

Central Intelligence Agency



Washington, D.C. 20505

(b)(6)

5 June 2002

[Redacted]

501 School Street, S.W., Suite 725
Washington, DC 20024

Reference: F-2002-00847

Dear [Redacted]

This acknowledges receipt of your 16 May 2002 letter requesting records under the provisions of the Freedom of Information Act (FOIA). Specifically, your request is for records pertaining to:

1. FBI case notes which describe alleged 9-11 hijacker Zacarias Moussaoui as "the type of person who was capable of flying an aircraft into the World Trade Center;"
2. A "President's Daily Brief" which mentioned the possibility of terrorists, including but not limited to, Osama Bin Laden and/or Al-Qaeda, hijacking planes;
3. A Phoenix, Arizona FBI agent's warning to his superiors, last summer (2001), that Osama Bin Laden might be sending students to U.S. flight schools;
4. A memorandum from a Phoenix, Arizona FBI agent regarding efforts by terrorists to place students in American aviation schools;
5. Analysis of the memorandum from the Phoenix agent, done in FBI headquarters in Washington, DC and/or any other FBI office or field office;
6. All communication between President George W. Bush and/or Condoleezza Rice and/or Secretary of State Colin Powell and/or CIA Director George Tenet and/or Secretary of Defense Donald Rumsfeld and/or FBI Director Robert Mueller and/or Attorney General John Ashcroft regarding the Phoenix memo and/or efforts by Osama Bin Laden to place students in American aviation schools;

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7. The enrollment of Zacarias Moussaoui in a Minnesota flight school;
8. Plans by Zacarias Moussaoui and/or Osama Bin Laden and/or Al-Qaeda and/or any terrorist group to hijack airplanes;
9. Plans by Zacarias Moussaoui and/or Osama Bin Laden and/or Al-Qaeda and/or any terrorist group to fly airplanes into the World Trade Center;
10. New analytical units within the FBI, staffed with new personnel, as a result of the Phoenix FBI memorandum;
11. The decision to create the "Office of Intelligence" within the FBI;
12. An alert(s) issued to Government agencies regarding the possible threat of Osama Bin Laden and/or Al-Qaeda and/or any terrorist group hijacking airplanes, between February 1, 2001 to October 31, 2001;
13. The decision not to make the alert(s) public;
14. The decision not to inform the public about the threat of Osama Bin Laden and/or Al-Qaeda and/or any terrorist group hijacking airplanes.

For identification purposes we have assigned your request the number referenced above. Please refer to this number in future correspondence.

As items 1, 10 and 11 of your request fall under the exclusive purview of the FBI, we must decline to process these items, and defer to the FBI to provide the information you seek.

With regard item 2, the information you are asking for must be denied to you since it is properly classified under the provisions of Executive Order 12958. This information, which may be considered predecisional and deliberative in nature, also relates directly to intelligence sources and methods which, in accordance with Subsection 103(c)(6) of the National Security Act of 1947 and Section 6 of the CIA Act of 1949, the Director of Central Intelligence has the legal responsibility and authority to protect from unauthorized disclosure. Exemptions (b)(1), (b)(3) and (b)(5) of the FOIA apply. An explanation of these exemptions is enclosed.

With regard to items 3-6 and 12-14, we have accepted your request; it will be processed in accordance with the FOIA, 5 U.S.C. § 552, as amended, and the CIA Information Act, 50 U.S.C. § 431. Our search will be for documents in existence as of and through the date of this acceptance letter.

With regard to items 7-9, the information you are asking for must be denied to you since it is properly classified under the provisions of Executive Order 12958. This information, the release of which may interfere with ongoing law enforcement proceedings, also relates directly to intelligence sources and methods which, in accordance with Subsection 103(c)(6) of the National Security Act of 1947 and Section 6 of the CIA Act of 1949, the Director of Central Intelligence has the legal responsibility and authority to protect from unauthorized disclosure. Exemptions (b)(1), (b)(3) and (b)(7)(A) of the FOIA apply.

Further to the previous paragraph, in denying item 8, we are specifically referring to the portions of that item pertaining to Zacarias Moussaoui, Osama Bin Laden and Al-Qaeda. With regard to the portion of item 8 which pertains to "plans by ... any terrorist group to hijack airplanes," it will be necessary for you define a time-frame and, preferably, specific terrorist groups and/or targets before we can consider this portion for a search.

The CIA official responsible for the denial determinations in this letter is Kathryn I. Dyer, Information and Privacy Coordinator. You have the right to appeal these determinations by addressing your appeal to the Agency Release Panel, in my care. However, we will be unable to accept such an appeal until the processing of your request has been completed, at which time you may submit an appeal within 45 days from the date of our final response letter. Should you choose to do this, please explain the basis of your appeal.

Your request for expedited processing under the FOIA is granted. This means that your request will be placed at the head of the queue for search purposes.

With respect to your request for a fee waiver, we have determined that the information you seek from Agency files would contribute significantly to the public understanding of the operations and activities of the United States Government. Therefore, your request for a fee waiver is granted.

The heavy volume of FOIA requests received by the Agency has created delays in processing. Since we cannot respond within the 20 working days stipulated by the Act, you have the right to consider this as a denial and may appeal to the Agency Release Panel. It would seem more reasonable, however, to have us continue processing your request and respond as soon as we can. You can appeal any denial of records at that time. Unless we hear from you otherwise, we will assume that you agree, and we will proceed on this basis.

Sincerely,



Kathryn I. Dyer
Information and Privacy Coordinator

Enclosure