

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CENTER FOR NATIONAL SECURITY
STUDIES, et al.,

Plaintiff,

v.

UNITED STATES DEPARTMENT
OF JUSTICE,

Defendant.

Civil Action No. 01-2500 (GK)

DECLARATION OF MELANIE ANN PUSTAY

I, Melanie Ann Pustay, declare the following to be true and correct:

1) I am the Deputy Director of the Office of Information and Privacy (OIP), United States Department of Justice. In this capacity, I am the final decision-making authority for the Initial Request Unit (IRU). The IRU is responsible for searching for and reviewing records of OIP as well as records of the senior leadership offices of the Department of Justice, including the Offices of the Attorney General and Deputy Attorney General, in response to requests made under the Freedom of Information Act (FOIA), 5 U.S.C. § 552 (2000). The IRU determines whether records responsive to access requests exist and, if so, whether they can be released in accordance with the FOIA. In processing such requests, the IRU consults with personnel in the senior leadership offices and, when appropriate, with other components within the Department of Justice as well as with other Executive

Branch agencies.

2) I make the statements herein on the basis of personal knowledge, as well as on information acquired by me in the course of performing my official duties.

3) By letter dated October 29, 2001, Ms. Kate Martin, Director, Center for National Security Studies, on behalf of plaintiffs, submitted a request to the Department of Justice, OIP, for "information concerning the individuals 'arrested or detained'. . . in the wake of the September 11 attack," as well as "all policy directives or guidance issued to officials about making public statements or disclosures about these individuals or about the sealing of judicial or immigration proceedings."

4) By letter dated November 1, 2001, OIP acknowledged receipt of plaintiffs' request on behalf of the Offices of the Attorney General and Deputy Attorney General and advised plaintiffs that their request for expedited processing had been granted.

5) OIP located one document, totaling two pages, that was responsive to the portion of plaintiffs' request seeking "policy directives or guidance issued to officials about making public statements or disclosures" regarding the detainees. This document was provided in part to plaintiffs on January 11, 2002. It was withheld in part pursuant to Exemption 5 of the FOIA, 5 U.S.C. § 552(b)(5), which pertains to certain inter- and intra-agency communications protected by the deliberative process privilege. No other documents responsive to this portion of

plaintiffs' request were located.

Records Searches in the Offices of the
Attorney General and Deputy Attorney General

6) By memoranda dated November 1, 2001, OIP initiated searches in the Offices of the Attorney General and Deputy Attorney General for records responsive to plaintiffs' request. Given the nature of the documents requested, we initiated searches in the Offices of the Attorney General and Deputy Attorney General as we determined that these offices would be most likely to maintain any responsive records. Both Offices performed records searches and subsequently advised OIP that they did not locate any records responsive to item four of plaintiffs' request seeking "all policy directives or guidance issued to officials about making public statements or disclosures about these individuals or about the sealing of judicial or immigration proceedings."

7) In addition, on April 10 and 11, 2002, I personally contacted the senior officials in both the Offices of the Attorney General and Deputy Attorney General who have knowledge of this issue to confirm that no records responsive to item four of plaintiffs' request exist. I was assured by the officials from both the Office of the Attorney General and the Office of the Deputy Attorney General that no such records exist. Finally, I then personally searched relevant files in the Office of the Attorney General and again, this search confirmed that there were no records responsive to item four of plaintiffs' request.

I declare under penalty of perjury that the foregoing is true and correct.

Melanie Ann Pustay
MELANIE ANN PUSTAY

Executed this 12 day of April 2002.