

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

JEFFREY STERLING,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CASE NUMBER.
	)	01-CV-8073
GEORGE J. TENET, ET AL.,	)	
	)	UNCLASSIFIED
	)	
Defendants.	)	
	)	

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Declaration and Formal Claim of State Secrets Privilege  
and Statutory Privilege by George J. Tenet  
Director of Central Intelligence

I, GEORGE J. TENET, do hereby declare and state as follows:

1. I am the Director of Central Intelligence (DCI), a position I have held since 11 July 1997. Prior to serving as DCI, I was the Deputy Director of Central Intelligence beginning on 3 July 1995. Before that, I served at the National Security Council as Special Assistant to the President for National Security Affairs and Senior Director for Intelligence Programs. Prior to my service at the National Security Council, I spent more than seven years on the staff of the Senate Select Committee on Intelligence, including as Staff Director from November 1988 through January 1993.

2. The Central Intelligence Agency (CIA) and the position of DCI were established by the National Security Act of 1947 (the Act), codified at 50 U.S.C. §§ 401, et seq,

as amended. Pursuant to section 102(a) of the Act, 50 U.S.C. § 403(a), as DCI, I serve as head of the United States intelligence community, act as the principal advisor to the President of the United States for intelligence matters related to national security, and serve as the executive head of the CIA.

3. Under section 102A of the Act, 50 U.S.C. § 403-1, the function of the CIA is to assist me as DCI to carry out my responsibilities as set forth in paragraphs (1) through (5) of section 103(d) of the Act. Pursuant to that section, codified at 50 U.S.C. § 404-3(d), as head of the CIA, I am charged with: collecting intelligence through human sources and other appropriate means (excluding law enforcement powers or internal security functions); providing overall direction for the collection of national intelligence through human sources by elements of the United States intelligence community; correlating and evaluating intelligence related to the national security and providing appropriate dissemination of such intelligence; performing such additional services as are of common concern to the elements of the United States intelligence community; and performing such other functions and duties related to intelligence affecting the national security as the President or National Security Council may direct. A more particularized statement of the authorities of the DCI and

the CIA is set forth in sections 1.5 and 1.8 of Executive Order 12333, signed by President Reagan on 4 December 1981, which remains in effect.

4. By virtue of my position as DCI, I have official custody and control of the files and records of the CIA, and pursuant to section 104(a) of the Act, 50 U.S.C. § 403-4(a), I have, to the extent recommended by the National Security Council and approved by the President, access to all intelligence related to the national security which is collected by any department, agency, or other entity of the United States.

5. In my position as head of the United States intelligence community, I am charged by section 103(c)(6) of the Act, 50 U.S.C. § 403-3(c)(6), and by section 1.3(a)(5) of Executive Order 12333, to protect intelligence sources and methods from unauthorized disclosure. In order further to implement my authority to protect intelligence sources and methods, Section 6 of the Central Intelligence Agency Act of 1949, as amended, 50 U.S.C. § 403g, exempts the Agency "from the provisions of any other laws which require the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency." Finally, pursuant to Executive Order 12958, the President has authorized me to

exercise original TOP SECRET classification authority on his behalf.

6. Through the exercise of my official duties, I have been advised of this litigation pending in the United States District Court for the Southern District of New York. I understand the plaintiff is a former employee of the Agency who alleges discriminatory treatment by Agency managers throughout his career, including during a tour of duty in the spring of 2000. I further understand that the plaintiff claims that Agency managers engaged in retaliatory conduct for his participation in the Equal Employment Opportunity process when they allegedly failed to protect his personal property from destruction in the summer of 2000. Records pertaining to plaintiff's CIA employment are maintained at CIA Headquarters in Virginia.

7. After personally evaluating this litigation, I am of the firm conviction that this case cannot continue in the Southern District of New York without causing serious damage to the national security of the United States, revealing intelligence sources and methods that should remain protected from unauthorized disclosure, and disclosing information exempted from disclosure by Section 6 of the CIA Act. The reasons for my conclusion are set forth in the Classified Declaration that I am submitting for the Court's in camera, ex parte review. Because of the classified

nature of the information at risk in this litigation, I can provide no further discussion of the bases for my assertion of the state secrets and statutory privileges in this case.

8. Accordingly, in my capacity as DCI, I am submitting this Declaration and an in camera, ex parte Classified Declaration for the purpose of asserting a formal claim of the state secrets privilege to protect the national security interests of the United States. The classified and highly sensitive nature of the information described in the classified declaration warrants such an assertion. The sensitivity of the information over which I claim this privilege is sufficiently critical to the ability of the CIA to perform its intelligence collection mission, and to the safety of its officers in vulnerable positions throughout the world, that I have determined my invocation of the privilege is required.

9. In addition to asserting a formal claim of state secrets privilege, I am also submitting this Declaration and the in camera ex parte Classified Declaration for the purpose of asserting the statutory privileges of the DCI and the CIA to protect intelligence sources and methods from unauthorized disclosure and to protect information concerning the Agency's organization, functions, names, official titles, salaries, or numbers of employed personnel. These statutory privileges are rooted in Section 103(c)(6)

of the National Security Act of 1947, as amended, 50 U.S.C. § 403-3(c)(6), and in Section 6 of the CIA Act of 1949, as amended, 50 U.S.C. § 403g.

10. In light of the foregoing, after personal consideration of this matter in my capacity as head of both the CIA and the United States intelligence community, I hereby formally assert the state secrets privilege and the statutory privileges of the DCI to protect intelligence sources and methods from unauthorized disclosure and to protect information concerning the Agency's organization, functions, names, official titles, salaries, or numbers of employed personnel. I assert these privileges to preclude from disclosure any information in this case that would reveal or tend to reveal the specific classified intelligence sources and methods discussed in detail in the in camera ex parte Classified Declaration, as such disclosure reasonably could be expected to cause serious damage to the national security of the United States.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed on this 17 day of April 2002.

  
George J. Tenet