

Central Intelligence Agency
Washington, DC 20505
Information and Privacy Coordinator

RE: Appeal of FOIA Request No. F-2012-01498

To Whom It May Concern:

This letter is a formal appeal regarding the Central Intelligence Agency's final response to a Freedom of Information Act request I submitted on June 12, 2012, in which I sought copies of "all correspondence, electronic or otherwise, between any staffers in the Agency's Office of Public Affairs and the following persons: David E. Sanger, reporter for the New York Times and author of *Confront and Conceal*." The FOIA request was given the reference number F-2012-01498.

In the agency's response, dated October 7, 2016, Information and Privacy Coordinator Michael Lavergne provided "25 documents, consisting of 44 pages" that were responsive to my request, while noting that the enclosed pages contained "deletions made on the basis of FOIA exemptions (b)(3), (b)(5), and/or (b)(6)." The released pages consist almost entirely of email correspondence between David E. Sanger and CIA press officer Cynthia "Didi" Rapp.

The response does not state or insinuate that the agency withheld any whole pages of responsive records, as is sometimes the case when federal agencies claim certain exemptions in the course of fulfilling Freedom of Information Act requests. In such instances, the agency will disclose that a certain number of pages have been withheld, and identify the relevant exemptions under which those pages are being withheld.

The basis of this appeal is that the released records clearly indicate that the Central Intelligence Agency did not properly fulfill my original FOIA request. Namely, in the course of processing and reviewing the emails between Sanger and Rapp, the agency did not process or review any of the *email attachments* exchanged between Sanger and Rapp. Nor did it process or review any of the facsimiles, or faxes, exchanged by the pair. Consequently, the agency inappropriately withheld a number of responsive records.

The existence of the aforementioned attachments and faxes is clear. For example, on page 14 of the released records (identified as document number C05929304), Rapp can be seen sending a "secure message" in the form of an attached file called

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"securedoc.html." The text of Rapp's email indicates that the message required a special software known as Cisco Registered Email Service. On the same page, Sanger can be seen notifying Rapp of an incoming fax: "A fax coming through to you now with typeset pages that deal with the issues Mr. Morell was concerned with. Can you pass them on to him?"

On page 11 (document number C05929305), Rapp can be seen telling Sanger: "I think I'm back in business. Comments to your comments in blue." This appears to be a reference to some other annotated document that Rapp prepared for, and delivered to, Sanger. (Nowhere else in the release can Rapp be seen directly commenting on Sanger's own words, "in blue" or otherwise.)

None of the records referenced above, either in the form of an electronic file or a paper fax, appear to have been reviewed or processed for release—even though my FOIA request specifically targeted "all correspondence, ***electronic or otherwise***, between any staffers in the Agency's Office of Public Affairs and the following persons: David E. Sanger, reporter for the New York Times and author of Confront and Conceal" (bolding and italicization added).

As a requester under the Freedom of Information Act, I reserve the right to appeal the agency's final determination. In this case, I request that the agency either re-process my original FOIA request to ensure that its staff review and process all responsive email attachments and faxes, as those records clearly fall under the scope of my original request.

Please let me know if you require any other information in order to process this appeal.

Sincerely,
John Cook

Mailing address:

Gizmodo Media

A large rectangular box with a black border, used to redact the mailing address information.

(b)(6)