

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ELECTRONIC FRONTIER FOUNDATION,)

Plaintiff,)

v.)

Civil Action No. 09-CV-03351

CENTRAL INTELLIGENCE AGENCY,)

DEPARTMENT OF HOMELAND SECURITY,)

DEPARTMENT OF DEFENSE,)

NATIONAL SECURITY AGENCY,)

DEPARTMENT OF JUSTICE,)

OFFICE OF THE DIRECTOR OF NATIONAL)

INTELLIGENCE,)

DEPARTMENT OF ENERGY, and)

DEPARTMENT OF STATE)

Defendants.)

DECLARATION OF ALESIA Y. WILLIAMS

I, Alesia Y. Williams, do hereby declare the following to be true and correct:

1. I am the Chief of the Freedom of Information Act (FOIA) Services Section within the FOIA and Declassification Services Branch (DAN-1A) for the Defense Intelligence Agency (“DIA” or “Agency”), Department of Defense (“DOD”). I have served as the Chief, FOIA Services Section since January 2008. Prior to that I was an administrative officer processing FOIA requests at DIA from November 2006 to December 2007, and I was a contractor assigned to DIA as a FOIA Senior Document Reviewer from January to November 2006. Prior to coming to DIA, throughout my career in the United States Air Force (“USAF”) one of my duties was to process FOIA requests. I also spent over five years supervising two USAF FOIA offices.

2. As Chief of the FOIA Service Section, my duties include the management of day-to-day operations of DIA's FOIA program. The FOIA office receives, processes, and responds to requests for DIA records under the FOIA and the Privacy Act, and I am the initial denial authority for this Agency. At my direction, DIA personnel search Agency records systems under their control to identify documents and other information which may be responsive to individual requests. They forward any potentially responsive records located to my office, which in turn determines whether responsive records should be withheld under any applicable statutory FOIA or Privacy Act exemptions. The activities of my staff are governed by "DOD Freedom of Information Act Program Regulation," found at 32 C.F.R Part 286, as supplemented by the "Defense Intelligence Agency (DIA) Freedom of Information Act," regulation found at 32 C.F.R. Part 292.

3. In the course of my official duties at DIA, I have become personally familiar with the FOIA requests by the Electronic Frontier Foundation (EFF) for reports submitted by DIA to the Intelligence Oversight Board (IOB), and records pertaining to President's Intelligence Advisory Board (PIAB) or the IOB recommendations to DIA pursuant to Executive Order 13462. The statements made herein are based upon my personal knowledge, upon information made available to me in my official capacity, and upon determinations made by me in accordance therewith.

4. DIA is a component of DOD. Its mission is to collect, analyze, and provide intelligence on the military capabilities of foreign military forces to the Secretary of Defense, the Joint Chiefs of Staff, and other DOD components. DIA also manages the Defense Attaché System for DOD. The DIA organization and mission are more fully set out at 32 C.F.R. Part

385, "Defense Intelligence Agency." Because of its mission to collect, analyze and provide foreign intelligence, the vast majority of Agency records are classified in the interests of national security in accordance with Executive Order (E.O.) 12958, as amended, "Classified National Security Information."

5. On 25 February 2008, the EFF submitted a request to DIA for all reports created since 1 January 2001, submitted by the Defense Intelligence Agency to the IOB pursuant to Section 2.4 of Executive Order 12863. The FOIA office assigned this request tracking number 0253-2008. As of 31 January 2008, the FOIA office had a backlog of 2,863 FOIA and Privacy Act requests.

6. On 19 June 2009, the EFF submitted a request to DIA for: all reports to the IOB pursuant to Section 2.4 of Executive Order 12863 from 25 February 2008 to 29 February 2008, and all reports submitted to the IOB or Director of National Intelligence (DNI) pursuant to Section 1.7(d) of E.O. 12333 from 29 February 2008 to the present. This request also sought information regarding any assessments, reviews, or recommendations by the PIAB or IOB to DIA, as well as any investigations of intelligence activities by the IOB to the DIA and any reports that were the result of those investigations. As of 31 May 2009, the FOIA office had a backlog of 2,960 FOIA and Privacy Act requests. The DIA FOIA office assigned this request tracking number 0319-2009 and sent the EFF an acknowledgment letter on 29 July 2009. The acknowledgment letter explained that there is a substantial delay in processing cases and that the request would be processed as soon as possible.

7. With a backlog of over 2,800 cases, the majority of which are complex, the FOIA office was unable to meet the statutory deadline. The FOIA office and DIA management have

taken steps to address the problems that compounded to create the current backlog and the agency is actively working to reduce processing times and the FOIA request backlog. Over the past year, for example, the FOIA office has upgraded its technology by purchasing newer equipment to enhance the speed of processing FOIA requests. DIA has also increased its staffing of the FOIA office by approximately 50% in the last year, including the assignment of a new Assistant General Counsel to provide day-to-day advice to the FOIA office. Over the last 18 months, the FOIA office has also provided its staff more opportunities to receive internal and external training. All of these measures are focused towards the reduction of the FOIA request backlog and increasing the speed of all DIA FOIA responses.

8. On 30 July 2009, the DIA FOIA office received a copy of the court complaint. The FOIA office began processing the EFF requests. Neither of the EFF requests to DIA asked for expedited processing. DIA's policy is to process FOIA requests on a first in first out basis. When a new request is received, it is placed in the queue awaiting for processing based on the date of receipt. The FOIA office processes requests in this manner to be fair to requesters. However, DIA has elected to process both of EFF's FOIA requests before their turn in the queue. For instance, FOIA case 0319-09 is being processed ahead of approximately 2,960 requests that the FOIA office received before this request.

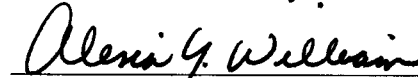
9. The FOIA office coordinated with the Office of General Counsel, the Command Element, and the Office of Inspector General (IG). It was determined that only the IG office would hold any records responsive to the EFF requests. On 6 August 2009, the FOIA office tasked the IG office to perform a search. The IG office searched hard copy files and the Intelligence Oversight electronic folder on the IG shared drive. IG obtained the final signed

copies of some reports from the Assistant to the Secretary of Defense Intelligence Oversight (ATSD) office. The IG office is currently reviewing the documents located in their search. The IG review is complex and these documents contain equities of approximately five other DIA directorates and several other government agencies'. Upon completion of the IG review, the FOIA office will in a better position to determine the amount of coordination required. It is imperative that the subject matter experts (SME) from those DIA directorates and other agencies review their equities. Only the SMEs have adequate knowledge of their mission and operations to determine whether the information would damage a government interest protected by the FOIA, such as national security. In addition to the DIA reviews, Section 3.6(b) of Executive Order 12958, as amended recognizes the importance of referring documents to agencies that originated information in the documents. "When an agency receives any request for documents in its custody that contain information that was originally classified by another agency... it shall refer copies of any request and the pertinent documents to the originating agency."

10. Due to the complexity of the review, and the numerous consultations that are required in advance of any release, DIA believes at this time that it will not be able to complete a response to the two FOIA requests before 2 February 2010.

I certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 19th day of October, 2009.



Alesia Y. Williams
Chief, Freedom of Information Act Staff