

**John O. Brennan**

January 15, 2020

The Honorable Gina C. Haspel  
Director  
Central Intelligence Agency  
Langley, Virginia

Dear Director Haspel:

I recognize the demands on your time and, accordingly, have held off for many months directly raising this matter with you. But I believe the time has come to tell you how deeply disappointed I am at the troubling and entirely unprecedented manner in which the Agency has responded to my request for access to materials related to my previous service as Director of the Central Intelligence Agency.

I submitted my request on December 18, 2018 (copy attached for your convenience). Despite the Agency's long and uninterrupted practice of promptly granting requests by former senior leaders for access to their papers, the Agency has refused to provide me access on the same terms (let alone on the same timeline) as it afforded every other recent Director and Acting Director who made a similar request. It is impossible to avoid the conclusion that the Agency's refusal to grant my request reflects the current administration's desire to punish and retaliate against me for speaking out as a private citizen—an abuse of power designed to chill the exercise of my First Amendment rights.

As you know, long-standing executive branch policy, reflected in Executive Order 13526, and Agency regulations provide a mechanism for former Directors to obtain access to materials that they produced or reviewed while serving as Director. These regulations contemplate a former Director obtaining access to a broad category of both classified and unclassified materials, i.e., "items that the person originated, reviewed, signed, or received while serving as" Director. 32 CFR 1909.8(b)(6).

Despite the scope of material contemplated by the regulation, my request sought access to only a narrow selection of materials—namely, my "calendars, the tables of contents of my day books, and my handwritten notes for the period in which I served" as Director. Along with my offer to conduct my "review at a facility of [the Agency's] choosing in the northern Virginia area," I intentionally geared my request to reduce burden on the Agency. Shortly after I sent my request, my counsel, David S. Cohen, informed the General Counsel on my behalf that I would readily execute a nondisclosure agreement, thereby satisfying the regulatory requirement that I, like any former Director, execute an NDA to ensure that classified information would be protected.

Over the course of the past year, I have tried to be accommodating and also to relieve burden on the Agency and expedite the process. For instance, in February 2019, to allay the General

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Counsel's concerns that we were somehow trying to set a "litigation trap" for use in a potential lawsuit involving my security clearance, Mr. Cohen informed the General Counsel that if I was provided access to classified material, I would waive any right I might have to argue in some subsequent litigation that granting me access to the requested material would bear on the question whether it would be lawful for the administration to withdraw my security clearance. And in March 2019, Mr. Cohen informed the General Counsel that without waiving my request to access all the material originally requested, I would be willing to review initially only unclassified (i.e., redacted) calendars, tables of contents of my Daybooks, and the running high-level diary of my daily activity that my assistant maintained.

Despite these accommodations, for close to a year, the Agency refused to grant me access to any material. Notably, the General Counsel acknowledged to Mr. Cohen that the failure to grant my request is not due to any legal concerns under the Executive Order or Agency regulation. To the contrary, she has acknowledged repeatedly that the relevant regulations permit me to obtain access to the materials I sought, regardless of whether I currently hold a security clearance.

Rather than raising a legal objection, the General Counsel first asserted to Mr. Cohen on several occasions beginning last Spring that resolution of my request was "held up" because she referred it for review by certain unnamed White House and Justice Department officials. In a conversation on May 16, 2019, the General Counsel told Mr. Cohen that, because these unnamed officials were focused on other matters, there was no timeline for resolution of my request. After several subsequent, and fruitless, conversations over the ensuing months, the General Counsel finally told Mr. Cohen on September 20, 2019 that my request was "unlikely to go anywhere."

Needless to say, Executive Order 13526 and the applicable Agency regulations do not contemplate any role for officials outside the Agency in addressing a former Director's request for access, and particularly not political appointees in the White House and the Justice Department. The Executive Order, for instance, directs "the agency head or senior agency official of the originating agency" to decide whether to grant access. Likewise, the Agency's regulations vest responsibility to approve a former Director's request for access in the designated "Senior Agency Official" (currently, the Chief Operating Officer), with the Director possessing the ultimate authority to grant access.

When Mr. Cohen spoke with the General Counsel again on November 5, 2019, he was told for the first time that in August 2018—several months before I submitted my request for access—the President issued a written "directive" of some sort that purportedly forbids anyone in the Intelligence Community from sharing classified information with me. I have neither seen this purported directive nor have I been informed of its existence or scope by anyone, in the Agency or elsewhere in the administration. According to the General Counsel, this utterly unprecedented and blatantly retaliatory action by the President somehow made it impossible from the outset to grant my request. But it was not until almost a year after I submitted my request for access to materials, and after multiple conversations and efforts at accommodation, that Mr. Cohen was informed of this purported directive.

Faced, finally, with the outright rejection of my request for access to my classified material, I authorized Mr. Cohen to accept the Agency's offer to provide me with unclassified (redacted)

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versions of my Daybook table-of-contents and the diary of my daily activity, all of which is marked For Official Use Only (FOUO). While I appreciate the effort of the Chief Operating Officer and Agency officers to redact and provide this material, these unclassified FOUO documents obscure both where I traveled (domestically and internationally) and with whom I spoke on the telephone, significantly limiting their usefulness. And of course, they are a poor substitute for what the Agency's regulations authorize—namely, “items that [I]... originated, reviewed, signed, or received while serving as” Director, 32 CFR § 1909.8(b)(6)—or even the classified versions of my “calendars, the tables of contents of my day books, and my handwritten notes for the period in which I served.”

This entire episode is unprecedented. Former Directors and Acting Directors Robert Gates, Leon Panetta, Michael Hayden, George Tenet, and Michael Morell were all granted broad access to highly classified materials promptly upon request—within a matter of weeks, at most. Indeed, I am not aware of any prior instance when a former Director or Acting Director has not been provided access to his classified material almost immediately upon request. This unbroken practice has benefitted former Directors, the historical record, and the Agency. As former Director George Tenet wrote in his book, At the Center of the Storm: The CIA During America's Time of Crisis:

This book relies on more than just people's memories. Under Executive Order 13292, former presidential appointees are permitted to have access to classified documents from their period of service in order to conduct historical research. I relied on this privilege heavily and requested access to literally tens of thousands of pages of documents. These primary resources were of immense assistance to me in trying to make [this book] as accurate as possible.

Clearly, the only reason that I have been treated in a dissimilar fashion is because I have been critical of the President and his foreign policy. I can only interpret this disparate treatment as an effort to harm me financially as I, unlike my predecessors, have been unable to access the records of my time as Director while I write my memoirs. It also threatens to deprive the public, and the historical record, of a complete account of my time leading the Agency—a tremendously eventful time in our Nation's history.

Moreover, and perhaps most significantly, refusing to grant me access to my records because of the exercise of my First Amendment rights runs directly counter to one of the Agency's core principles—namely, to steer clear of politics and the political predilections of elected officials and their political appointees. Politicization, in matters large or small, corrodes the Agency's standing in the public eye as well as its ability to speak truth to power. This was the message delivered by former Director Robert Gates in his famous address to the CIA workforce, “Guarding Against Politicization;” it is what every Director and Deputy Director emphasizes when she or he swears in new officers in front of the Memorial Wall; and it is what every CIA officer is reminded of when she or he comes to work every day. Distorting a long-standing, neutrally applied Agency practice to mollify the President and the White House is politicization, plain and simple.

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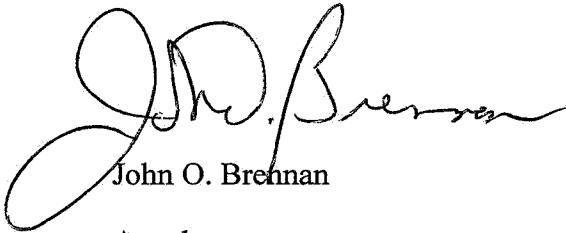
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Like you, I care deeply about the Agency I served for over 29 years, including the great honor of being its Director. It is for this reason that I have been patient and flexible over the past many months, hoping that we would be able to arrive at an amicable, quiet resolution to this issue. This approach, however, has been met with delay, diversion and, ultimately, denial of my request for access to my classified material, all of which has occurred on your watch.

I recognize that reasonable people may have different views about my criticisms of the President and his policies. No one, however, can reasonably question that I have the absolute right as a private citizen to voice those criticisms, or that our government has absolutely no right to use its official power to retaliate against me for doing so. In responding to me and my criticism, the administration apparently has lost sight of this basic constitutional principle, and I am very troubled that the Agency—whose very purpose is to defend against threats to our constitutional government and freedoms—has allowed itself to be complicit in this threat to free speech.

Respectfully,

A handwritten signature in black ink, appearing to read "John O. Brennan". The signature is fluid and cursive, with a large initial "J" and "B".

John O. Brennan

Attachment

cc: Andrew Makridis  
Courtney Elwood  
David S. Cohen