEDOM OF INFORMATION ACT REQUEST
Original will follow by Certified Mail

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EXHIBIT B



Washington, D.C. 20505

16 August 2011

Mr. Sean A. Dunagan
Senior Investigator/Judicial Watch
425 Third Street, SW, Suite 800
Washington, D.C., 20024

Reference: F-2011-02001

Dear Mr. Dunagan:

On 9 August 2011, the office of the Information and Privacy Coordinator received your 9 August 2011 Freedom of Information Act (FOIA) request, made on behalf of the Judicial Watch, for information covering the period 1 January 2011 through 9 August 2011 for the following:

1. **Any and all records of communication between any officer, official or employee of the Central Intelligence Agency and Ms. Kathryn Bigelow, the director of an upcoming film regarding the killing of Osama bin Laden tentatively titled, "Killing bin Laden."**
2. **Any and all records of communication between any officer, official or employee of the Central Intelligence Agency and Mr. Mark Boal, the writer of the aforementioned film.**
3. **Any and all records of communication between any officer, official or employee of the Central Intelligence Agency and Ms. Megan Ellison and/or any other officer or employee of Annapurna Pictures, the financiers of the film.**
4. **Any and all records concerning, regarding or related to the upcoming film regarding the killing of Osama bin Laden, including all related records of communication between any officer, official or employee of the Central Intelligence Agency and any other individual, entity or government agency**

We have assigned your request the reference number above. Please use this number when corresponding so that we can identify it easily.

The CIA Information Act, 50 U.S.C. § 431, as amended, exempts CIA operational files from the search, review, publication, and disclosure requirements of the FOIA. To the extent your request seeks information that is subject to the FOIA, we accept your request and will process it in accordance with the FOIA, 5 U.S.C. § 552, as amended, and the CIA Information Act. We will search for records existing through the date of this acceptance letter. As a matter of administrative discretion, and in accordance with our regulations, the Agency has waived the fees for this request.

The large number of FOIA requests CIA receives has created unavoidable delays making it unlikely that we can respond within the 20 working days the FOIA requires. You have the right to consider our honest appraisal as a denial of your request and you may appeal to the Agency Release Panel. A more practical approach would permit us to continue processing your request and respond to you as soon as we can. You will retain your appeal rights and, once you receive the results of our search, can appeal at that time if you wish. We will proceed on that basis unless you object.

Sincerely,

A handwritten signature in black ink, appearing to be 'Susan Viscuso', with a long horizontal flourish extending to the right.

Susan Viscuso
Information and Privacy Coordinator

EXHIBIT C

Central Intelligence Agency



Washington, D.C. 20505

24 August 2012

Chris Fedeli
Judicial Watch, Inc.
425 Third Street, SW, Suite 800
Washington, DC 20024

Re: *Judicial Watch, Inc. v. DoD, et al*, Case No. 1:12-cv-00049-RC (D.D.C.)

Dear Mr. Fedeli:

The Central Intelligence Agency ("CIA" or "Agency") has conducted a supplemental search in response to your Freedom of Information Act ("FOIA") request, as a result of the discovery of responsive documents that were inadvertently overlooked during the CIA's original search. The CIA has identified 54 additional responsive documents from the requested time period of January 1, 2011 to August 9, 2011. Enclosed please find 53 of those documents. Based on its own review of these documents and referrals made to other agencies, the CIA has made redactions to these documents pursuant to FOIA exemptions (b)(1), (b)(3), (b)(5), and (b)(6). Please note that the exemptions are listed on the first page of the document only, and that "NR" means "Not Responsive."

Exemption (b)(1) has been claimed to protect the identities of CIA officers and other classified information relating to intelligence activities, sources, and methods. Exemption (b)(3) has been claimed to protect information exempt from disclosure pursuant to Section 102A(i)(1) of the National Security Act of 1947, as amended, 50 U.S.C. § 403-1(i)(1) (the "National Security Act") and Section 6 of the Central Intelligence Agency Act of 1949, as amended, 50 U.S.C. § 403g (the "CIA Act"). The National Security Act protects information concerning intelligence sources and methods from unauthorized disclosure, and the CIA Act exempts the names of CIA officers from disclosure, as well as information concerning the internal organization and functions of the CIA. Exemption (b)(5) has been claimed to protect deliberative, pre-decisional communications among Executive Branch employees, as well as attorney-client communications. Finally, exemption (b)(6) has been claimed to protect individuals from an unwarranted invasion of personal privacy; it has been used to redact primarily Social Security numbers, phone numbers, and email addresses.

The CIA is withholding in full one document on the basis of FOIA exemption (b)(5) and the deliberative process privilege. Information has also been withheld from this document pursuant to exemption (b)(3) for the same reasons identified above.

* * *

In addition to describing the basis for the Agency's withholdings, I would like to take this opportunity to explain the circumstances that led to the supplemental production of these documents.

CIA's Initial Search:

Upon receipt of your FOIA request in August 2011, the CIA originally tasked the Agency's Office of Public Affairs ("OPA") to search for responsive documents. OPA was tasked because it is the office responsible for the Agency's relationship with the media, to include filmmakers. The relevant OPA employees searched their files, including their email accounts, and located responsive records.

Based on a review of the contents of OPA's records, the CIA tasked additional offices to search for responsive records. Those offices were the Offices of the Director, Deputy Director, and Associate Deputy Director of the CIA; the Office of Congressional Affairs; and the Office of General Counsel. The Agency also conducted searches of the email accounts of the Deputy Director of the CIA,¹ former Chief of Staff Jeremy Bash, certain officers from the Agency's National Clandestine Service who met with the filmmakers, and the Office of General Counsel attorneys who were consulted regarding a discrete legal issue pertaining to these meetings. In total, the email accounts of over 30 employees were searched.

Based on these searches, the CIA identified 94 responsive records, 67 of which were released to Judicial Watch with redactions on 18 May 2012. The remaining 24 documents were withheld in full on the basis of FOIA exemption (b)(5) and in part on the basis of exemptions (b)(1), (b)(3), and (b)(6).

CIA's Supplemental Search:

In July 2012, the CIA's Office of General Counsel was informed that an OPA employee had located additional records that were possibly responsive to your FOIA request. Although many of these records ultimately proved to be duplicative of those already produced, this development prompted the Agency to seek an extension of the briefing schedule so that it could have sufficient time to process these documents and to examine the circumstances of their discovery, in order to ensure the adequacy of its initial search. The results of that examination are summarized below.

In August 2011, the CIA's senior leadership asked OPA to explain the genesis of the Agency's interactions with the filmmakers. In order to respond to this inquiry, the relevant OPA employees searched their files, including their email accounts. To assist OPA with this review, the office of the CIA's Associate Deputy Director (the "ADD") independently obtained the

¹ Director Panetta did not use his Agency email account at the time, and therefore his emails were not searched.

emails of two former officials—Chief of Staff Jeremy Bash and Spokesperson George Little—and provided them to an OPA employee for review. At that time, the employee determined that she would review the materials and then return them to the ADD's office, because she did not feel comfortable serving as permanent custodian of the correspondence of two former senior CIA officials. When that employee was later asked to collect documents in response to your FOIA request, she mistakenly recalled that she had returned the documents, and therefore did not search her files for them.

In fact, the employee had not returned the emails, but had inadvertently retained them in her office. It was not until she was unpacking boxes earlier this summer, while moving into a new office, that she came across the unreturned emails and notified the Office of General Counsel. Through the Department of Justice, the Agency then notified the Court of this discovery and sought an extension.²

After learning of the existence of these materials, the CIA voluntarily sought to revalidate its searches and search processes in an effort to ensure completeness and accuracy. As part of that effort, the Agency directed that the relevant OPA employee's email accounts be carefully re-searched electronically by a technical support team. The CIA included George Little's email account in this electronic search. These electronic searches yielded 21 additional responsive documents that had not been previously produced.

Moreover, in the course of re-reviewing its records on this topic, the Agency located three additional responsive documents—an expense request and two calendar entries—that were inadvertently omitted from the 18 May production. Those documents are included in today's production, bringing the total production to 53 documents, with one additional document being withheld in full.

If you have any questions, please direct them to the Department of Justice attorney who is responsible for this case.

Sincerely,



Michele L. Meeks
Information and Privacy Coordinator

Enclosures

² The CIA's filing that sought an extension stated that this stack of emails was approximately 4 to 5 inches. This figure was based on an erroneous "eye-ball" estimate, and in fact the stack was closer to 2 inches. The filing was correct in stating of this stack, there were 30 responsive emails that were not previously produced (whereas the others were duplicative of each other or the prior production).

EXHIBIT D

Approved for Release: 2012/08/22

~~SECRET~~(b)(1)
(b)(3)From: [redacted]
Chief, NCS/SAD/[redacted]Subject: **Re: CORRECTION: Re: SAD's IPS Space? Now at 1400**

To: [redacted]

Cc: [redacted]

Marie E. Harf, [redacted]

"The willingness with which our young people are likely to serve in any war, no matter how justified, shall be directly proportional as to how they perceive veterans of earlier wars were treated and appreciated by their nation."
-- George Washington

Date: 07/14/2011 03:00 PM

This message is digitally signed.

No problem! We'll have it open for you. Please advise who the visitors are so that I can advise SAD mgmt.

[redacted]

Hi [redacted]

If possible, we need to slide the sche... 07/14/2011 02:50:58 PM

From: [redacted]

To: [redacted]

Cc: [redacted]

Marie E. Harf

Date: 07/14/2011 02:50 PM

Subject: CORRECTION: Re: SAD's IPS Space? Now at 1400

Hi [redacted]

If possible, we need to slide the schedule up about 30 minutes. Would it be possible to have the IPS vault open and accessible by 1400 tomorrow. The whole walk-through should take no more than 20 minutes.

Please let me know if this is doable.

Thanks,

[redacted]

[redacted]

Hi [redacted]

No problem on it being in its original l... 07/14/2011 02:20:02 PM

From: [redacted]

To: [redacted]

Cc: [redacted]

Marie E. Harf/[redacted]

~~SECRET~~

Approved for Release: 2012/08/22

Approved for Release: 2012/08/22

~~SECRET~~ [REDACTED]

Date: 07/14/2011 02:20 PM
Subject: Re: SAD's IPS Space? 1430?

Hi [REDACTED]

No problem on it being in its original layout. Is it possible to have it opened and ready for display tomorrow at 1430? 1400

[REDACTED]

[REDACTED] Of course this is doable, however please note w... 07/13/2011 10:03:02 AM

From: [REDACTED]
To: [REDACTED]
Cc: Marie E. Har [REDACTED]
Date: 07/13/2011 10:03 AM
Subject: Re: SAD's IPS Space?

Of course this is doable, however please note we have already returned it to it's original layout. If you still want to tour it, please let me know and the time so that I can have it opened for you.

[REDACTED]

[REDACTED] Hi [REDACTED] I was given your name as the POC in... 07/13/2011 09:04:39 AM

From: [REDACTED]
To: [REDACTED] Marie E. Har [REDACTED]
Cc: [REDACTED]
Date: 07/13/2011 09:04 AM
Subject: SAD's IPS Space?

Hi [REDACTED]

I was given your name as the POC in SAD who could determine the feasibility of having a potential walk-through of the your Vault in the IPS building that was used for some of the tactical planning in the Bin Ladin Raid. In consultation with the Office of Public Affairs and as part of the larger chronicling of the Bin Ladin raid, OPA will be hosting some visitors sanctioned by ODCIA this Friday afternoon. The plan is to tour PAD spaces, but they are also very much interested in seeing the SAD IPS spaces that were used in the months leading up to the Bin Ladin Raid if such a thing is permissible.

Is such a thing doable?

[REDACTED]

~~SECRET~~ [REDACTED]

Approved for Release: 2012/08/22

EXHIBIT E

APPROVED FOR RELEASE DATE: 24-Aug-2012

(b)(3)
(b)(5)

[redacted]

From: GEORGE [redacted]
Sent: Sunday, July 17, 2011 4:53 PM
To: [redacted]
Subject: Re: Update on Bigelow mtgs

Thanks -- sounds good :)

----- Original Message -----

From: [redacted]
Sent: Sunday, July 17, 2011 04:04 PM
To: GEORGE [redacted]
Subject: Update on Bigelow mtgs

Hi!

To update you for tomorrow (and jennifer knows all of this, so I'm keeping everyone in the loop, don't worry :):

The mtgs on Friday went really, really well. Mr. Morell gave them 40 minutes, talked some of the substance again, told them we're here to help with whatever they need, and gushed to kathryn about how much he loved "the hurt locker." CTC and IPS (including a mtg with [redacted] were both great too. The model is pretty cool. We had a few ridiculous bureaucratic hiccups that I can fill you in on; they're all totally fine now (and were on fri), but you know how some people get their heads all spun up. And the mtg with Y went very well yesterday.

Tomorrow, they'll be meeting individually with both [redacted] and the translator who was on the raid. These are all folks they've met with before - kathryn wants to meet them - and we have them in our conference room from 1-4. Jennifer put this on the office calendar for me so we're all on the same page.

The only other mtg they have is with C/CTC, who could only meet at 11 on Tuesday. Jennifer seemed cool with this too. I really think we need to make this happen, if for no other reason than it's a good parish call for them. (Do you think they should try to meet with D/NCS? Y mentioned to them that they should try to if possible, but I defer to you on that. He's so skiddish.)

Finally, ogc ruled that [redacted]

[redacted]

Last thing - they're having dinner with jeremy on monday night, fyi. They met with vickers again last friday, and I think that went very well from what I gather.

Marie E. Harf
CIA Spokesperson

[redacted]

APPROVED FOR RELEASE DATE: 24-Aug-2012

EXHIBIT F

APPROVED FOR RELEASE DATE: 24-Aug-2012

~~SECRET~~ [REDACTED](b)(1)
(b)(3)From: [REDACTED]
Office of Public Affairs
[REDACTED]

Date: 07/14/2011 04:24 PM

Subject: **Fw: Schedule for Kathryn Bigelow meetings**

To: [REDACTED]

This message is digitally signed.

FYI. I'll give them a quick tour at 12:30. I already informed the Museum staff.

----- Forwarded by [REDACTED] on 07/14/2011 04:23 PM -----

From: Marie E. Harf/STF/AGENCY
To: George E. Little/STF/AGENCY@WMA, Jennifer N. Youngblood/STF/AGENCY@WMA, Preston B. Golson/STF/AGENCY@WMA, [REDACTED]
Date: 07/14/2011 03:33 PM
Subject: Schedule for Kathryn Bigelow meetings

All,

Below is the final schedule for tomorrow's visit:

12:30: Arrival; tour with [REDACTED] of lobby, Afghan exhibit and NHB atrium

Approximately 1:00 / 1:15: Tour of CTC/PAD [REDACTED]

1:30: Briefing on AC1 model by [REDACTED]

Approximately 2:00 / 2:15: Tour of IPS building

3:00: Meeting with AD/CIA Michael Morell

--They have a 4:45 meeting with Dr. Vickers, so they will leave immediately following their meeting with Mr. Morell.

Saturday TBD:

--Kathryn chat with [REDACTED] Kathryn is not interested in doing the deep dives that Mark did; she simply wants to meet the people that Mark has been talking to.

Monday TBD:

Kathryn would like to sit down for brief chats with the other folks Mark has talked to, to include [REDACTED] is organizing the timing for this):

[REDACTED]

**These meetings will take approximately 2.5 hours total. Again, Kathryn is not interested in doing the deep dives that Mark did; she wants to meet these folks and tell them a bit about the movie.

I sent D/CTC an email so he was up-to-speed, and CTC/PAD has said they will do the same. [REDACTED] has sign off from her management on her participation. Mark will be present at these meetings as well.

Thanks!
Marie~~SECRET~~ [REDACTED]

APPROVED FOR RELEASE DATE: 24-Aug-2012

APPROVED FOR RELEASE DATE: 24-Aug-2012

~~SECRET~~/



Marie E. Harf
CIA Office of Public Affairs

~~SECRET~~/



APPROVED FOR RELEASE DATE: 24-Aug-2012