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13 May 2010

Delores M. Nelson
Information and Privacy Coordinator
Central Intelligence Agency
Washington, DC 20505

Re: FOIA Request – Leadership Analyses

Dear Ms. Nelson:

This is a request on behalf of National Security Counselors (“NSC”) under the Freedom of Information Act, 5 U.S.C. § 552, *et seq.*, for copies of **a representative sample of Central Intelligence Agency (“CIA”) analytical reports and memoranda presenting psychological analyses or profiles of foreign government officials, terrorist leaders, international criminals, business figures, and other intelligence targets prepared by the Medical and Psychological Analysis Center (“MPAC”) or its predecessor Office of Leadership Analysis (“OLA”)**. You may limit your search to records created since 2000, but we do not have any particular intelligence targets in mind, since the purpose of this information is to analyze the style and methodology of the CIA’s leadership analysts. However, we can provide the following guidelines for what we consider a “representative sample,” which should assist in your search of MPAC/OLA records:

- Only final official reports or memoranda that discuss an MPAC/OLA analyst’s conclusions about a target’s psychology;
- No more than twenty reports/memoranda for each year;
- Four reports/memoranda for each year (unless less were created that year) for individuals in each category of intelligence target:
 - Foreign government officials
 - Terrorist leaders
 - International criminals
 - Business figures
 - Other intelligence targets that do not fall into one of the above categories;

- Reasonable variety in the intelligence targets wherever possible (e.g. foreign government officials should be from a variety of foreign governments, terrorist leaders should be from different terrorist organizations, etc.).
 - For the foreign government officials, we would also appreciate if possible a variety of the type of officials (e.g. some heads of state, some intelligence officials, some law enforcement officials, some financial officials, etc.).

In line with the guidance issued by the Department of Justice (“DOJ”) on 9 September 2008 to all federal agencies with records subject to FOIA, agency records that are currently in the possession of a U.S. Government contractor for purposes of records management remain subject to FOIA. Please ensure that your search complies with this clarification on the effect of Section 9 of the OPEN Government Act of 2007 of the definition of a “record” for purposes of FOIA. Please also consider this letter an affirmative rejection of any limitation of your search to CIA-originated records or exclusion of correspondence sent to third parties.

If you deny all or part of this request, please cite the specific exemptions you believe justify your refusal to release the information or permit the review and notify us of your appeal procedures available under the law. In excising material, please “black out” rather than “white out” or “cut out.” In addition, we draw your attention to President Obama’s 21 January 2009 *Memorandum for the Heads of Executive Departments and Agencies*, directing federal agencies to adopt a presumption in favor of disclosure and stating that government information should not be kept confidential “merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears.”

We are hereby requesting classification as a representative of the news media. NSC is a non-profit organization under Virginia law, has the ability to disseminate information on a wide scale, and intends to use information obtained through FOIA in original works. According to 5 U.S.C. § 552(a)(4)(A)(ii), codifying the ruling of *Nat’l Security Archive v. Dep’t 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.

NSC has 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)). Our website, where much of the information received through our FOIA requests is posted for all to review, can be accessed at <http://www.nationalsecuritylaw.org>. In addition, we also intend to use

information obtained through FOIA in our own published opinion editorials, journal articles, and the like. I personally have already published information received through FOIA in this manner (Kel McClanahan, *A Perception Based Model for Comparing Intelligence Communities*, 25(2) AMER. INTELLIGENCE J. 46 (Winter 2007/2008) (includes material obtained through a CIA FOIA request)). Therefore, in accordance with the Freedom of Information Act and relevant case law, NSC should be considered a representative of the news media.

We are also requesting a public interest fee waiver. There can be no question that the information sought would contribute to the public's understanding of government operations or activities and is in the public interest. The MPAC is one of the government's foremost analytical bodies in the field of leadership analysis and psychological profiling, but very little is known about the methodology of its analysts or how said methodology has evolved over time. Therefore, by performing a comparative analysis of this representative sample of reports and memoranda, we will be able to analyze the *nature* of the work product itself and compare it with similar work done outside the intelligence field, which will clearly contribute to the public's understanding of government operations or activities. In addition, we will be able to use the records received in response to this FOIA request to possibly request further records with greater particularity if our research requires it.

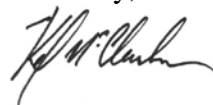
In addition, with respect to the specific requirement that NSC must demonstrate an expertise in the subject area in order to satisfy the fee waiver criterion that disclosure of the requested information must contribute to the understanding of the public at large, I personally received my Masters degree from Georgetown University in Security Studies with a concentration in Leadership Analysis and Political Psychology, have been published in the field (see above), have worked for two national security law firms, teach National Security Law at the University of the District of Columbia, and recently received an LLM in National Security Law from Georgetown University Law Center.

The CIA is required by law to respond to this request within 20 working days. Failure to timely comply may result in the filing of a civil action against your agency in United States District Court.

We request that any documents or records produced in response to this request be provided in electronic (soft-copy) form wherever possible. Acceptable formats are .pdf, .doc, .jpg, .gif, .tif. Please provide soft-copy records by email or on a CD if email is not feasible. However, NSC does not agree to pay an additional fee to receive records on a CD, and in the instance that such a fee is required, NSC will accept a paper copy of responsive records.

Your cooperation in this matter would be appreciated. If you wish to discuss this request, please do not hesitate to contact me.

Sincerely,



Kel McClanahan
Executive Director