

LEON PANETTA: I'VE GOT TO PROTECT THE CONTRACTORS FROM UNWARRANTED INVASION OF PRIVACY

Well here's a really really telling passage from Leon Panetta's declaration on why he can't turn over the torture documents to the ACLU.

Information concerning the names and titles of CIA personnel, and information concerning CIA organization, functions, and filing information, has also been withheld from the documents at issue based on FOIA Exemptions b(1) and b(3). Names and identifying information of CIA personnel, and CIA contractors and employees of other federal agencies involved in clandestine counterterrorism operations, also has been withheld on the basis of FOIA Exemption b(6), as the disclosure of such information would constitute a clearly unwarranted invasion of personal privacy.¹

¹ As described in the attached Vaughn index, 62 of the 65 documents at issue contain names or identifying information of Agency employees or personnel involved in clandestine counterterrorism operations. [my empahsis]

And sure enough, every cable from the field includes this dual invocation of FOIA exemptions to protect the identities of those involved in torture.

Exemption b(3) ... This document also contains information relating to the organization, functions, and names of persons employed by the CIA that is specifically exempted from disclosure by

section 6 of the Central Intelligence Act of 1949 ... and thus is protected by Exemption b(3).

[snip]

Exemption b(6) – This document also contains information relating to the identities of personnel engaged in counterterrorism operations, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The public interest in disclosure of this information does not outweigh the harm to the individual whose privacy would be violated, and thus the information is protection from disclosure by Exemption b(6).

They can't protect James Mitchell and his crowd by invoking the CIA Act of 1949, of course, because the guys in charge of the torture weren't employees of the CIA. So instead, they're invoking privacy protection that even the CIA seems to think might be dodgy.

And curiously, this is not what they have done in the past. Compare what appears in this Vaughn Index with the FOIA exemptions invoked for this set of apparently similar documents from 2004. Like a lot of cables in this series, Document 55 is a clandestine cable from Field to HQ. Yet it only invokes b(3) to protect identities, not the more general b(6) to protect the privacy of individuals involved.

In addition, this document contains information about CIA official titles, internal organizational data, and names that are properly withheld under exemption b(3), pursuant to section 6 of the of the Central Intelligence Agency Act of 1949.

In a world in which our own government is using contractors to conduct unwarranted invasions of our privacy, there's something utterly perverse

about our own government then inventing FOIA exemptions to protect contractors from "unwarranted invasion" of their privacy.