

INFORMATION SECURITY OVERSIGHT OFFICE

NATIONAL ARCHIVES *and* RECORDS ADMINISTRATION

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May 13, 2016

Ms. Katherine Hawkins
National Security Fellow
Openthegovernment.org
1100 G Street, NW, Suite 500
Washington, DC 20005

Dear Ms. Hawkins:

I am writing to respond to your letter of September 15, 2015, in which you initiated a complaint concerning the classification of information regarding the Rendition, Detention and Interrogation Program at the Central Intelligence Agency (CIA). I accepted and reviewed your complaint under the authority conferred upon me by Executive Order 13526, "Classified National Security Information" (the Order). Section 5.2 of the Order charges me with overseeing agency actions to ensure compliance with the Order and its implementing directives. Additionally, Section 5.5 of the Order gives me the authority to report to the head of an agency, or to the designated senior agency official for classified national security information, if any members of the agency are in violation of the Order or its implementing directives. I have completed my review of this matter and my conclusion is that there is no reason to make such a report.

I realize that you have strong convictions with regard to this matter and you have devoted significant time and energy in the pursuit of it. I also realize that having people such as yourself who are interested in the proper application of classification is critical to the successful operation of the security classification system. In due consideration of your efforts I believe that a detailed explanation of my conclusion is appropriate.

In your complaint, you asked my office to ascertain if the CIA classified and continues to classify information in violation of Sections 1.1 and 1.7(a) of the Order. You specifically highlighted five categories of information you believe the CIA improperly classified that relate to the public version of the Executive Summary of the Senate Select Committee on Intelligence's (SSCI) Study of the CIA's Detention and Interrogation Program (Executive Summary), released in December 2014.

In my role as Acting Director of the Information Security Oversight Office, I worked closely with our former Director, John Fitzpatrick to address your complaint through a series of interviews and an analysis of the assertions you claim in your letter. My review determined that the Order provides the CIA with the authority to classify and continue to classify the specific details associated with the Detention and Interrogation Program that divulges the identities of officials and locations of intelligence activity.

The Office of the Director of National Intelligence (ODNI) led a specialized, inter-agency review of the Executive Summary that greatly resembled the process executed by the Interagency Security Classification Appeals Panel (ISCAP). The CIA first conducted a thorough, exhaustive and specialized review of the Executive Summary. The CIA then narrowed its criteria for classification to include protecting locations, analytic products, and identities, all of which the Order authorizes for classification under Section 1.4(c). Dedicated personnel carried out the review with senior leadership support and with an explicit interest in releasing as much information as the national security allows.

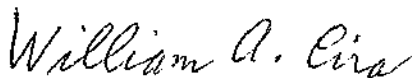
An inter-agency review team consisting of a diverse group of professionals who have an understanding of intelligence actions reviewed the Executive Summary, taking the process outside of the established review and release practices normally found in agency declassification review programs. The team studied content, evaluated concepts, examined current events, and observed a unique threshold for release. Additionally, agency General Counsels supported the review team's work and the SSCI had the opportunity to challenge proposed withholdings, which assisted in the release of more information. My review concluded that there was full recognition by the team and by Intelligence Community (IC) leadership of the uniqueness and significance of this review.

In your complaint, you seek information concerning the identities of CIA officials and contractors, including pseudonyms and titles, as well as the names of countries that hosted black sites as part of the CIA's Rendition, Detention and Interrogation Program. The CIA may classify this information under the authority granted by the Order in Section 1.4(c). Regarding your interest in detainee accounts of their treatment by the CIA, my review led me to conclude that the information the CIA is withholding is, at the very least, "under the control of the United States Government," meeting the burden for classification as Section 1.1(a)(2) of the Order requires. Additionally, the Order authorizes the CIA to classify these narrowed categories of information according to Section 1.4(c). You also seek information concerning the treatment of prisoners by the CIA while in military custody in Iraq and when "rendered" to foreign governments. This information is absent in the Executive Summary, as you explain in your letter. The mere absence of this information in the Executive Summary does not support the conclusion of the CIA applying improper classification. In the absence of an access request and a denial response from the CIA, I am unprepared to make a determination that the CIA is improperly classifying the information.

The recently established Intelligence Transparency Council, created as part of the Implementation Plan for the Principles of Intelligence Transparency Intelligence Community, may be an alternative forum for you to appeal for the release of the content of the Executive Summary. It is my understanding the intent of the Director of National Intelligence is to institutionalize transparency within the IC through process changes, including proactive declassification review and release of information most sought-after by the public. I encourage you to seek out this Council and share your concerns with its members.

I want you to know that I reviewed your complaint thoroughly and in good faith. I consider the reporting of perceived wrongdoing or poor performance by those trusted with implementing the Order as being critical to the underpinning of the classification system. Lacking new information that contradicts my above findings, I consider this complaint fully answered.

Sincerely,



WILLIAM A. CIRA
Acting Director