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November 2, 2012

Defense Intelligence Agency
ATTN: DAN-1A (FOIA)
200 MacDill Blvd
Washington DC 20340-5100

Re: Freedom of Information Act Appeal – CASE NUMBER: 0696-2007

To Whom It May Concern:

This is an appeal concerning the DIA's correspondence of September 13, 2012, referring several requested documents to other agencies for response and the DIA's decision that some portion of three documents (10 pages) must be withheld in part and one document (3 pages) must be withheld in full. The DIA withheld records pursuant to 5 U.S.C. § 552(b)(1) and (b)(3).

Without waiving other arguments regarding the inadequacy of the DIA's response, we believe the response is inadequate because: (1) 50 U.S.C. § 403 only permits "[t]he Director of National Intelligence" to withhold "intelligence sources and methods from unauthorized disclosure," (2) we have not been provided with a declaration reasonably explaining why exemptions 1 and 3 may apply in this case, (3) with regards exemption 1, it is unclear whether the only category of information of the third requirement of Executive Order 13,526 the DIA is relying on is the category relating to "intelligence sources and methods", (4) the fourth requirement of Executive Order 13,526 is that disclosure reasonably could be expected to result in damage to the national security however the DIA's correspondence fails to explain how release of the requested records may result in damage to the national security, (5) it is unclear whether under E.O. 13,526 § 6.1(l) the DIA has taken into consideration such aspects of the requested information as the "sensitivity, value, utility, and provenance [source] of that information."

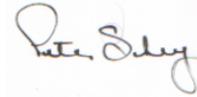
Please advise me what agencies you have referred documents to for direct response to the FOIA request, and provide information that would allow me to communicate with those agencies with reference to the DIA's referral of certain documents to them for review.

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In the event that we do not receive a timely response to this appeal, we may treat a non-response as a denial of this appeal and may seek judicial review. However, we clearly prefer to have this appeal adjudicated within a reasonably prompt period of time.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter A. Schey". The signature is written in a cursive style with a large initial "P".

Peter A. Schey
Attorney at Law