



NATIONAL SECURITY AGENCY
FORT GEORGE G. MEADE, MARYLAND 20755-6000

Case No. [REDACTED] / Appeal No. [REDACTED]
30 July 2014

Mr. Darren K. Indyke
[REDACTED]

Dear Mr. Indyke:

This replies to your letter, dated 5 March 2014, appealing on behalf of your client, Mr. Jeffrey E. Epstein, the National Security Agency/Central Security Service's (NSA/CSS') denial of his request under the Freedom of Information Act (FOIA) for records, documents, files, communications, memoranda, orders, agreements, and/or instructions relating to or referring to Mr. Epstein that were created from January 1, 2000 to January 2, 2014, and were prepared, received, transmitted, collected and/or maintained by the National Security Agency. I have reviewed his request, the Chief of the FOIA/Privacy Act Office's response to you, and your letter of appeal.

As a result of my review, I have concluded that the appropriate response is to continue to neither confirm nor deny the existence or nonexistence of any intelligence material on the subject of your client's request pertaining to any NSA/CSS intelligence programs or activities, including programs authorized under Section 215 of the USA PATRIOT Act and Section 702 of the Foreign Intelligence Surveillance Act Amendments Act. To do otherwise when challenged under the FOIA would result in the exposure of intelligence information, sources, and methods, which could harm our national security and severely undermine NSA/CSS activities in general. For example, if NSA/CSS denied having information in cases where we had no such information but remained silent in cases in which the information existed, it would tend to reveal in which activities NSA/CSS was engaged. Any further elaboration concerning these matters would reveal information that is currently and properly classified under Executive Order 13526.

Accordingly, the existence or nonexistence of any intelligence information you requested remains exempt from disclosure pursuant to 5 U.S.C. §552(b)(1), which protects properly classified information. I have determined that any substantive response to your request would tend to confirm or deny specific activities. The fact of the existence or nonexistence of such information is a properly classified matter under Executive Order 13526, since it meets the specific criteria for classification established in Section 1.4(c) of the Order. When such classification is warranted, Section 3.6(a) of the Order allows an agency to respond by declining to confirm or deny the existence of responsive records.

Further, the fact of the existence or nonexistence of any such records is also exempt pursuant to 5 U.S.C. §552(b)(3), which permits withholding of matters specifically exempted from disclosure by statute. The applicable statutory provisions with regard to the existence or nonexistence of the records requested are: 18 U.S.C. §798, which prohibits the release of information concerning classified communications intelligence activities except to those persons authorized to receive such information; 50 U.S.C. §3024(i), which requires the protection of intelligence sources and methods from unauthorized disclosure; and Section 6 of the National Security Agency Act of 1959, Public Law 86-36 (codified at 50 U.S.C. §3605), which provides

that no law shall be construed to require the disclosure of the organization, personnel, functions, or activities of the National Security Agency.

Because this response is a denial of your client's appeal, you are hereby advised of his right pursuant to 5 U.S.C. §552(a)(4)(B) to seek judicial review of my decision in the United States District Court in the district in which he resides, in which he has his principal place of business, in which the Agency records are situated (U.S. District Court of Maryland), or in the District of Columbia.

Sincerely,

E. R. Brooks

E. R. BROOKS

Chief of Staff

Freedom of Information Act/Privacy Act

Appeal Authority