



DEPARTMENT OF THE ARMY
OFFICE OF THE GENERAL COUNSEL
104 ARMY PENTAGON
WASHINGTON DC 20310-0104

October 19, 2010

Mr. John Young
Administrator
Cryptome.org
251 West 89th Street
New York, NY 10024

Dear Mr. Young:

This letter responds to your Freedom of Information Act (FOIA) appeal, dated July 24, 2010. The U.S. Army Criminal Investigation Command (USACIDC) denied your request for records regarding the investigation of SPC Bradley Manning.

We apologize for the delayed response to your appeal. The Army must address a large volume of FOIA demands and cannot always respond to appeals as quickly as we would like. We respond to appeals in the order received. The courts have sanctioned this method of handling FOIA cases. *Open America v. Watergate Special Prosecution Force*, 547 F.2d 605, 614-16 (D.C. Cir. 1976).

USACIDC denied your request pursuant to Exemption 7(A) of the FOIA. 5 U.S.C. § 552(b)(7)(A). After carefully reviewing the issues presented in your appeal, we have determined that USACIDC properly withheld the requested records. Accordingly, your appeal is denied.

Exemption 7(A) permits the Government to withhold information compiled for law enforcement purposes when disclosure "could reasonably be expected to interfere with enforcement proceedings." 5 U.S.C. § 552(b)(7)(A). This exemption protects the Government's ability to control and shape investigations and prevents the premature revelation of the government's evidence and trial strategy. *Alyeska Pipeline Serv. Co. v. EPA*, 856 F.2d 309, 312 (D.C. Cir. 1988). Exemption 7(A) applies when two requirements are met. Records can be withheld only if they relate to a law enforcement proceeding that is pending or prospective, and their release could reasonably be expected to cause some articulable harm. See e.g., *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 224 (1978).

The records you have requested are part of an active law enforcement proceeding. Thus, Exemption 7(A)'s first requirement is met. Exemption 7(A)'s second requirement is met because the investigation into SPC Manning is still active. Disclosing the records at this time could inhibit the Government's ability to control and shape the investigation going forward. We note that Exemption 7(A) permits the Government to withhold information even if there is a strong public interest in it.

Although the requested records cannot be released at this time, Exemption 7(A) is temporally limited, and is not intended to "endlessly protect material simply because it [is] in an investigatory file." *See Dickerson v. DOJ*, 992 F.2d 1426, 1431 (6t Cir. 1993). Accordingly, you may make another request for these records when the law enforcement proceedings have closed. At that point, USACIDC will disclose all releasable portions of the responsive records.

This letter constitutes final action on behalf of the General Counsel, who has been designated by the Secretary of the Army to consider appeals under the FOIA. You may, if you so desire, seek judicial review of this determination in the federal court system in accordance with the FOIA, 5 U.S.C. § 552(a)(4)(B).

Sincerely,

A handwritten signature in cursive script, reading "Ronald J. Buchholz".

Ronald J. Buchholz
Associate Deputy General Counsel