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FOIA Request ID: 2811

FOIA Request submitted by:

Mr. Jason Leopold

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Investigative Journalist

[Redacted]

(b)(6)

United States

Request:

3/___/14

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Freedom of Information and Privacy Acts request:

**To: Information and Privacy Coordinator
Central Intelligence Agency
Washington, DC 20505**

This is a request for records under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 and the Privacy Act, 5 U.S.C. § 552a. This request should be considered under both statutes to maximize the release of records.

(b)(6)

REQUESTER INFORMATION

Name: Jason Leopold

Address: [Redacted]

Email: [Redacted]

(b)(6)

BACKGROUND INFORMATION

This request relates to an ongoing dispute between the Central Intelligence Agency (CIA) and the Senate Select Committee on Intelligence (SSCI) over the SSCI's review of the CIA's former Detention and Interrogation Program. The CIA and SSCI reached an agreement which would permit SSCI staffers to review CIA documents at a secure CIA facility in Virginia. A written agreement or series of agreements specified the parameters regarding the staffers' access to CIA documents.

The CIA has alleged that SSCI staffers illegally removed a document known as the Panetta Internal Review.

Senator Feinstein, Chair of the SSCI, has alleged that the CIA violated its written agreement with the SSCI and possibly violated criminal laws by searching SSCI computers located at the CIA facility in Virginia.

RECORDS SOUGHT

I request copies of any and all talking points (in draft and final form) and any and all guidance issued to the CIA's Office of Public Affairs about the ongoing dispute between the Central Intelligence Agency (CIA) and the Senate Select Committee on Intelligence (SSCI) over the SSCI's review of the CIA's former Detention and Interrogation Program and any and all records that relate or refer to the talking points or guidance.

REQUEST FOR EXPEDITED PROCESSING

Under 32 C.F.R. 1900.34(c), a request is to be given expedited processing when "a compelling need is established to the satisfaction of the Agency." A compelling need is deemed to exist "[w]hen the request is 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 Federal government activity." 32 C.F.R. 1900.34(c)(2).

I am seeking expedited treatment for this request.

1. The requested information is relevant to a subject of public urgency concerning an actual or alleged Federal government activity.

The requested information involves an actual Federal government activity—the CIA's detention and interrogation program and the agency's interaction with its congressional overseers who scrutinized this program—and there exists an urgent need to inform the public about this activity. There is an urgent need for the information requested because the records at issue may resolve possible questions about whether a constitutional crisis is now at stake between the Senate Select Committee on Intelligence and the CIA. In a dramatic speech on the Senate floor on March 11, 2014, Senate Select Committee on Intelligence Chairwoman Dianne Feinstein in no uncertain terms accused the CIA of obstructing the Senate committee's review of the CIA interrogation and detention program. Senator Feinstein also said the search the CIA conducted of Senate investigators' computers "may well have violated the separation of powers principle embodied in the United States Constitution, including the speech and debate clause." Further, she said the CIA's actions may have undermined the constitutional framework essential to effective congressional oversight of intelligence activities or any other government function."

Senator Lindsey Graham characterized the CIA's actions as "Richard Nixon stuff" and "dangerous to democracy and said "heads should roll" and "people should go to jail if it's true."

House Minority Leader Nancy Pelosi said the CIA's behavior is in this dispute is a "matter of great seriousness" and ought to be of great concern to everyone. She added that when you take on the CIA "they come after you and don't always tell the truth."

Additionally, the urgency of this request is underscored by the fact that yet another investigation directly connected to the dispute has been launched. On Thursday, March 20, 2014, Senate Majority Leader Harry Reid revealed that he has ordered the Senate's sergeant-at-arms to investigate how Senate staffers obtained internal CIA records at the center of the controversy that CIA Director John Brennan said was not authorized for release to Congress. Moreover, the declassification of the Senate study appears to be held up by the fact that the Intelligence Committee is engaged in this dispute with the CIA. Currently, military commissions are currently taking place at Guantanamo involving five 9/11 suspects, including Khalid Sheikh Mohammed ("KSM"), the alleged mastermind of the 9/11 attacks, and Abd al Rahim al Nashiri, the alleged mastermind of the USS Cole bombing. Nashiri and KSM were held in secret prisons operated by the CIA and were subjected to enhanced interrogation techniques described in the Senate's report. Any mention of their treatment while in custody of the CIA has been ruled to be off-limits by a military judge presiding over the tribunals, thereby depriving the public from knowing whether their admissions to alleged crimes were tainted by torture. The release of the records revolving around the Senate controversy will help shed much needed light on what role the CIA has played in keeping this Senate report under wraps and whether the controversy surrounding the issue is connected to the military tribunals.

2. I am a person primarily engaged in disseminating information. I am a full-time member of the news media and as a contributor to Al Jazeera America, an Editor at Large for the online publication, The Public Record, and a widely published independent investigative reporter who has had his journalism published in dozens of domestic and international publications, I am a person primarily engaged in disseminating information.

3. Certification pursuant to 32 C.F.R. 1900.34(c)
I certify the foregoing to be true and correct to the best of my knowledge and belief.

Jason Leopold

Fee Waiver:

I am a widely published independent investigative reporter and a current contributor to Al Jazeera America (<http://america.aljazeera.com/profiles/l/jason-leopold.html>). I have also had my journalism published in dozens of domestic and international publications.

According to 5 U.S.C. 552(a)(4)(A)(ii), codifying the ruling of Nat'l Security Archive v. Dept of Defense, 880 F.2d 1381 (D.C. Cir. 1989), the term "a representative of the news media" means any person or 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.

I have a clear intent to "publish[] or otherwise disseminate[] information to the public." Id. at 1386 (quoting the following legislative history: 1) It is critical that the phrase "representative of the news media" be broadly interpreted if the act is to work as expected. . . . In fact, any person or organization which regularly publishes or disseminates information to the public . . . should qualify for waivers as a "representative of the news media." 132 Cong. Rec. S14298 (daily ed. Sept. 30, 1986) (emphasis in original quotation); 2) "A request by a reporter or other person affiliated with a newspaper, magazine, television or radio station, or other entity that is in the business of publishing or otherwise disseminating information to the public qualifies under this provision." 132 Cong. Rec. H9463 (Oct. 8, 1986) (emphasis in original quotation)). Therefore, in accordance with the Freedom of Information Act and relevant case law, I, Jason Leopold, should be considered a representative of the news media and as such I am also requesting a public interest fee waiver.