

UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA

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GRANT F. SMITH,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 1:15-cv-01431
	)	
CENTRAL INTELLIGENCE AGENCY,	)	
	)	
Defendant.	)	
	)	
_____	)	

**DECLARATION OF MARK W. EWING, CHIEF MANAGEMENT OFFICER,  
OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE**

Pursuant to 28 U.S.C. § 1746, I, Mark. W. Ewing, declare under penalty of perjury that the foregoing is true and correct:

1. I am the Chief Management Officer (CMO) of the Office of the Director of National Intelligence (ODNI). I held this position since January 2011. Since joining ODNI in 2005, I have held the positions of Principal Assistant to the Deputy Director of National Intelligence for Customer Outcomes and Special Advisor to the Director of the Intelligence Staff. Prior to joining ODNI, I served as the Deputy Director of the Defense Intelligence Agency from 2000 to 2005. From 1996 to 2000, I was the Assistant Deputy Chief of Staff for Intelligence, Headquarters, Department of the Army. I have an extensive military background and have been involved in all U.S. intelligence disciplines while serving in various command and staff positions. In addition, my military assignments have included posts in Europe, Korea, Vietnam, and Latin America.

2. Under a written delegation of authority by the Director of National Intelligence pursuant to section 1.3(c) of Executive Order 13526, I hold original classification authority at the

TOP SECRET level. I am authorized, therefore, to conduct classification reviews and to make original classification and declassification decisions for intelligence information up to and including the TOP SECRET level. In my current position, I am the final decision-making authority regarding administrative appeals for agency decisions regarding the Freedom of Information Act (FOIA), 5 U.S.C. § 552.

3. As ODNI's CMO, I direct all internal ODNI administration, finances and policy. ODNI's CMO component consists of the following sub-components, among others: the Chief Financial Executive (CFE), which serves as the ODNI budget comptroller and oversees ODNI contracts; the Mission Support Division (MSD), which manages ODNI Facilities, Information Technology, National Intelligence Emergency Management Activity (NIEMA), and Security/Counterintelligence operations and houses the Office of Human Resources and the ODNI Chief Information Officer; and Corporate Policy Management (CPM), which manages the internal policy system for ODNI. Since the CFE falls under my purview, I am responsible for overseeing the management of the ODNI budget, which includes resources, procurements, and finances.

4. Through the exercise of my official duties, I have become familiar with this civil action and the underlying FOIA request. I make the following statements based upon my personal knowledge and information made available to me in my official capacity.

5. I submit this declaration in support of Defendant's Motion for Reconsideration in this proceeding. The purpose of this declaration is to provide additional details about the Intelligence Community and its 17 constituent agencies and their separate intelligence activities.

6. ODNI serves as the head of the Intelligence Community.<sup>1</sup> Per Executive Order 12333 (as amended), § 3.5, Intelligence Community and elements of the Intelligence Community

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<sup>1</sup> Congress created the position of the Director of National Intelligence (DNI) in the Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 108-458, §§ 1101(a) and 1097, 118 Stat. 3638, 3643-63, 3698-99 (2004) (IRTPA)

include the following: ODNI; the Central Intelligence Agency (CIA); the National Security Agency (NSA); the Defense Intelligence Agency; the National Geospatial-Intelligence Agency (NGA); the National Reconnaissance Office; other offices within the Department of Defense involved in the collection of specialized national intelligence through reconnaissance programs; the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Coast Guard; the intelligence elements of the Federal Bureau of Investigation; the Office of National Security Intelligence of the Drug Enforcement Administration; the Office of Intelligence and Counterintelligence of the Department of Energy; the Bureau of Intelligence and Research of the Department of State; the Office of Intelligence and Analysis of the Department of the Treasury; the Office of Intelligence and Analysis of the Department of Homeland Security; the intelligence and counterintelligence elements of the Coast Guard; and such other elements of any other department or agency as may be designated by the President, or jointly designated by the DNI and heads of the department or agency concerned, as an element of the Intelligence Community. See also 50 U.S.C. § 3003(4).

7. The responsibilities and authorities of the DNI are set forth in the National Security Act of 1947 (the National Security Act), as amended. One of the DNI's principal responsibilities includes "develop[ing] and determin[ing] an annual consolidated National Intelligence Program budget," based on budget proposals provided to the DNI by the heads of agencies and organizations within the Intelligence Community. 50 U.S.C. § 3024(c). The National Intelligence Program (NIP) includes all programs, projects, and activities of the Intelligence Community, as well as any other programs of the Intelligence Community designated jointly by the DNI and the head of a

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(amending Sections 102 through 104 of Title 1 of the National Security Act of 1947). Subject to the authority, direction, and control of the President, the DNI serves as the head of the U.S. Intelligence Community, and as the principal adviser to the President and the National Security Council for intelligence matters related to the national security. 50 U.S.C. §§ 3023(b)(1), (2).

United States department or agency or by the President. It does not include programs, projects, or activities of the military departments to acquire intelligence solely for the planning and conduct of tactical military operations by United States Armed Forces, which are included in the Military Intelligence Program (MIP).<sup>2</sup> National Security Act of 1947 § 3(6), codified at 50 U.S.C. § 3003(6).

8. The 17 agencies that compose the Intelligence Community each have distinct functions and missions related to foreign intelligence and counterintelligence activities. Of the 17 Intelligence Community members, some of the agencies tend to specialize in one of the six particular intelligence collection disciplines: signals intelligence (SIGINT), imagery intelligence (IMINT), measurement and signature intelligence (MASINT), human source intelligence (HUMINT), open-source intelligence (OSINT), and geospatial intelligence (GEOINT).<sup>3</sup> For example, NSA specializes in SIGINT, NGA specializes in GEOINT, and CIA specializes in HUMINT.<sup>4</sup> Other Intelligence Community entities do not have collection capabilities, but specialize in tailored analysis of intelligence based on the needs of a particular government agency the entity supports.

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<sup>2</sup> In addition, other departments and agencies may engage in certain activities related to intelligence for their own mission needs that are not captured in the larger U.S. intelligence budget.

<sup>3</sup> SIGINT is derived from signal intercepts, however transmitted. IMINT can be derived from visual photography, radar sensors, and electro-optics. MASINT is technically derived intelligence data, other than SIGINT and IMINT that locates, identifies, or describes distinctive characteristics of targets. HUMINT is derived from human sources, including overt collectors such as strategic debriefers and military attaches. OSINT is publically available information. GEOINT is derived from the integrations of IMINT and geospatial information to analyze and visually represent security related activities on the earth.

<sup>4</sup> Executive Order 12333 designates “functional managers” and charges them with developing and implementing strategic guidance, policies, and procedures for activities related to a specific intelligence discipline; setting training and tradecraft standards; and ensuring coordination within the Intelligence Community. E.O. 12333, Sect. 1.3(b)(12)(A). The Executive Order designates the Director of the NSA as the functional manager for SIGINT; the Director of the CIA as the functional manager for HUMINT; and the Director of the NGA as the functional manager for GEOINT. *Id.*

9. Although the DNI is required by 50 U.S.C. § 3306(b) to publicly release the aggregate amount of funds appropriated by Congress to the NIP no later than 30 days after the end of the fiscal year, it does not disclose any subsidiary information concerning the NIP budget, including line-items that relate to particular intelligence agencies or particular intelligence programs.<sup>5</sup> ODNI has assessed that disclosing the agencies and/or programs to which these funds are allocated could damage national security because this information could show inter alia the intelligence capabilities and priorities of Intelligence Community members.

10. I understand that this Court has found that former President Barack Obama's statement regarding "American military and intelligence assistance" to Israel serves as confirmation that the CIA provides intelligence support to Israel and that it has some means of appropriating funds to do so. However, as explained above, the Intelligence Community is comprised of 17 members with unique intelligence capabilities and functions. In furtherance of these aims, these entities at times provide intelligence assistance abroad. Although President Obama generally acknowledged that the U.S. Government has provided intelligence assistance to Israel, he did not disclose which Intelligence Community entity was providing the assistance, or specify the nature or duration of any aid. If the CIA were to confirm or deny that a portion of its individual Agency intelligence budget relates to Israel, it would tend to show whether or not the intelligence assistance provided was related to HUMINT (a CIA area of expertise).

11. As discussed above, disaggregation of the broader intelligence budget could reasonably be expected to damage the national security because it would tend to reveal intelligence priorities and capabilities, and, in this case, the nature of any assistance provided. Additionally,

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<sup>5</sup> Although not required to do so by statute, as a discretionary matter, the Department of Defense (DOD), releases the top-line figure for the MIP. DOD does not release other MIP budget figures or program details on the grounds that they remain classified.

confirming the existence of a relationship between a particular foreign government and a specific member of the Intelligence Community could damage intelligence sharing and cooperation on areas of importance to the national security.

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

Executed this 21 day of April, 2017.

  
Mark W. Ewing  
Chief Management Officer  
ODNI