

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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AMERICAN CIVIL LIBERTIES UNION and  
THE AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION,

Plaintiffs,

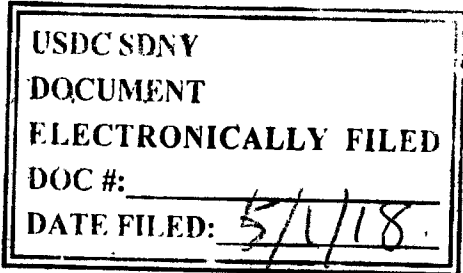
v.

DEPARTMENT OF DEFENSE, DEPARTMENT  
OF JUSTICE, including its components the  
OFFICE OF LEGAL COUNSEL and OFFICE OF  
INFORMATION POLICY, DEPARTMENT OF  
STATE, and CENTRAL INTELLIGENCE  
AGENCY,

Defendants.  
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**ORDER ON DOCUMENTS 8  
AND 66, AMENDING  
JUDGMENT AND  
RECONSIDERING OPINION  
AND ORDER DATED  
SEPTEMBER 27, 2017**

15 Civ. 9317 (AKH)



ALVIN K. HELLERSTEIN, U.S.D.J.:

By order dated September 27, 2017, I granted in part and denied in part the Government’s motion for summary judgment, ordering the government to timely produce various documents, including versions of Document 66 and Document 8. *See* Dkt. No. 77. That order concluded my review of the documents submitted for my review. Judgment was entered and the case was marked closed. *See* Dkt. No. 78.

The Government subsequently moved, pursuant to Fed. R. Civ. P. 59(e), to alter or amend the judgment and to reconsider the Court’s September 27 opinion and order. *See* Dkt. No. 79. Specifically, the Government sought reconsideration of the Court’s ruling on Document 66, and for clarification of the Court’s ruling on Document 8. By order dated November 13, 2017, *see* Dkt. No. 82, I allowed the Government to make a supplemental submission to identify the portions of Document 66 that it believes are protected from disclosure under Exemptions 1


and 3, *see* 5 U.S.C. § 552(b)(1), (3). The Government made its requested supplemental submission on December 1, 2017, lodging for the Court’s review a classified version of Document 66 containing various proposed redactions. *See* Dkt. No. 85. This version of Document 66 was attached as “Exhibit C” to the Amended Supplemental Classified Declaration of Antoinette B. Shiner<sup>1</sup> and remains classified.

On January 18, 2018, I held an *in camera* hearing in my chambers where I reviewed and heard arguments on the version of Document 66 containing the Government’s proposed redactions. I reviewed Document 66 page by page and noted my approval, disapproval, or modification of the redactions. Pursuant to my orders of March 27 and April 17, *see* Dkt. Nos. 90, 92, I ordered a redacted transcript of that hearing to be filed for public viewing.

The rulings contained in that transcript serve as my final rulings with respect to Document 66<sup>2</sup> and Document 8, amending my September 27 order. The Government shall produce, consistent with these rulings, Document 66, Document 8, the redacted January 18 transcript, and the other documents ordered to be produced in my prior rulings. The Clerk shall amend the final judgment, and all issues in this case are now ripe for appeal. The Government’s disclosure obligations are stayed for 60 days, or 10 days following the filing of a notice of appeal, whichever is later. In the interim, the Government shall file the redacted transcript provided to the Court on April 11, 2018. The Clerk shall terminate Dkt. No. 93.

SO ORDERED.

Dated: May 1, 2018  
New York, New York

  
ALVIN K. HELLERSTEIN  
United States District Judge

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<sup>1</sup> The Declaration, but not the exhibits, has been filed for public viewing. *See* Dkt. No. 86.

<sup>2</sup> Subsequent to the *in camera* hearing, the Government filed a classified letter seeking reconsideration of one of the Court’s rulings relating to page 68 of Document 66. *See* Dkt. No. 89. The Government may redact the name of the study found on line 3 of page 68 of Document 66.