

SATURDAY, 26 JANUARY 2013 / TRUTH-OUT.ORG

Foul Play in the Senate Amgen, world's largest biotechnology firm, snuck a clause into the fiscal cliff bill that gives the company two more years of relief from Medicare cost controls for

Seventy Yea Centuries or The lesson of cannot endur

HOME

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PROGRESSIVE PICKS

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Ex-Army Officer Accuses CIA of Obstructing Pre-9/11 Intelligence-Gathering

Sunday, 20 January 2013 07:46

By Paul Church and Ray Nowosielski, Truthout | Report

As Black and Blee began their efforts at the CIA, Able Danger was ramping up. Then-Major Anthony Shaffer was at that time in charge of a secretive DIA unit known as Stratus Ivy, facilitating five major DOD black operations. The assets each held equal importance. Shaffer says SOCOM brought him into the Able Danger project to work on agent coordination in 1999.

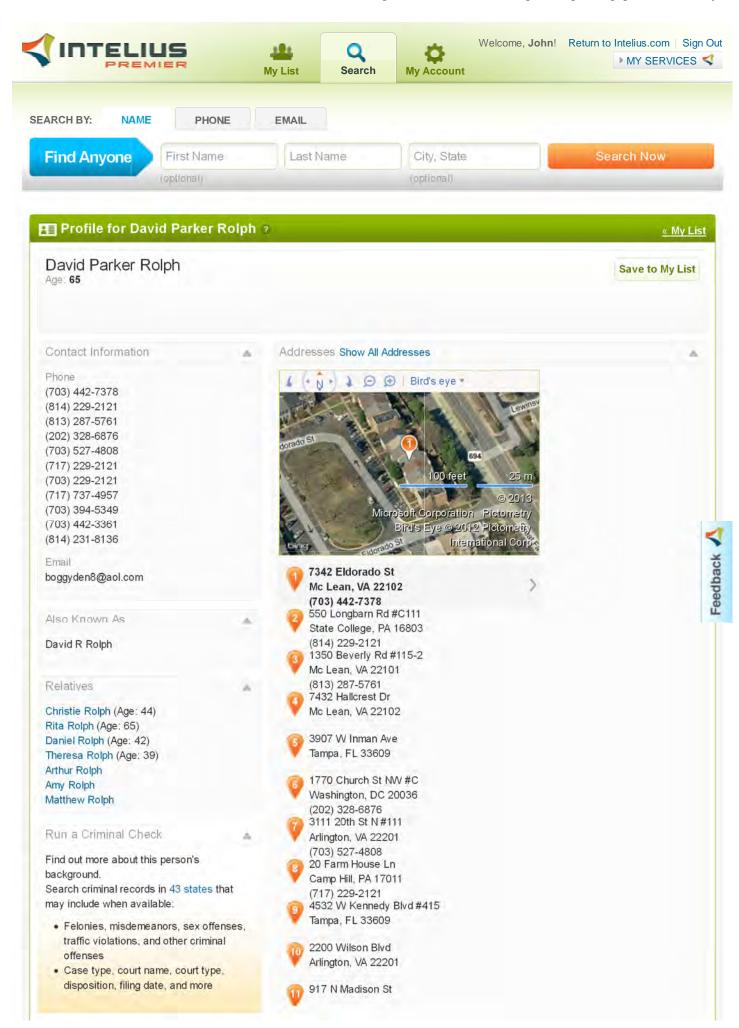
That October, Shaffer was asked by Navy Captain Scott Philpott, then-head of operations for the Able Danger initiative, to brief the CIA liaison to SOCOM, a senior agency official. But the meeting did not go well. In the interview with Nowosielski and Duffy, Shaffer names the CIA representative for the first time. He was Cold War veteran David Rolph, previously a station chief for the agency in Moscow.

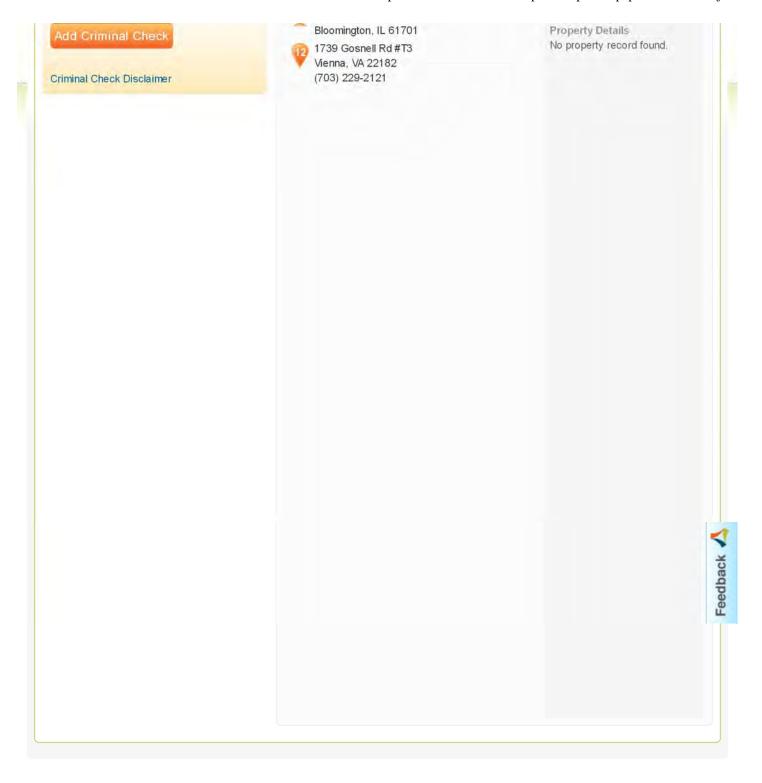
"We, the Able Danger team, would like to have access to Alec Station to conduct our operations," Shaffer said he told Rolph. But Rolph explained that unless Gen. Peter Schoomaker, commander of SOCOM, personally and directly approached CIA director Tenet for access, they would not get it. Shaffer offered Alec Station a "seat at the table," allowing a station employee into their process.

According to Shaffer, Rolph bluntly informed him the CIA would never cooperate with SOCOM on the matter, because if the military succeeded in prosecuting the options for going after the infrastructure of al-Qaeda, it would "steal the thunder" of Alec Station. Shaffer found the response peculiar, even for the notoriously turf-defensive agency.

"I spent a lot of time working in joint projects between Special Operations Command and CIA," Shaffer revealed. "So the fact that in this one area they would not cooperate was new, and it concerned me. But very often the CIA would just do things without regard to anyone else."

How the CIA's go-it-alone attitude regarding al-Qaeda helped enable the events of 2001 has only recently gained wider public attention. The story, reduced to an obscure endnote in the 9/11 Commission Report, exploded in 2011 when it emerged that Richard Clarke, counter-terror director for both Presidents Clinton and Bush, had, in a filmed interview, accused the CIA of deliberately withholding information on two of the 9/11 conspirators, the same ones separately discovered by Able Danger.





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IN THE UNITED STATES DISTRICT COURT FOR TH	E	OCT 23 2012	
EASTERN DISTRICT OF VIRGINIA			
Alexandria Division		CLERK, U.S. DISTRICT COURT ALEXACORIA, VINGINIA	
INITED STATES OF AMEDICA			

UNITED STATES OF AMERICA)	
v.)	Criminal No. 1:12cr127 (LMB)
JOHN C. KIRIAKOU)	
)	
Defendant.)	

STATEMENT OF FACTS

Should this matter proceed to trial, the United States would prove the following beyond a reasonable doubt:

- 1. At times in 2008 and 2009, in the Eastern District of Virginia, and elsewhere, defendant JOHN C. KIRIAKOU ("KIRIAKOU"), having had authorized access to classified information that identifies a covert agent, intentionally disclosed information identifying such covert agent to an individual not authorized to receive classified information, knowing that the information disclosed so identified such covert agent and that the United States government was taking affirmative measures to conceal such covert agent's intelligence relationship to the United States; in that the defendant disclosed the name of Covert Officer A to Journalist A in violation of Title 50, United States Code, Section 421(a).
- 2. KIRIAKOU was employed as an intelligence officer with the Central Intelligence Agency from in or about 1990 through in or about 2004. In the course of his career, KIRIAKOU served at CIA headquarters in Langley, Virginia, including at the CIA Counterterrorism Center ("CTC"), and in various classified overseas assignments.

- 3. KIRIAKOU held a Top Secret security clearance with access to various Sensitive Compartmented Information ("SCI"), on account of his official responsibilities at the CIA. As a result, KIRIAKOU had regular access to classified and national defense information relating to CIA programs, operations, methods, sources, and personnel.
- 4. On or about January 10, 1990, in connection with the start of his employment as a CIA intelligence officer, KIRIAKOU entered into various agreements with the United States, including the following:
- a. As a condition of being granted access to classified information, KIRIAKOU entered into a Secrecy Agreement, in which he agreed, in pertinent part, as follows:
 - I... hereby agree to accept as a prior condition of my being employed by, or otherwise retained to perform services for, the Central Intelligence Agency... the obligations contained in this agreement.

I understand that in the course of my employment . . . I may be given access to information or material that is classified or is in the process of a classification determination . . . that, if disclosed in an unauthorized manner would jeopardize intelligence activities of the United States Government. I accept that by being granted access to such information or material I will be placed in a position of special confidence and trust and become obligated to protect the information and/or material from unauthorized disclosure.

In consideration for being employed or otherwise retained to provide services to the Central Intelligence Agency, I hereby agree that I will never disclose in any form or any matter, to any person not authorized by the Central Intelligence Agency to receive it, any information or material . . . that I know is classified . . . or is in the process of a classification determination. . . .

I understand that . . . the disclosure of information that I agreed herein not to disclose can, in some circumstances, constitute a criminal offense. . . .

I understand that nothing in this agreement limits or otherwise affects any provision of criminal or other law that may be applicable to the authorized disclosure of classified information, including . . . section 793[] . . . of Title 18, United States Code

b.

into a Non-Disclosure Agreement ("NDA"), in which he agreed, in pertinent part, as follows:

As a condition of being granted access to certain SCI, KIRIAKOU entered

Intending to be legally bound, I hereby accept the obligation contained in this Agreement in consideration of my being granted access within Special Access Programs, hereinafter referred to in this Agreement as Sensitive Compartmented Information (SCI). I have been advised that SCI involves or derives from intelligence sources or methods and is classified I understand and accept that by being granted access to SCI, special confidence and trust shall be placed in me by the United States Government.

I hereby acknowledge that I have received a security indoctrination concerning the nature and protection of SCI, including the procedures to be followed in ascertaining whether other persons to whom I contemplate disclosing this information have been approved for access to it, and that I understand those procedures

I have been advised that unauthorized disclosure, unauthorized retention, or negligent handling of classified information by me could cause irreparable injury to the United States or could be used to advantage by a foreign nation. I hereby agree that I will never divulge anything marked as SCI or that I know to be SCI to anyone who is not authorized to receive it without prior written authorization from the United States Government Department or agency. . . . that last authorized my access to SCI. I understand that it is my responsibility to consult with appropriate management authorities in [the agency] that last authorized my access to

SCI, whether or not I am still employed by or associated with [the agency]

In addition, I have been advised and am aware that any unauthorized disclosure of SCI by me may constitute a violation or violations of United States criminal laws, including the provisions of . . . Section[] 793 . . . [of] Title 18. United States Code

- 5. KIRIAKOU entered into at least seven additional NDAs in the course of his CIA employment. In each instance, KIRIAKOU promised never to disclose SCI to anyone not authorized to receive it without prior written authorization from the United States Government and acknowledged that unauthorized disclosure of classified information could cause irreparable injury to the United States and be used to advantage by a foreign nation. The scope of these Non-Disclosure Agreements encompassed classified information referenced in this indictment.
- 6. In or about 2004, KIRIAKOU resigned from the CIA, after which time KIRIAKOU retained his continuing, lifelong obligation to the United States to protect the classified information to which he had been granted access while employed as an intelligence officer with the CIA.
- 7. Among the activities in which the CIA participated was an operation in Pakistan in or about March 2002 to capture Abu Zubaydah (the "Abu Zubaydah operation"), a terrorism subject then sought by the United States. The Abu Zubaydah operation fell within the scope of a CIA counterterrorism program known as the Rendition, Detention, and Interrogation Program (the "RDI Program").
- 8. Covert Officer A was a covert CIA employee whose association with the CIA had been classified for more than two decades. Covert Officer A was a covert agent as defined at Title 50, United States Code, Section 426(4). Specifically, at the time of the disclosure, Covert Officer

A was an officer of the CIA whose identity as such an officer was classified information, and who had served outside the United States within the last five years. As the defendant knew, the United States Government was taking affirmative measures to conceal Covert Officer A's intelligence relationship to the United States.

- 9. On or about July 11, 2008, KIRIAKOU received an email from Journalist A, a person not authorized by the United States Government to receive classified information who asked, "Can you remember the name(s) of any of the [specific CIA office] branch chiefs?" KIRIAKOU replied, "Sorry, [first name of Journalist A]. I never met any of those guys. And we never, ever dealt with them in [overseas city]."
- 10. On or about the same day, KIRIAKOU responded separately to two emails that Journalist A sent in reply to KIRIAKOU's email of earlier that day:
- a. In one email, Journalist A stated, "Presumably, [first name of Covert Officer A]." KIRIAKOU replied, "He had been my branch chief in [specific office,] [b]ut he's the only one I ever came into contact with."
- b. In a second email, Journalist A asked, "Presumably [first name of Covert Officer A] worked in that group though, right?" KIRIAKOU replied, "I assume he did. And actually, I'm not sure he was the chief of it. He was the team leader on [specific CIA operation], though."
- I1. On or about August 18, 2008, KIRIAKOU received an email from Journalist A asking KIRIAKOU to "pick out [first name of Covert Officer A]'s last name" from a list of names that Journalist A provided in the email, but which did not, in fact, include the name of Covert Officer A. Journalist A explained, "I'm not sure he's still in [country], but maybe he's on this list I've pulled."

- 12. On or about August 19, 2008, KIRIAKOU emailed the first and last name of Covert Officer A to Journalist A and remarked, "It came to me last night."
- 13. On or about April 8, 2009, in response to an email from Journalist A, who asked, "Ever know a [name] in [specific CIA office]," defendant KIRIAKOU replied, "Sorry, [first name of Journalist A]. I didn't know the [specific office] people by name except for [first name of Covert Officer A]."
- 14. On January 19, 2012, KIRIAKOU was interviewed by two FBI agents. The interview was recorded. During the interview, the agents informed KIRIAKOU that Covert Officer A's name had been included in a classified defense filing filed by defense attorneys representing high-value detainees at the U.S. Naval Station at Guantanamo Bay, Cuba. KIRIAKOU stated, among other things, "How the heck did they get him? . . . [Covert Officer A] was always undercover. His entire career was undercover." The agents asked, "Do you have any idea how anybody would have gotten his first and last name?" KIRIAKOU replied, "Oh, my God. No." KIRIAKOU also stated that he never provided Covert Officer A's name or any other information about Covert Officer A to any journalist and stated, "Once they get names, I mean, this is scary."
- 15. At the time of the unauthorized disclosure, the identification of Covert Officer A as "the team leader on [specific operation]" was classified at the Top Secret/SCI level because it revealed both Covert Officer A's identity and his association with the specific operation and the RDI Program.
- 16. When KIRIAKOU disclosed the identity of Officer A to Journalist A, KIRIAKOU acted willfully in that defendant knew the disclosure was illegal.
 - 17. In addition to the foregoing proof, the defendant also acknowledges the following.

- 18. Officer B was employed by the CIA as an analyst assigned to the CounterTerrorism Center. Officer B was not a covert agent and his association with the CIA was not itself classified, but his association with certain CIA programs was classified. In or about March 2002, Officer B worked overseas with KIRIAKOU on the Abu Zubaydah operation. The association of Officer B with the Abu Zubaydah operation was classified until January 2012, when it was declassified for purposes of this prosecution.
- 19. In a series of emails in 2007 and 2008, after Officer B had retired from the CIA, KIRIAKOU disclosed to Journalist A and Journalist B that Officer B was associated with the Abu Zubaydah operation. Based in part on that disclosure, and on contact information reflected on Officer B's business card that Officer B had provided to KIRIAKOU after Officer B retired from the CIA, Journalist B published a June 22, 2008 article in *The New York Times* entitled "Inside the Interrogation of a 9/11 Mastermind" (the "Article"), which identified Officer B by name. In addition, unbeknownst to Kiriakou, Journalist A passed the information he obtained from KIRIAKOU to an investigator assisting in the defense of high-value detainees at Guantanamo Bay, Cuba.
- 20. When interviewed by FBI agents on January 19, 2012, KIRIAKOU was asked whether the association of Officer B with the Abu Zubaydah operation was classified. KIRIAKOU answered, "Absolutely, absolutely." However, KIRIAKOU denied providing Officer B's name or other information about Officer B to Journalist B prior to the June 22, 2008 New York Times article. Specifically, agents asked, "with regards to the [Journalist B] article and [Officer B]'s name coming out in it. You had nothing to do with providing information to [Journalist B]?" KIRIAKOU answered, "Heavens no! On his . . . ? His identity and stuff like that?" The agent stated, "Yeah."

The defendant answered, "No." The agent asked, "Like his identity or contact information, or any of that stuff for [Officer B]?" KIRIAKOU answered, "No. He had it." The agent asked, "His identity and contact information [for Officer B]?" KIRIAKOU answered, "No."

- 21. In approximately 2009, KIRIAKOU authored a book, *The Reluctant Spy: My Secret Life in the CIA's War on Terror*, with a coauthor (the "book"), which purports to describe KIRIAKOU'S work on behalf of the CIA. Prior to the publication of the book, KIRIAKOU submitted multiple draft manuscripts of the book to the CIA's Publication Review Board ("PRB"), which reviewed the draft manuscripts to ensure that classified information would not be disclosed to the public.
- 22. As reflected in a transcript of a recorded interview conducted in or about August 2007 to assist KIRIAKOU's coauthor in drafting the book, KIRIAKOU described to his coauthor the technique, which KIRIAKOU referred to as the "magic box," and informed his coauthor that the CIA had used the technique in the Abu Zubaydah operation.
- 23. Subsequently, in the Article published in The New York Times on June 22, 2008, referenced above, the technique was disclosed and referred to as a "magic box." In an email dated June 30, 2008, KIRIAKOU again described the technique to his coauthor and stated that he thought "at the time [using the technique] was a great idea, conceptually."
- 24. A few days later, in an email dated July 2, 2008, KIRIAKOU's coauthor informed KIRIAKOU, among other things, that he had "just finished 6,000-plus words over two chapters on the Abu Zubaydah episode, I'm wondering how much of this PRB will let us publish." A few hours later, KIRIAKOU responded to his coauthor, stating, among other things, that "I'm guessing they'll let us publish a good chunk of the Abu Zubaydah story. They objected to some of the details of the

planning for the capture, but what I propose doing is telling them that we've fictionalized much of it (even if we haven't)."

- 25. Approximately one month later, by letter dated July 28, 2008 (the "Letter"), KIRIAKOU submitted a draft manuscript of the book to the PRB (the "Draft Manuscript"). (The Letter and Draft Manuscript comprise the first submission made to the PRB since the email exchange between KIRIAKOU and his coauthor on July 2, 2008.) In the Letter, KIRIAKOU sought permission from the PRB to include a description of the technique in the book stating as follows: "There is a reference early in this chapter to a device called a 'magic box.' I read about this so called device in a New York Times article. The information in that article was clearly fabricated, as we used no such device. I am unaware of any [such] device . . . As it is fictionalized, I believe it is unclassified." The Draft Manuscript described the use of the technique in the Abu Zubaydah operation.
- 26. On August 17, 2008, KIRIAKOU sent to his coauthor a copy of the Letter, along with the Draft Manuscript, by attaching them to an email and, in the text of the email, stated as follows: "Here you go, [first name of coauthor]. I laid it on thick. And I said some things were fictionalized

when in fact they weren't. There's no way they're going to go through years of cable traffic to see if it's fictionalized, so we might get some things through. Enjoy. John."

Respectfully submitted,

Neil MacBride United States Attorney

Mark E. Schneider / Iris Lan / Ryan P. Fayhee Special Attorneys to the Attorney General

By:

W. Neil Hammerstrom, Jr. Assistant United States Attorney

After consulting with my attorney and pursuant to the plea agreement entered into this day between the defendant, JOHN C. KIRIAKOU, and the United States, I hereby stipulate that the above Statement of Facts is true and accurate, and that had the matter proceeded to trial, the United States would have proved the same beyond a reasonable doubt.

John C. Kiriakou

Defendant

I am JOHN C. KIRIAKOU'S attorney. I have carefully reviewed the above Statement of Facts with him. To my knowledge, his decision to stipulate to these facts is an informed and voluntary one.

Date: 10/23/12

Robert P. Trout

Counsel for the Defendant

Date: 10/23/12

John F. Hundley

Counsel for the Defendant

Date: 60/23/12

Mark J. MacDougall

Counsel for the Defendant

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA)
) CRIMINAL NO. 1:12-CR-127
v.)
) The Honorable Leonie M. Brinkema
JOHN C. KIRIAKOU,)
) Sentencing: January 25, 2013
Defendant.)

POSITION OF THE UNITED STATES WITH RESPECT TO SENTENCING

The United States of America, through its attorneys, Neil H. MacBride, United States Attorney, and Mark E. Schneider, Iris Lan, and Ryan P. Fayhee, Special Attorneys to the Attorney General, and Neil Hammerstrom, Assistant United States Attorney, in accordance with 18 U.S.C. § 3553(a) and the Plea Agreement entered pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure, files this Position of the United States With Respect to Sentencing. Specifically, the government requests that this Court impose a sentence of 30 months' imprisonment, a supervised release term of three years, and a special assessment amount of \$100, for the defendant's willful violation of the Intelligence Identities Protection Act, 50 U.S.C. § 421(a). This sentence, agreed by the parties, accords with the Plea Agreement, which this Court accepted and found to be reasonable at the conclusion of the defendant's plea colloquy on October 23, 2012.

The Plea Agreement in this matter is based not on the Sentencing Guidelines but instead on the specific negotiated sentence agreed to pursuant to Rule 11(c)(1)(C). *See United States v. Brown*, 653 F.3d 337, 339 (4th Cir. 2011). Nonetheless, the government notes that it has no objection to the Sentencing Guidelines calculations set forth in the Presentence Report.

I. The Agreed Sentence of 30 Months Is Reasonable

1. Applicable Law

Section 3553 provides that the court should consider the nature and circumstances of the offense and characteristics of the defendant. 18 U.S.C. § 3553(a)(1). In addition, it states that the court must consider other factors, including the need for the sentence "to reflect the seriousness of the offense, to promote respect for law, and to provide just punishment for the offense; [and] to afford adequate deterrence to criminal conduct." 18 U.S.C. § 3553(a)(2)(A) & (B). In addition, the sentence should protect the public from further crimes of the defendant and provide the defendant with needed correctional treatment. 18 U.S.C. § 3553(a)(2)(C) & (D).

2. Discussion

As this Court determined in accepting the Plea Agreement, a sentence of 30 months is reasonable under 18 U.S.C. § 3553(a), given the nature and circumstances of the offense, the characteristics of the defendant, and the purposes of sentencing.

As reflected by the Statement of Facts and the Presentence Report, by the time of the illegal disclosures, the defendant was a former CIA officer who had held numerous security clearances and had signed multiple non-disclosure agreements acknowledging that unauthorized disclosures of classified information could cause irreparable injury to the United States or be used to advantage by a foreign nation. (Statement of Facts ¶ 2-6). At the time of the disclosures, based on the emails reviewed by the government, defendant was engaged in a concerted campaign to raise his media profile, principally to advance his private pecuniary interests through, among other things, consulting engagements, publication of editorials, more remunerative and secure employment, and sales of his forthcoming book. (See, e.g., John Kiriakou, The Reluctant Spy: My Secret Life in the CIA's War

on Terror (2009)).

Despite knowing the grave damage that disclosures of classified information could cause, Kiriakou willfully disclosed to a journalist ("Journalist A") the name of a covert agent whose association with the CIA had been classified for more than twenty years ("Covert Officer A"), as well as classified information reflecting Covert Officer A's association with a CIA counterterrorism program known as the Rendition, Detention, and Interrogation Program (the "RDI Program") and a particular RDI operation. (Statement of Facts ¶ 7-13, 15-16). Indeed, and as he admitted in the Statement of Facts, the defendant made these disclosures, knowing that the government was taking affirmative measures to conceal Covert Officer A's intelligence relationship to the United States (Statement of Facts ¶ 8; see also id. ¶ 14 (reflecting defendant's admission to FBI agents that he was aware that Covert Officer A's "entire career was undercover")). Notwithstanding his recent unsworn denials reported in the media, see Scott Shane, From Spy to Source to Convict, N.Y. TIMES, Jan. 6, 2013, at A1 ("'If I'd known the guy was still under cover, Mr. Kiriakou said, 'I would never have mentioned him.""), the defendant had specifically disavowed to this Court, under affirmation, that he had acted by "accident or mistake," and agreed instead that he acted "willfully," that is, he "knew the disclosure was illegal." (Statement of Facts ¶ 16). To the extent the defendant falsely denies

THE COURT: Do you agree that in the 2008-2009 time period, in this district and elsewhere, that you *intentionally* — and *that means not by an accident or mistake* — disclosed information identifying a covert agent to an individual not authorized to receive classified information, and that *at that time, you knew* that the information disclosed identified the covert agent and that the United States government was taking affirmative measures to conceal that covert agent's intelligence relationship to the United States? Do you agree that that happened?

KIRIAKOU: Yes.

(Dkt. No. 119 (10/23/2012 Tr. 21 at 2-12) (emphasis added)).

¹ Defendant testified as follows at his change of plea hearing:

elements of the offense or relevant conduct in a sentencing allocution, or again seeks to claim the misbegotten title of whistleblower,² such a claim should be squarely rejected and considered as a repudiation of his acceptance of responsibility for the criminal conduct he committed.

The defendant's illegal conduct was not limited his disclosures concerning Covert Officer A. Similarly, as Kiriakou admitted in the Statement of Facts, defendant also disclosed in series of emails to another journalist ("Journalist B") classified information reflecting the association of another CIA officer ("Officer B"), who was not a covert agent, to a particular operation in Pakistan in or about March 2002 to capture Abu Zubaydah (the "Abu Zubaydah operation"), despite knowing that Officer B's association to the operation was classified. (Statement of Facts ¶¶ 18-20). The defendant subsequently lied about both of these disclosures in a January 19, 2012 interview with agents from the Federal Bureau of Investigation, stating that he never provided Covert Officer A's name or any other information about Covert Officer A to any journalist. (Statement of Facts ¶¶ 14, 20). Defendant's deceit was also evident in his lies intended to trick the CIA Publication Review

² This Court has already rejected defendant's claim of vindictive prosecution, which defendant has nonetheless persisted in asserting elsewhere by falsely suggesting a linkage between this prosecution and his 2007 comments to ABC News and other media outlets. As the government has previously noted, the genesis of this prosecution was entirely unrelated to such statements by the defendant, and Kiriakou's claim to be a whistleblower can also be easily dismantled in light of his own prior statements. (See Dkt. No. 50 at 8-16). Specifically, Kiriakou relies heavily on his media statements about an interrogation technique known as waterboarding, referring in particular to statements made during a December 2007 interview with ABC. (See, e.g., Dkt. No. 46 at 2). But Kiriakou's reliance on this interview is misplaced. Despite describing the technique as torture, he defended the technique, describing it as "something we needed to do"; as effective, given that "[t]he threat information that [Abu Zubaydah] provided disrupted a number of attacks, maybe dozens of attacks"; and legal, i.e., "done within the rules." (Id. at 9 (citing Transcript of ABC News Interview with John Kiriakou, dated Dec. 10, 2007)). At the same time, Kiriakou explained that he came forward because he thought the CIA "had gotten a bum rap on waterboarding." Live with Dan Abrams for December 11, 2007, MSNBC http://www.msnbc.msn.com/id/22221848/#.UPhccpLNltk (last visited Jan. 17, 2013). Along the same lines, it is noteworthy that Kiriakou never suggested that Covert Officer A or Officer B engaged in wrongdoing in his emails to journalists. To the contrary, Kiriakou has described Covert Officer A as a "very good guy" (FBI Tr. 40), and claimed to have once been friends with Officer B. (FBI Tr. 28).

Board into inadvertently authorizing the publication of classified information. (Statement of Facts ¶¶ 21-26; Complaint ¶¶ 41-50; Complaint ¶ 48 ("I laid it on thick. And I said some things were fictionalized when in fact they weren't.")).

The kind of damage caused by the defendant's disclosures cannot be underestimated, and the disclosure of the identity of Covert Officer A is particularly compelling from a damage perspective. As the government has learned from Covert Officer A, his identity was so closely held for two decades, that even some members of his own immediate family did not know about his association with the CIA, let alone with any particular program or operation. (*See* Covert Officer A Victim Impact Letter). When viewed in this light, one gains a deeper understanding of not only the potential grave damage to national security, but also to Covert Officer A's personal safety and life. Indeed, it is for these reasons the government prosecutes the kind of criminal conduct perpetrated by the defendant, why it did so in this case, and why these criminal prohibitions are necessary to deter such conduct and meet the government's compelling national security interests.

It is also worth noting that the investigation that led to the discovery of Kiriakou's illegal disclosures began because photographs of CIA and other sensitive government personnel were discovered in the cells of high-value detainees at Guantanamo Bay, Cuba, and the identities of covert personnel appeared in a classified defense filing before the Military Commission at Guantanamo, despite having never been produced through authorized channels. (Affidavit in Support of Criminal Complaint, No. 1:12MJ33 (January 23, 2012) at 2-3, ¶¶ 4-6). The packet of photographs included four photographs of Officer B (*id.* at 20, ¶37), and the classified defense filing included both the true names of Covert Officer A and Officer B and their association with the RDI program. (*Id.* at 13, ¶23 (regarding Covert Officer A); *id.* at 21, ¶38 (regarding Officer B)). Through its investigation,

the government learned that an investigator assisting the defense team representing one or more of the high-value detainees had been looking for information regarding Covert Officer A and Officer B, but had been unable to successfully identify either officer, until Journalist A provided to him Covert Officer A's name and Officer B's telephone number (id. at 4-5, ¶ 10; id. at 12-13, ¶ 22; id. at 20, ¶ 26) — the very two pieces of information that the defendant had previously provided Journalist A, as described above. In short, defendant's illegal disclosures led directly to Officer B being secretly photographed and his photographs being tendered to high-value Guantanamo terrorist detainees — a result Kiriakou himself described as "terrifying." (Id. at 20, ¶ 36; Dkt. No. 50 at 11).

Finally, it is noteworthy that the two charged disclosures concerning Covert Officer A and Officer B were but the tip of the iceberg: the defendant's emails seized during the investigation revealed that Kiriakou disclosed to journalists information about dozens of CIA officers, including numerous covert officers of the National Clandestine Service beyond the one identified in the indictment, as well as others since retired. (CIA01800-21). As the narrowly framed charges reflect, the government was required to "balanc[e] the need for prosecution and the possible damage that a public trial [would] require by way of the disclosure of vital national interest secrets in a public trial." *United States v. Morison*, 844 F.2d 1057, 1067 (4th Cir. 1988). For purposes of sentencing, however, it is sufficient to note that for Kiriakou the charged conduct was in no sense aberrational or reflective of an atypical lapse of judgment.

Having worked fifteen years as a former CIA officer, Kiriakou knew this course of conduct was illegal; he had been warned of the consequences; he knew personally and intimately the grave dangers disclosures such as his posed to those who serve the United States; and he chose repeatedly to violate the law, despite all this. In making these decisions, Kiriakou intentionally betrayed the

trust that had been bestowed on him by the United States, and he betrayed numerous former colleagues who serve the United States in circumstances where silence is their only safety.

II. Conclusion

For the reasons stated, the United States respectfully requests that this Court impose a sentence of 30 months of incarceration, with a supervised release term of three years.

Respectfully Submitted,

Neil H. MacBride United States Attorney

By: /s/
Mark E. Schneider / Iris Lan / Ryan Fayhee
Special Attorneys to the Attorney General

Neil Hammerstrom Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of January 2013, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

Robert Trout / Jesse Winograd / John Hundley / Plato Cacheris Trout Cacheris PLLC 1350 Connecticut Ave NW Suite 300 Washington, DC 20036 (202) 464-3300 Counsel for John C. Kiriakou

I hereby certify that I will cause a copy to be delivered to:

Carla G. Coopwood Senior U.S. Probation Officer Masassas Virginia (703) 366-2113

/s/

Attorney for the United States of America United States Attorney's Office 2100 Jamieson Avenue Alexandria, VA 22314

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IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA ALEXANDRIA DIVISION

UNITED STATES OF AMERICA.

JOHN KIRIAKOU.

Defendant,

Criminal No. 1:12-cr-00127-LMB Filed in Camera and Under Seal With the Classified Information Security Officer

DEFENDANT'S MEMORANDUM IN AID OF SENTENCING

Defendant John Kiriakou, by counsel, and respectfully submits this sentencing memorandum and attachments, for the Court's consideration.

On October 23, 2012, Mr. Kiriakou pled guilty to Count One of the indictment, charging him with intentionally disclosing information identifying a covert agent, in violation of the Intelligence Identities Protection Act ("IPA"), Title 50, United States Code, Section 421(a).

This Court accepted Mr. Kiriakou's guilty ples on October 23, 2012, and upon motion by the government, the remaining counts of the indictment were dismissed. Pursuant to Fed. R. Crim.

P. 11(c)(1)(C), Mr. Kiriakou and the government agree that a sentence of thirty (30) months of imprisonment, followed by three (3) years of supervised release, is appropriate. At the Rule 11 hearing on October 23, 2012, the Court indicated this was an appropriate resolution, accepted the guilty ples, and set the case for sentencing Mr. Kiriakou's sentencing hearing is scheduled for Friday, January 25, 2013, at 9:00 a.m.

¹ The attachments consist of (A) letters submitted in support of Mr. Kiriakou and (B) a classified addendum that describes in more detail. Mr. Kiriakou's service to the United States, including several awards and commendations he received for exceptional service in support of classified operations.

Introduction

Mr. Kiriskou recognizes that because the plea was entered pursuant to Fed. R. Crim. P. 11(c)(1)(C), the Court is bound to a sentence of a term of imprisonment of thirty (30) months on Count One, with no fine, a term of supervised release of three (3) years, and a special assessment of \$100. Despite the fact that Mr. Kiriskou's sentence is fixed, he believes it is appropriate to present his background, the nature and circumstances of the offense, the advisory U.S. Sentencing Guidelines ("the Guidelines") calculation and other sentencing factors for the purposes of having a complete record, and to demonstrate why the agreed upon sentence is appropriate despite the term of imprisonment being below the recommended Guideline range.

Mr. Kiriakou has committed his life to public service and the defense of America's national security against hostile foreign powers and terrorist threats. In the course of his service to the United States and the Central Intelligence Agency ("CIA"), Mr. Kiriakou placed himself in harm's way on countless occasions, carning the CIA's Exceptional Service Award no fewer than ten times. In letters submitted to this Court, Mr. Kiriakou's former colleagues at the CIA have praised him as an officer of exceptional integrity, dedication to mission, hard work, compassion and good humor" who "performed with discipline and brilliance." One former colleague describes him as "an unsung hero in pursuing the Agency mission." Another recalls "the amount of time he spent helping other coworkers despite the competitive environment in which we worked where kindness could be perceived as weakness." As detailed herein, Mr. Kiriakou's nearly lifteen years of distinguished service to the CIA, followed by more than two years of service as a Senior Investigator for the U.S. Scriate Committee on Foreign Relations, demonstrate his extraordinary and selfless commitment to public service and his dedication to protecting our country and its allies.

Mr. Kiriakou's service to his country, and his commitment to the values and ideals that led him to a life of public service, continued after his retirement from the CIA when he made the decision to publicly comment on the CIA's excesses during the early years of what has been referred to as the "war on terror." In December 2007, Mr. Kiriakou gave an unprecedented interview to ABC News, during which he stated that the CIA had employed enhanced interrogation techniques, including water boarding, which amounted to torture. In so doing, Mr. Kiriakou became the first person associated with the CIA to formally and publicly acknowledge the agency's use of so-called "enhanced interrogation techniques" on terrorist suspects.

Although Mr. Kiriakou's statements angered many of his former friends and colleagues at the CIA – resulting in a report being filed with the Department of Justice based on the interview – Mr. Kiriakou's explanation for his actions was simple: "We're Americans and we're better than that." Although Mr. Kiriakou's actions in this regard were no doubt controversial, they were motivated by the same commitment to American values that led him to place his life on the line in service of national security.

In addition to serving this country; Mr. Kiriakou is a devoted husband and father of five children, was a thoughtful and caring son to his mother and father, and is a trusted and loyal friend to many. One friend and former colleague recounts, in his letter to the Court, how Mr. Kiriakou helped to save him from "ainking into depression" through simple acts of friendship and kindness after his wife's unsuccessful battle with cancer. Another recalls how Mr. Kiriakou "helped [him] through personal crises, including [his] late brother's battle against AIDS." And still another writes of Mr. Kiriakou's love and adoration for his wife and five children, and the "loving atmosphere, filled with compassion, warmth, and laughter" that Mr. Kiriakou has cultivated in his home.

Mr. Kiriakou has fully and forthrightly accepted responsibility for his actions and recognizes the seriousness of the crime to which he has pled guilty. Yet while many will never know Mr. Kiriakou spart from this prosecution, the incident that led to this moment cannot undo the reality of Mr. Kiriakou's life in full—a life dedicated to the values of freedom, decency, public service, and love of country. As the government concedes, although Mr. Kiriakou's crime was unquestionably serious, he was never motivated by any desire to harm the United States, national security, the CIA's critical mission abroad, or any individual person. The absence of such intent does not absolve him of responsibility for his crime, but it is an important factor in understanding why the fixed sentence is, appropriately, below the advisory Guideline range.

The Nature and Circumstances of the Offense

In 2006, Journalist A told Mr. Kiriakou that he was working on a book about the Abu

Omar rendition in Milan. That was false. Journalist A has never published a book on that
subject and the defense is aware of no evidence that he was ever working on one. In reality,
unknown to Mr. Kiriakou, Journalist A was acting as a private investigator on behalf of lawyers
representing terrorist detainees in Guantanamo Bay. Cubs. and was forwarding the information
he received from Mr. Kiriakou, as well as information he received from many other individuals,
to another private investigator working with the detainees' lawyers. Mr. Kiriakou now realizes
that he made a very serious mistake in passing any information to Journalist A, but he would not
have done so had he known how Journalist A, would make use of that information.

In July 2008, Journalist A sent emails to Mr. Kiriakou inquiring about the names of the branch chiefs at a specific CIA office. Mr. Kiriakou responded that he did not know the names. Journalist A persisted, asking questions about a CIA officer identified only by a first name. The questions themselves seemed to imply that Journalist A already had the name of the agent

referred to in the indictment as Covert Officer A. Mr. Kiriakou responded to Journalist A's questions in a manner that inferentially confirmed the first name – but only the first name – of the individual referred to as Covert Officer A.

Over a month later, on August 18, 2008, Journalist A emailed Mr. Kiriakou with a list of names and asked Mr. Kiriakou if he could identify from the list the last name of the person previously identified by first name only. The name came to Mr. Kiriakou that night, and early the next morning, without giving the matter much thought, he emailed the name to Journalist A. Shortly thereafter, without Mr. Kiriakou's knowledge, Journalist A emailed the name to a private investigator for a defense team representing Quantanamo Bay detainees.

Mr. Kiriakou's career is more than this one incident. During his more than fifteen years of service to the CIA, Mr. Kiriakou diligently guarded and protected the classified information entrusted to him. Mr. Kiriakou's conduct in protecting the nation's secrets over more than a decade amply demonstrates that his actions — while serious and wrong.— were not in keeping with Mr. Kiriakou's normal behavior.

Discussion of Sentencing Factors

Following United States v. Booker, 543 U.S. 220 (2005), the Court must impose a sentence in accordance with 18 U.S.C. § 3553(a), and should not presume that a sentence calculated pursuant to the Guidelines is appropriate, mandatory or reasonable. See Rita v. United States, 551 U.S. 338, 351 (2007) ("[F]he sentencing court does not enjoy the benefit of a legal presumption that the Guidelines sentence should apply.") (citation omitted); Gall v. United States, 552 U.S. 38, 49-50 (2007) ("[T]he district judge should [] consider all of the [18 U.S.C.] § 3553(a) factors to determine whether they support the sentence requested by a party.").

A correctly calculated Guidelines range is a single factor for the Court to consider in imposing a sentence. 18 U.S.C. § 3553(a)(4). Ultimately, however, it is the § 3553(a) factors, on the whole, which justify a sentence. Gall, 552 U.S. at 60 (affirming district court's reasoning "that the § 3553(a) factors, on the whole, justified the sentence"); United States v. Go, 517 F.3d 216, 218 (4th.Cir. 2008) (affirming district court's decision that the "3553(a) factors, on a whole, justify the extent of the variance" from the Guidelines range).

Most significantly, the court must impose a sentence "sufficient, but not greater than necessary" to comply with the purposes of punishment set forth in 18 U.S.C. § 3553(a)(2). See also Kimbrough v. United States, 552 U.S. 85, 100-01 (2007); United States v. Tucker, 473 P.3d 556, 561 (4th Cir. 2007). Those purposes include the need to (1) "reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense"; (2) "afford adequate deterrence to criminal conduct"; and (3) "protect the public from further crimes of the defendant." 18 U.S.C. § 3553(a)(2)(A), (B) and (C).

Pursuant to § 3553(a), courts must also consider a number of other factors, including "the nature and circumstances of the offense and the history and characteristics of the defendant"; "the kinds of sentences available"; the Guidelines; and "the need to avoid unwarranted sentence disparities." Id at § 3553(a)(1), (3), (4), and (6).

A. Advisory Sentencing Guidelines

Mr. Kirikaou submits that the total offense level for the offense should be calculated at level 28. This is derived from the base offense level of 30 under U.S.S.G. § 2M3.9, reduced by two points under U.S.S.G. § 3E1.1 for acceptance of responsibility. The advisory guideline range for offense level 28 (and Criminal History Category I) is 78-97 months imprisonment.

The government argued for a two point enhancement for obstruction of justice under U.S.S.G. § 3C1.1, claiming that the acceptance of responsibility reduction was not available where there was obstruction of justice. In the Presentence Report, the U.S. Probation Officer calculated a total offense level of 30, accepting the government's argument that Mr. Kiriakou obstructed justice, but rejecting the government's argument that Mr. Kiriakou was thereby precluded from receiving a reduction for acceptance of responsibility. For the reasons set forth below, Mr. Kiriakou respectfully submits that the probation officer was incorrect in applying a two point enhancement for obstruction of justice, but she was correct in finding that a two point reduction for acceptance of responsibility was appropriate, even if the obstruction of justice enhancement were applicable.

In its letter to the probation officer, the government contends that a two level enhancement applies "because the defendant attempted to obstruct and impede the investigation of the offense of conviction, and the obstructive conduct related to the offense of conviction and other relevant conduct described in the Plea Agreement." Specifically, the government alleges, without substantiating evidence, that Mr. Kiriakou "destroyed his incriminating emails with Journalist A" after being alerted to the fact that he was the subject of a government investigation. In the absence of evidence proving that Mr. Kiriakou deleted these emails in order to frustrate a criminal investigation of which he was aware, the enhancement for obstruction of justice cannot apply. Mr. Kiriakou denies that he deleted emails to obstruct or impede the government's investigation.

Although the government alleges that Mr. Kiriakou was told he was the target of an investigation and deleted relevant emails as a result, thereafter Mr. Kiriakou, in fact, voluntarily met with FBI agents, without the presence of counsel, in order to discuss the government's

investigation of the inclusion of certain information in filings by defense counsel for Guantanamo Bay detainees. Only at the end of the interview did Mr. Kiriakou learn that he was, himself, the target of the investigation. In short, if the email deletion was motivated by a concern that he was under investigation, then Mr. Kiriakou would not at a later date have voluntarily submitted to an FBI interview. The government's proffer as to the email deletion is highly speculative and does not satisfy the preponderance of the evidence standard necessary for a factual finding of obstruction of justice.

In addition, the enhancement for obstruction of justice should not apply because the government has not provided the defense with evidence with which to assess such a claim. While the defense is in possession of copies of Mr. Kiriakou's computer hard drives, the information on them is current as of the time of their seizure, which is after the government claims the emails were deleted. The government has not provided the defense with any analysis of Mr. Kiriakou's computers and files comparing the state of Mr. Kiriakou's email accounts before and after seizure. There is simply no way to know the breadth and nature of emails deleted beyond the small number the government wishes to focus on in order to enhance the recommended sentencing range.

As found in the final Presentance Report, even if the Court were to find the enhancement pursuant to U.S.S.G § 3C1.1 applicable despits Mr. Kiriakou's objections, that finding does not preclude a finding that Mr. Kiriakou - who pled guilty - has accepted responsibility for his

offense. The Guidelines specifically allow for instances where adjustments under both U.S.S.Q. §§ 3C1.1 and 3E1.1 may apply. See U.S.S.Q. §3E1.1 (cmt. 4).2

B. Other Sentencing Factors

1. Mr. Kiriakou's Professional and Personal History

Pursuant to § 3553(a)(1), the Court-must consider Mr. Kiriakou's "history and characteristics" when sentencing. In this case, that consideration must begin with Mr. Kiriakou's nearly fifteen years of courageous and exemplary service to the United States and the CIA.

Mr. Kiriakou joined the CIA in January 1990. During his service, he learned Arabic in order to carry out a two-year assignment. Thereafter, he worked as a political analyst focused on Middle Eastern countries, including Bahrain, Kuwait, Qatar, and Iraq before transitioning to operations work in the CIA. Such a transition was atypical and placed Mr. Kiriakou in more dangerous and potentially life threatening circumstances. Mr. Kiriakou served abroad in Greece in 1999, this time as a counterterrorist operations officer. While in Greece, Mr. Kiriakou was targeted by a terrorist organization, but the group assassinated a British military attache instead. After leaving Greece, Mr. Kiriakou served in Pakistan as chief of counterterrorist operations. Later, he worked in the Osama bin Laden unit and was involved in the capture of Abu Zubaydah. Throughout his service to the CIA; Mr. Kiriakou put himself in harm's way in order to advance our country's national security interests.

³ A classified addendum to this memorandum is also being filed to more particularly articulate Mr. Kiriakou's contributions while in the CIA.

In addition to objecting to the probation officer's calculation of the total offense level, Mr. Kiriakou objected to the probation officer's finding that Mr. Kiriakou has the ability to pay a fine. In light of the fact that no fine is called for under the agreed and binding sentence, Mr. Kiriakou will not otherwise address his ability to pay a fine in this memorandum.

Even after his departure from the CIA, Mr. Kiriakou's commitment to public service continued through his work as a senior investigator for the Senate Foreign Relations Committee. During his employment, Mr. Kiriakou investigated the threat posed by terrorist cells in Yemen, Somalia, Ethiopia and Djibouti. He authored a report that exposed the danger these countries continued to pose to the United States, including from U.S. citizens who had become terrorists. In regards to that report, Mr. Kiriakou carned praise from the Senate Select Committee on Intelligence.

As noted above, Mr. Kirlakou is a fervent family man who left his position with the CIA in order to allow him a schedule that could accommodate visitation with his two oldest children. As one letter writer notes, every other week for years, Mr. Kirlakou would drive from Washington, D.C. to Warren. Ohio to visit his children from his first marriage. Mr. Kirlakou is committed to remaining active in all his children's lives and has great remorse as to the impact his imprisonment will have, particularly upon his three youngest children. This case has taken a great emotional and financial toll upon Mr. Kirlakou's family, which he deeply regrets.

Nonetheless, Mr. Kirlakou looks forward to returning to and helping provide for his family once his term of imprisonment is completed.

2. The Seriousness of the Offense-Just Punishment and Deterrence

To counsel's knowledge, this is only the second oriminal prosecution under the IIPA in history. It is the first in twenty-seven years. More recently, in the case related to Valerie Plama, there was a very high profile prosecution arising from the disclosure of a covert agent's identity. In that case, the covert agent's identity was very publicly and very widely disclosed, and it seems clear that the various actors' motivations underlying that disclosure of the covert agent's identity – petty political paybacks – were anything but noble. Although the government did bring an

indictment following its leak investigation, it was for obstruction, false statements, and perjury, no one was indicted under the IIPA. In the end, Scooter Libby challenged the prosecution, went to trial, was convicted, and was sentenced to thirty months imprisonment. The President of the United States promptly commuted the sentence of imprisonment so that Mr. Libby would not spend even one hour in confinement.

The history of the Plame case is recounted not to depreciate the scriousness of Mr. Kiriakou's offense. Rather it is to put his offense in context. No one could listen to Mr. Kiriakou's FBI interview and think that he did not understand the importance of not publicly disclosing the identity of a covert agent, a role that Mr. Kiriakou himself had.

In this case, Mr. Kiriakou never intended that Covert Offices A's name would be publicly disclosed. He thought—or rather, he was misled to think—that he was merely providing a potential source who might be willing to provide firsthand knowledge about activities that had already been widely reported in the press and that raised significant policy issues that continue to be debated today.

Misled as he may have been, he was also narve and thoughtless not to have appreciated that once he made disclosure to anyone not entitled to have the information, he had no centrol over its use. Although Mr. Kiriakou's email to Journalist A regarding Covert Officer A's name did not result in a public disclosure as the Plame outing did; Mr. Kiriakou fully appreciates that the disclosure gave rise to the potential for the sort of abuse that the IIPA was intended to address. Mr. Kiriakou will pay a very dire price for his offense.

The 30 month sentence, albeit below the advisory guideline range, is nevertheless severe.

Measured against the commuted sentence in the Libby case – where there was no guilty plea and where there was little but ugliness underlying Plame's very public opting – there can be little

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doubt that Mr. Kiriakou's 30 month sentence is sufficient to satisfy the requirements of 18 U.S.C. § 3553. Mr. Kiriakou's prosecution and conviction has been heavily covered in the press, and to counsel's knowledge, there has been no suggestion that Mr. Kiriakou is receiving a sentence that is too lenient. If anything, the question has been raised whether it is too harsh.

Apart from the 30 months of imprisonment he faces, Mr. Kiriakou's actions have dramatically changed his life for the worse Prior to his arrest, Mr. Kiriakou was a respected author, commentator, and consultant with a proud record of public service to the CIA and Senate Foreign Relations Committee. He had the ability to obtain well-compensated employment in the private sector. Now, he has suffered the loss of vocation, loss of reputation, loss of livelihood, not to mention the pain and humiliation he has visited upon his family. While the same could be said about many criminal defendants, given the high profile of this case, these collateral consequences are especially harsh in this case.

C. Supervised Release Conditions

Pursuant to U.S.S.G § 5D1.3, certain conditions of supervised release are mandatory while other "standard" conditions are discretionary. In light of Mr. Kiriakou's strong family ties, absence of a prior criminal record, and lack of a substance abuse problem, the discretionary conditions for supervised release are inapplicable.

Conclusion

For the reasons stated herein, Mr. Kirlakou respectfully submits that the agreed sentence of 30 months imprisonment is reasonable and appropriate under 18 U.S.C. § 3553, notwithstanding that it is below the advisory sentence calculated under the sentencing guidelines.

Mr. Kirlakou asks that he be allowed to self-surrender to the Bureau of Prisons once he is

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assigned to a facility, and that the Court recommend the sentence be served at the minimum security camp adjacent to FCI Loretto.

REDACTED / CLEARED FOR PUBLIC RELEASE

Respectfully submitted.

/s/ Plato Cacheris

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Certificate of Service

I hereby certify that on this 18th day of January, 2013, I filed the foregoing Memorandum, by hand, with the Classified Information Security Officer pursuant to the Protective Order for Classified Information Pursuant to the Protective Order, the Classified Information Security Officer will deliver the foregoing to the Court and to Counsel for the United States.

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ATTACHMENT A TO DEFENDANT'S MEMORANDUM IN AID OF SENTENCING

Fulton-T. Armstrong. 213 North Abingdon Street Arlington, Virginia 22203 January 2, 2013

The Honorable Leonie M. Brinkema.

United States District Court for the Pastern District of Virginia
401 Courthouse Square.

Alexandria, Va. 22314

Dear Judge Brinkema:

I have known John Kiriakou personally for about four years—and longer by his reputation as an outstanding officer of our intelligence community. I have never doubted his integrity, intelligence, respect for the law, and commitment to our nation. He is a good man, and his family, his friends, and his community need him.

John is one of the rare intelligence officers with whom I have worked over the years (including 24 years in CIA) whose belief in the Agency's mission – embodied in a quote from the evangelist John engraved in the great fover of the headquarters building—never wavered. On the wall facing the stars commemorating Agency officers killed in action are engraved the following words: "And ye shall know the truth and the truth shall make you free." Mr. Kirjakou remained loyal to that throughout his career.

I believe Mr. Kiriakou's every action, including any misjudgments in conduct he may have made, were motivated by the highest ideals that our society reveres. He has repeatedly demonstrated to colleagues, peers and friends that he deserved – and still deserves – our trust and support. As a student, intelligence analyst, operations officer, friend, husband and father, he has brought enthusiasm, commitment and energy to all he does.

Often taking difficult risks, Mr. Kiriakou performed with discipline and brilliance. His autobiography, The Reluctant Spy: My Secret Life in the CLA's War on Terror, merely scratches the surface of the quality of officer that Mr. Kiriakou was while in the Agency. In support of the U.S. national interest and strictly within the chain of command, he repeatedly took risks that put him in harm's way on the street in hostile environments. He is an unsung hero in pursuing the Agency mission.

In support of the essential public interest in any democracy, moreover, he took risks in the bureaucracy that put him in harm's way—telling truth to power, constructively criticizing programs and operations when warranted, and cajoling enterprising colleagues to remain loyal to the organization's ultimate mission. I know well that this latter commitment cost him dearly, as it costs all in the minority who keep personal ambition in check and keep Agency mission in the fore of all they do. Refusing to "go with the flow," is morally satisfying but lonely and costly, but Mr. Kiriakou had the discipline to remain loyal to his beliefs.

On the staff of the United States Senste Committee on Foreign Relations, Mr. Kiriakou again demonstrated professionalism and commitment. As senior investigator, he successfully transferred his skills as an intelligence officer to conduct oversight of the departments and agencies over which the Committee had jurisdiction (State Department, USAID, the Broadcasting Board of Governors, etc.). He accepted the difficult task of peering into programs enjoying strong political and bureaucratic support, and he did it withidelicacy and sophistication. One investigation on which he and I collaborated closely identified a series of problems with a popular program, and the recommendations in his final report helped the agency in question as well as other Senate officers concerned about how U.S. taxpayer money was being spent.

Mr. Kiriakou has also been a good and generous friend. After I retired from government service (after 31 years), he helped me learn how to do consulting, to find clients, and to service those clients. He never hesitated to help me with introductions, and our chars were consistently uplifting and inspirational. Washington is known as a cut-throat town, but Mr. Kiriakou repeatedly showed he was the opposite — a man who helped friends without preconditions.

It has been painful to watch Mr. Kirlakou's travails over the past year. He and his family have suffered deeply, but they have never once turned away from their commitment to the many values that have made our country great, including the values of integrity, honesty, and acceptance of responsibility for one's errors.

Sincerely,

December 15, 2012

The Honorable Leonie M. Brinkema.
United States District Court for the Eastern District of Virginia.
401 Courthouse Square
Alexandria, Va. 22314

Dear Judge Brinkema,

I am writing to you on behalf of Mr. John Kiriskou, whom I have known since 1998 when we were both serving the United States Government at the U.S. Embassy Athens. Since my return to Washington D.C. in 2000, I have remained in contact with John and over the last two years have returned to Virginia on occasions and been an overnight guest in his home. I've thus had the opportunity to see him at work serving his country and around his wife and small children, about whom he obviously cares greatly. I remember watching him play on the floor with his young daughter one evening at his home and it brought to my mind what an A-Z range of emotions and experiences he had had up to that point in his life. Here was a man who had played a key role in the capture of the terrorist Abu Zabaydah in Pakistan, showing his cool demeanor in a dangerous setting, yet he was equally comfortable playing "tickle monster" with his daughter and laughing like a fool.

John is a highly ethical individual, who has publicly spoken out about issues he has felt strongly about during his CIA career and afterwards. We actually disagree on certain issues of CIA practices, but John is a calm, rational fellow who believes everybody is entitled to their view. I actually use John as a positive example in my classes that I teach at Indiana University when discussing matters of conscience and ethical behavior by government employees, and where he has been a guest speaker. The students loved listening to his lecture and chatting informally with him for several hours.

John has overcome befores number of adverse challenges in his personal life and during his career overseas with the CIA. Nobody enjoys going to prison, but he will handle the situation well and make good use of his free time there. When he comes back out into society, I'm sure he'll find some way to make himself a contributor in whatever community he lands and he'll pick up with his family life. Hopefully that time in prison will be as short as the law allows.

Respectfully.

(Signed)
Gene Coyle (CIA ret)
Indiana University
Bloomington, Indiana



CIVIL COURT OF THE CITY OF NEW YORK 141 LIVINGSTON STREET BROOKLYN, N.Y. 11201

CHAMPIERS OF THOMAS M. PITZPATRICK JUDGE HOUSING PART

December 20, 2012

The Honorable Leonie M. Brinkens
U.S. District Court
401 Courthouse Square
Alexandria, VA-22314

Dear Judge Brinkema,

John Kirlakou recently pled guilty to a felony in a case before you. I write this letter as a character reference on his behalf.

John has been my friend since 1982, when we were both freshmen at George Washington University. I know John to be as kind and gentle as he is soft spoken. He was a diligent student who attended GWU on a one half tuition academic scholarship. He worked and borrowed to pay the rest himself.

As a student, John always acted on behalf of follow human beings: He was a regular volunteer at Miriam's Kitchen, a soup kitchen operated by the ecumenical GWU Campus Ministry. On several occasions he organized a bus to bring students to anti-apartheid protests at the South African Brubassy. He helped lead an event called the OxPam America Past for a World Harvest. He energetically lent himself to variety of causes that championed the meek.

Through the years he has been a loyal and caring friend. He has belied me through personal crises, including my late brother's battle against AIDS.

John is a dedicated and loving father of five children. For many years after a divorce John made the long drive from Washington to Warren. Ohio, every other week without fail, to visit his two oldest children.

John is an extremely patriotic American, who is proud of our ideals. For him, public service was a calling. In 1994, in Bahrain, I witnessed him display physical courage in the performance of his duty. One night, after hearing explosions and gunfire, he entered a Shia enclave at to observe and report on a riotous confrontation between angry young men and Pakistani mercenaries.

On the morning of September 11/2001 my wife's foot was injured as she hurried down from her office on the 92nd floor of I wo World Trade Center. In the war on terror John served our country with distinction. His exemplary service, courage and achievement were recognized with awards from the Central Intelligence Agency. My wife, Julie, and I are so very proud of him.

John is an extraordinary individual who conducts himself with honor and a very strong moral purpose. He osmot be praised enough Jam fortunate for his friendship.

Sincercly.

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9809 Limoges Drive Fairfax: VA. 22032

The Honorable Leonie M. Brinkema.
United States District Court for the Eastern District of Virginia.
401 Courthouse Square
Alexandria, Va. 22314

January 12, 2013

Your Honor:

This is in regard to the case of John C, Kiriakou, who has pled guilty in your Court to the crime of violating the Intelligence Identities Protection Act. I am profoundly saddened by this situation, since I have known Mr. Kiriakou for over 20 years and regard him as a highly decent, loyal, and honorable man who has endangered his safety and his life on behalf of his country, his government, and his agency, the CIA.

Re: John C. Kiriskou

I am a retired Foreign Service Officer, having served in the Department of State and in overseas embassies for over 30 years. Currently, I am a private contractor in the Department of Defense, Defense Intelligence Agency, Office of Counterintelligence. I am writing strictly as a private individual, not on behalf of my company or any U.S. Government agency.

I first met Mr. Kiriakou in approximately 1991 when, as part of a work-related tour of several countries, he visited the U.S. Embassy in Qatar, where I was the Political-Economic Officer. His intellect and knowledge were impressive on that visit, but I got to really know him in Bahrain, where we worked together from mid-1994 to mid-1996; and we have been friends since then. He was Economic Officer, and I as the head of the Embassy's Economic Section, was his direct supervisor. John Kiriakou was an ideal officer—hard-working, resourceful, highly intelligent, skilled at drafting reports quickly and accurately, responsive to tasking, always helpful, and with a consistently positive attitude. His encyclopedic economic and political knowledge of Persian Gulf countries—not limited to Bahrain—was a major asset for the Embassy.

The 1994-96 period when Mr. Kiriakou was making such a useful contribution to the U.S. Embassy was not an easy time to be in Bahrain. Mostly it coincided with an Iranian-supported 1994-1999 Shia uprising against the Sunni-dominated government. His housing development was surrounded by Shia villages, and getting home in the evening often involved threading his way through a shifting maze of government road closures and opposition roadblocks of rocks and burning tires. There were rarely nights when no bombs could be heard exploding in the surrounding area. The worst explosion, June 25, 1996, was in nearby al-Khobar, Saudi Arabia, rather than in Bahrain, but it was strong enough to totally shatter John's living-room windows. That was the Khobar Towers bombing, in which 19 American servicemen died. The next day, the Embassy dispatched John to al-Khobar to help with the USG response, and he saw the scene of the destruction close-up before clean-up began, while it was still smoking and bloodstains were still evident. That was the last major work assignment of Mr. Kiriakou's posting to Bahrain, as he left a month later.

I believe that John's experiences in Bahrain and Saudi Arabla played a role in his decision to leave his safe job as an analyst and to transfer, a year later, into CIA Operations, with dangerous counter-terrorism work in Greece as his first assignment. Shortly after 9/11, he pushed for an assignment in the main counter-terrorism war zone of Afghanistan and Pakistan, as a result of which he was sent to Pakistan and led the capture of al-Qaeda terrorists, including the notorious Abu Zubaidah. Both of these assignments, in Greece and in Pakistan, were highly dangerous—John was literally risking his life. As his friend, I was very much conceined for his safety, and I expressed my concern to John over the risks he was taking, but he was adamant that they were things that needed to be done and that it was his duty to do what he could to make a difference. From numerous conversations with John over the past two decades. I am totally convinced of the intensity of his patriotism, of his strong desire to contribute to the fight against terrorism, and of his passion for the CIA and its mission.

In 2007, my wife died, after a two-year battle with cancer. I was facing profound loneliness, but, suddenly, nearly all my friends and former colleagues seemed to disappear. Almost no one called, wrote, invited me anywhere, or dropped by to check on how I was doing. Almost no one, except John Kiriakou. Objectively, there was nothing in it for him — I was between jobs, and had not reached a high level in the State Department before my retirement 10 years earlier. I am 20 years older than him; I'm a Republican and he's a Democrat; and I share no known sports interest with him. But out of the loyalty and decency which are so basic to his character, he kept in touch, he made sure we got together from time to time, he helped keep me from sinking into depression, and he helped me get my life to a new normal. That is the sort of person John Kiriakou is.

I cannot condone the crime to which John has pleaded guilty, but John Kiriakou is a fundamentally decent, loyal, honorable, and patriotic man who has repeatedly risked his life for our country and who has already suffered economic ruln as a result of this case.

Sincerely.

Donald A. Pohere

December 18, 2012

The Honorable Leonie M. Brinkema

United States District Court for the Eastern District of Virginia

401 Courthouse Square

Alexandria, VA-22314

Dear Judge Brinkema:

I have known John Kiriakou for 21 years and consider him to be a man of examplary character I met John in 1991 when we were both working as intelligence analysis at the CIA and found him to be honest and forthright, characteristics that I still admire in him today.

As a coworker, John consistently displayed qualities of integrity, dedication to mission, hard work, compassion and good humor. I respect his integrity and believe him to be trustworthy, reliable and sincere. He was consistently friendly, good tempered, and considerate to all around him Whatever pressures arose at work he was unfailingly upbeat and respectful of others.

I am continually impressed by his kindheartedness for others, even when he is facing individual hardship. He has an extraordinary belief in the goodness of other people. He is willing to make the first move to restore a professional relationship or smooth an upset situation, putting his ego aside for the greater good of all. I consider him to be unselfish and kind, keenly sware of the needs of others without an agenda of his own. I recall instances when coworkers treated him unfairly, yet he never spoke badly about them. He tried to understand their motives and was unfailingly forgiving.

I especially admire John's humility. He has accomplished many achievements professionally for the greater good of us all, yet it never increased his ego. When we were young analysts, John was highly regarded by our office management for his exceptional work, yet he never became conceited or arrogant, the all-too typical attitude of the star performers. I used to sit on the opposite side of a cubicle from John, and I was impressed at the amount of time he spent helping other coworkers despite the competitive environment in which we worked where kindness could be perceived as a weakness. Many years later after the capture of Abu Zubaydah, people at work would stop him in the hallway to thank him for his service to our country, and John would laugh and remark to me how amazing it was that strangers would stop to speak to him:

John has an extraordinarily warm and loving nature. He adores his wife Heather and their five children. Their welfare is his highest priority, and he always puts their needs above his own. Their home has a very loving atmosphere, filled with compassion, warmth, and laughter. He takes time to teach charity to his children, including participating in family outings of picking produce at nearby farms to be distributed at a local food bank. Moreover, he is a thoughtful friend and a generous host. And I continue to marvel at John's optimism. He seems to take every situation in stride and always manages to identify the bright side.

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I recognize that he has pled guilty to a crime but stam character, decency and integrity.	ichly believe that he remains a man of upright
character, decency and integrity.	

Sincerely,

Blizabeth Ricdel

ATTACHMENT B TO DEFENDANT'S MEMORANDUM IN AID OF SENTENCING

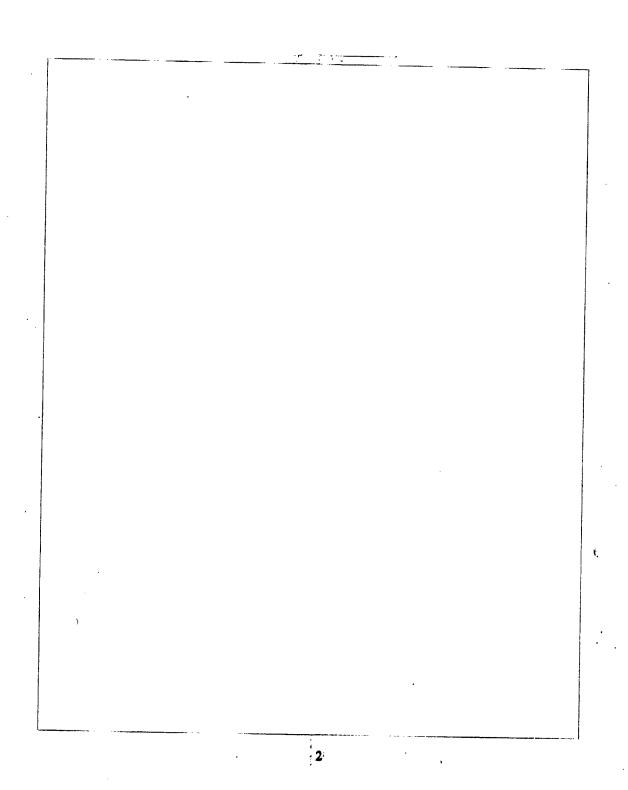
CLASSIFIED ADDENDUM TO DEFENDANT'S SENTENCING MEMORANDUM

Defendant John-Kiriakou, by counsel, respectfully submits the following classified addendum to his sentencing memorandum to further aid the Court in obtaining a full picture of the defendant who is being sentenced. The purpose of this classified addendum is to describe in more detail certain classified aspects of Mr. Kiriakou's service to the Central Intelligence Agency ("CIA"), and in particular the basis for the ten Exceptional Performance Awards that Mr. Kiriakou received for his outstanding service in defense of the national security, including more than one instance in which Mr. Kiriakou placed his own physical safety, and even life, at risk for his country.

1. Exceptional Performance Award (conferred August 2001)

perations 17	
1.19	manager of the control of the first property of the control of the
	November was especially feared within the intelligence
•	for lethally effective assassination operations, which, on
	the murder of the CIA's Athens Station Chief, Richard Welch
7 November's victims subseque	ently included two U.S. military attachés and numerous Greek
overnment ministers, journalist	and foreign diplomats

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Then, one morning in April 200	00, Mr. Kiriakou accidentally overslept and realized tha	iŧ
he would be late for a meeting at work.	Ordinarily, Mr. Kiriakou would drive to work along a	Ł
complicated route designed to evade an	y possible surveillance, but this to his lateness he made	e.a
hasty decision to drive along the straigh	htest and shortest route. As usual, he was driving an	
armored car and was armed at the time.	. On his way in he heard on the radio that traffic was	
backed up because of a terrorist inciden	nt. Eventually, he passed a white Range Rover which h	je
recognized as belonging to a recently a	rrived British defense attache. The windows had all be	en.
shot out and the interior of the car was	covered in bloods. When he arrived	he
told what he had seen	confirmed with the British embassy that the British	h
defense attaché had been assassinated.		
In August of 2000, 17 November	er issued its official communique and acknowledgemen	at ·
	f the British defense attache. In the communique, 17	
November stated that they had seen th	e big spy on the morning of the assassination, but	
elected not to target him because he wa	is armed and driving an armored car and so had killed t	he
British defense attaché instead. After the	his communique was published, the	
informed John that his life was in too m	nuch danger and ordered him to leave.	/
For his service in Athens, which	h resulted in a near-attempt on Mr. Kirlakou's life by th	ie
terrorist organization 17 November; Mr	r. Kirlakou was awarded the CIA's Exceptional	
Performance Award in August 2001.		
2. Exceptional Performance	e Award (conferred December 2001)	
After returning to the United St	ates in August 2001, Mr. Kiriakov was asked	
to assist w	ith a counter-espionage operation against a double-age	nt
	the state of the s	
	# 1	

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This dou	ble-agent had a	sked to meet	with the		but	believed it
would be too risky to	expose himsel	f to a double	-agent, so	he asked Mr.	Kiriakou	to pose as the
during	a meeting with	the double-	gent. Mr	Kirlakou agr	ced.	
Mr. Kiriakou	met with the d	ouble-agent j	periodical	ly for approxi	mately six	months,
posing as the	cac	h time. Ever	ntually, ho	wever, Mr. K	iriakou re	ceived a cable
from the	informing hi	m that the	hac	l discovered th	est Mr. Ki	riakou was not
truly the	Then, short	ly before and	ther sche	duled meeting	with the	louble-agent,
the info	ormed Mr. Kirl	akou that				
he double-agent in	istructing him	to shoot	(M	r. Kiriakou!s	uliag) at th	cir next
meeting. Mr. Kiriaka	ou nevertheless	agreed to m	eet with t	he double-age	nt as sche	duled at a local
hotel. During the me	eting,				wete w	eiting secretly
in an adjoining room	, planning.to ar	rest the doul	ole-agent,	which they di	d when he	entered the
hotel room.		- A			•	
Por his service	e in support of	this operation	on, which	involved a pla	unied atter	mpt on his life,
Mr. Kiriakou receive	d the CIA's Ex	ceptional Pe	formanc	e Award in De	cember 2	001.
Mr. Kirakou?	s actions in this	s matter are c	described	thusly in his 2	001 perfo	rmanice
evaluation: "Pebruar	y 2001 - Per t	sking from	CTC and	NE Division,	traveled to	,
[REDACTED]				At request of	RE	PDACTED]
returned in March, A	pril, May, and	June to cond	luct high t	hreat meeting	s with san	ne source.
Briefed chief of [RE]	DACTED	in Arabic,	on same c	ase."		
3. Excer	ntional Perform	ance Award	(conferre	d March 1991).	·
The CIA cres	ted a Persian C	Julf Task Fo	rce the ni	ght that Iraq is	iveded Ku	wait in 1990 to
serve as a twenty-for	ir hour a day ai	nalytic opera	tions cent	er for Preside	nt George	H.W. Bush.
			4.*			
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	ALGAGIED	CLEARED FO	R PUBLIC I	RELEASE		

Mr. Kirlakou, then a Leadership Analyst in the Office of Leadership Analysis, was one of the original members of this task force. Mr. Kirlakou and other members of the task force worked literally around the clock for the duration of Operation Desert Storm, working five days on and one day off. For his contributions to the Persian Gulf Task Force, Mr. Kirlakou received the CIA's Exceptional Performance Award in March 1991.

4. Exceptional Performance Award (conferred March 1991)

eadership Ana	and the state of t	
	yst during the first Iraq war.	
		М
iriakou correc	y predicted that Iraq	
	For his accurate analysis and prediction, Mr. Kiriakou n	eceived th
IA's Exceptio	al Performance Award in March-1991	
	sceptional Performance Award (conferred 1992)	
J, 1	Resputing Performance Award Connected 1892)	
	Por his accurate analysis, Mr. Kiriakou	-3
		LTBCCIVCO
	tional Performance Award in 1992	i ieccived
te CIA's Exce		i ieceived
ie CIA's Exce	CONTRACTOR OF THE PROPERTY OF	i received
ne CIA's Exce		rieceived
ne CIA's Exce		r received

6,	Exceptional Performs	nce Award (confer	red September 1996)	
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	A company of the confidence of	Janes les States	noes.	· · ·
7.	Exceptional Perform	er in dispression of company		
Mr.	Kirlakou received an E	cceptional Performs	nce Award in May 1998 for anot	her
curate ans	alytical paper			
		. !		
8.	Exceptional Perform	ance Award (Augu	st 2002).	
Mr	Kirlakou played a keyl		that led to the	e.capti
		196	stan in 2002. Zubaydah was the	first hi
		The state of the s	• 1	
	Te .		tacks of September 11, 2001, and	
le in this	successful operation, M	r Kiniakou receive	the CIA's Exceptional Perform	ance
ward in A	lugust 2002. Mr. Kiriak	ou's annual person	nel evaluation for 2002 describes	. his
ontribution	ns to the CIA's operation	ns in Pakistan plair	dy:	
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9. Exceptional Performance Award (March 2004)

During the 1970s, the Greek terr	orist group 17 November issued communiqués claiming
•	ssinations, including the assassination of CIA Station
•	uniques were made public via the Prench philosopher
and the second s	a French communist newspaper for publication.
For this action Mr Vivialion made	A CVAL TANK OF A
of this south, left. Riving recor	ved the CIA's Exceptional Performance Award in
March 2004.	
10. Exceptional Performance	Award (September 2000)
In September 2000, Mr. Kiriskov	received an Exceptional Performance Award (which
itself is classified) for his participation	that, due to its classification stants as
sensitive compartmented information, ca	

In addition to these ten Exceptional Performance Awards, Mr. Kiriakou also received four Meritorious Unit Citations, awarded by the CIA to a particular group or task force for their collective performance, and two letters of commendation from the Director of the Office of Near Eastern and South Asian Analysis and from the Chief of the Persian Gulf Task Force.