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Attorney at Law

**FREEDOM OF INFORMATION ACT APPEAL**

August 5, 2014

Agency Release Panel  
c/o Ms. Michelle Meeks  
Central Intelligence Agency  
Washington, D.C. 20505

VIA FAX: (703) 613-3007

Re: **-2013-01664**

Dear Agency Release Panel:

By letter dated July 14, 2014, Ms. Michelle Meeks, Information and Privacy Coordinator, responded to the above-referenced May 6, 2013 Freedom of Information Act ("FOIA") request I filed for my client Davis Talbot. The request sought certain records pertaining to William King Harvey ("Harvey") and F. Mark Wyatt ("Wyatt"). Regarding the Harvey records, Ms. Meeks indicated the CIA has previously received and processed a request for records "on the same subject" as this request, and located and released 277 documents in connection with that request.

With respect to Harvey, Mr. Talbot specifically requested:

- All records pertaining to temporary duty travel by Harvey from January 1, 1950 through July 1, 1976;
- All passport and visa photos;
- All photographs of Harvey, whether associated with passports and visa or otherwise. Mr. Talbot explicitly requests 8 x 10 glossies of photographs;

and

- records reflecting assignment to any station, post, base, unit, or other component of the CIA during the period January 1, 1950 through July 1, 1976.

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I note that your response is ambiguous with respect to whether the Harvey records previously released include the *specific* records Mr. Talbot requested, or whether they include general records about Harvey. To the extent that the 277 documents are *not* specifically responsive to Mr. Talbot's request, I appeal the denial of any and all records responsive to his specific request. The CIA must undertake a search for the specific records in question. Unless the previous request covered all of the specific records that are within the scope of Mr. Talbot's request,, the CIA's search was manifestly inadequate. For this reason, I hereby appeal any search that did not focus on retrieving all records within the scope of Mr. Talbot's request.

I further appeal the CIA's withholding of any and all records responsive to Mr. Talbot's records pertaining to Harvey.

With respect to records pertaining to F.Mark Wyatt, Mr. Talbot requested:

- All records pertaining to temporary duty (TDY) travel from January 1, 1948 through 1975;
- All passport and visa photos;
- All photographs, whether associated with passports and visas or otherwise; and
- All records reflecting assignment to a station, post, or unit during the period July 1, 1948 through 1975.

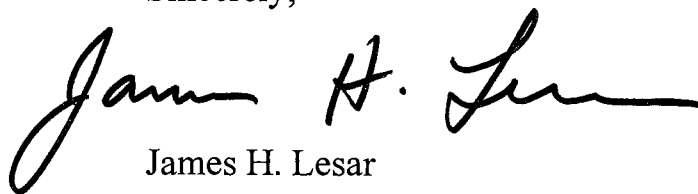
In your response you indicate that the CIA Information Act of 1992, 50 U.S.C. § 431, as amended, exempts operational files from the requirements of the FOIA. However, as you know, records pertaining to Mark Wyatt fall into two exceptions to the Act, and for that reason must be processed and released. Specifically, CIA influence in foreign elections has been a subject of Congressional investigation, as has the treatment of defectors from the Eastern Bloc. Further, F. Mark Wyatt himself openly and repeatedly discussed his concerns about the treatment of Soviet defectors in particular. The records in question clearly fall into the category for records pertaining to a subject which has been the subject of formal Congressional or internal investigation. For this reason the CIA's response to Mr. Talbot's request for the Wyatt records he identified is legally unsound. I hereby formally appeal the CIA's blanket denial of records

pertaining to Wyatt. I ask that the CIA conduct a search for responsive records and, to the extent it withholds any responsive records, that it explicitly identify those records and specify the exemption claims which the CIA has asserted for those redactions or withholdings.

Of course, since both William King Harvey and F. Mark Wyatt are deceased, they no longer have any privacy interest in the records in question. See, e.g. Warren v. Colvin, 744 F.3d 841,844 (2<sup>nd</sup> Cir. 2014).

I would appreciate your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "James H. Lesar". The signature is written in a cursive, flowing style with a large initial "J".

James H. Lesar