EXHIBIT 1
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

NATIONAL SECURITY ARCHIVE
Plaintiff,
v.
CENTRAL INTELLIGENCE AGENCY
Defendant.

Civil Action No. 11-00724(GK)

DECLARATION OF DAVID S. ROBARGE,
CHIEF HISTORIAN, CENTER FOR THE STUDY OF INTELLIGENCE,
CENTRAL INTELLIGENCE AGENCY

I, David S. Robarge, hereby declare as follows:

I. DECLARANT BACKGROUND

1. I am the Chief Historian of the Central Intelligence Agency ("CIA" or "Agency"). I have held this position since 2005. Prior to my appointment as Chief Historian, I served as a CIA staff historian from 1996-2005. I have held several other positions at the CIA since joining the Agency in 1989, including as a terrorism analyst during the first Persian Gulf War. I received an M.A. in History from George Mason University in 1982 and a Ph.D. in American History from Columbia University in 1995. I make the following statements based upon my personal knowledge and information made available to me in my official capacity.
2. The purpose of this declaration is to further explain why an internal draft CIA history entitled "CIA's Internal Investigation of the Bay of Pigs Operation," dated 28 December 1984 (otherwise known as "Volume V"), must be withheld in its entirety pursuant to exemption (b)(5) of the FOIA. In particular, I am convinced that disclosure of this document reasonably could be expected to seriously impair the current and future historical manuscript review process at the CIA and compromise the utility of CIA histories as contributions to Agency decision making. This is true notwithstanding the fact that Volume V is now decades old.

II. THE DRAFTING AND PUBLICATION OF CIA HISTORIES

A. The History Staff

3. As Chief Historian, I lead the History Staff of the CIA's Center for the Study of Intelligence ("CSI"). CSI was founded in 1974 in response to former CIA Director James Schlesinger's desire to create within CIA an organization that could "think through the functions of intelligence and bring the best intellects available to bear on intelligence problems." The core mission of CSI is to capture the insights of the CIA's institutional experience - both historical and recent - and to make those insights easily accessible and available to current intelligence officers facing similar challenges.
4. In furtherance of this core mission, CSI's History Staff produces carefully-researched, clearly-written and well-reasoned CIA histories regarding a broad range of topics. These histories analyze the Agency's organization, programs, and operations in order to provide an accurate and accessible account of the CIA's past actions. Histories produced by the History Staff are often critical of Agency actions and do not shy away from pointing out the Agency's past mistakes. Indeed, by objectively analyzing the CIA's successes as well as its failures, the History Staff provides Agency leaders with needed perspective by which to make sound future decisions. In other words, these histories provide the Agency's current and future intelligence officers, managers and decision-makers with access to an organized and shared institutional memory regarding historical events for use in current decision-making.

5. To meet this purpose, however, an Agency history must be based on thorough research and objective analysis. It must be presented in a clear, well-organized, and unbiased manner. A poorly prepared or unbalanced history can cause positive harm to the CIA and the officers who use it. Accordingly, the professional historians on the CIA's History Staff are trained to search for the relevant facts and determine whether a historical analogy is useful or misleading.
B. The Deliberative Process of Creating a CIA History

6. CIA histories are either conceived as part of CIA's research program, which attempts to address topics of high-level interest to CIA managers and practitioners, or commissioned by specific CIA components for use in decision-making, training, and other internal purposes. In either instance, the current process typically works as described below.

7. A staff historian prepares the first draft. The draft is then put through an iterative peer review process by various History Staff members, during which the staff comment upon and propose changes to the history. As Chief Historian, I also conduct a substantive editorial review of the draft. Typically, a draft history will be routed between myself and the author multiple times and will undergo many changes in form and substance during this peer review process.

8. Once I determine that the draft is ready for review by the Agency component or official who commissioned the work, I will provide the draft to that component or official for comment. The History Staff retains editorial control over its histories but welcomes any factual corrections provided by the commissioning component or officer. The History Staff then incorporates comments from the commissioning component or officer, as appropriate. I then review the draft again. Once I am satisfied that the draft is ready for final approval and
publication, I send the draft to the Director and Deputy Director of CSI for comment and/or final approval for publication.¹

C. Harm Caused by Public Release of Draft Histories

9. The official public disclosure of any CIA draft history at any stage before its completion as an official CSI publication reasonably could be expected to (1) discourage open and frank deliberations among the History Staff and (2) lead to public confusion resulting from the release of an unfinished and potentially inaccurate draft history.

10. The back-and-forth peer review process described above is critical to ensuring that any final history is both objective and accurate. A central tenet of that process is that it occurs outside of public view, thereby protecting the intellectual freedom of individual staff historians to reach - or even propose - judgments that may be critical of the Agency's performance or otherwise unpopular within the Agency. As Chief Historian, I expect and encourage my staff to express their views as professional historians throughout the drafting process and especially at the initial stages. It would do enormous damage to the mission of CSI and the History Staff were my historians to believe that their initial thoughts and judgments

¹Unlike the process in place during the 1980s, which I understand was the subject of prior declarations in this matter, no level of authority higher than the Director of the Center for the Study of Intelligence is involved in reviewing drafts or deciding whether they will be published.
regarding a particular matter - as reflected in an initial draft history, for example - might one day be released to the public through the FOIA. Even if those initial thoughts and judgments are proven incorrect or unsubstantiated through the peer review process, the mere possibility that an initial draft could be released to the public would undoubtedly chill open and frank deliberations. This, in turn, reasonably could be expected to diminish the quality and objectivity of CIA histories, depriving current and future CIA officers of the historical perspective and institutional memory they need to perform their duties.

11. Additionally, the release of an unfinished draft CIA history risks placing inaccurate or incomplete information into the public domain. This could cause scholars, journalists, and others interested in the subject at hand to reach an erroneous or distorted view of the Agency's role in the events as described in a draft or otherwise lead to public confusion. Those misperceptions could, in turn, discredit the work of the CIA History Staff in the eyes of the public or, worse, in the eyes of the Agency officers who rely upon CIA histories for perspective and guidance in performing their duties. In short, the public release of inaccurate history benefits no one.
III. VOLUME V IS A DRAFT CIA HISTORY SUBJECT TO THE DELIBERATIVE PROCESS PRIVILEGE

12. I have reviewed Volume V, as well as the declarations of Martha M. Lutz and Dr. J. Kenneth McDonald, in connection with the filing of this declaration. Based upon my review of those documents, I understand that Volume V is a preliminary draft of an unfinished Agency history. It represents the view of merely one staff historian and not the considered historical judgment that would emerge from a thorough internal peer review process. Volume V therefore is both pre-decisional and deliberative; as such, it is subject to the deliberative process privilege and is protected from disclosure pursuant to FOIA exemption (b)(5).

13. Volume V is pre-decisional insofar as it is an unfinished draft. As detailed by Dr. J. Kenneth McDonald's declarations dated 4 November 1987 and 22 January 1988 (true and correct copies of which are attached hereto as Exhibits A and B), Volume V was written at the earliest stage of the Agency's Bay of Pigs history review process. See Ex. A, ¶ 6. Dr. McDonald's assessment of Volume V concluded that it is an uncritical defense of the CIA officers who planned and executed the Bay of Pigs operation. See id., ¶ 13. It offers a polemic of recriminations against CIA officers who later criticized the operation and against those U.S. officials who its author, Dr.
Pfeiffer, contends were responsible for the failure of that operation. \textit{Id.}

14. Additionally, Volume V is predecisional as it reflects the personal opinions of the author and does not incorporate information and perspectives that would arise from the internal review process. Specifically, the document suggests an Agency position that was at that time, and still now, the personal position of the author and does not take into account alternative views of other CIA historians or represent a final Agency history.

15. Although Dr. McDonald hoped that Volume V could be edited to a final version, these efforts were unsuccessful. Volume V remains a draft that was never adopted, formally or informally, as a finished history on the CIA's Inspector General's Investigation of the Bay of Pigs. Additionally, Volume V was never circulated within the Agency or used by the CIA in its dealings with the public.

16. Additionally, Volume V is deliberative insofar as it is a draft document reflective of the iterative review process of the CIA's History Staff. It reflects the give-and-take of the consultative process. The passage of time does not mitigate the chilling effect that the release of this document would have upon current and future CIA historians. As detailed above, the CIA sends histories through a thorough review process before
deeming those histories to be final. This review process allows for fact-checking, stylistic review and, above all, ensuring that the history presents an unbiased and balanced treatment of a subject.

17. Through this process, CIA historians are free to be creative and "try something new." Disclosure of Volume V would have a chilling effect on CIA's current historians who would henceforth be inhibited from trying out innovative, unorthodox or unpopular interpretations in a draft manuscript, knowing that at some date in the near or distant future those venturesome interpretations - even if they are not used in the finished history - might be made public through FOIA.

18. To make draft histories vulnerable to FOIA disclosure would greatly increase the danger that an agency's senior management will put pressure on its historians to write, even in preliminary drafts, only "non-controversial" history that conforms closely to an agency's official line. No historian, official or private, can be expected to write with freedom, imagination and candor while facing the risk that any draft, from first to final, may be exposed to the glare of public disclosure and criticism that might diminish the Agency's receptivity to using history in its decisionmaking. For these reasons, a simple disclaimer added to the beginning of the document would not address the chilling effects described above.
19. Additionally, release of Volume V would tend to confuse the issues and mislead the public by disseminating a document that suggests reasons, rationales, and an opinion regarding the CIA Inspector General Report which were not in fact the considered judgment of the Agency's historians.

20. Volume V never proceeded beyond the first stage of the CIA review process for historical studies, and it remains simply an individual CIA historian's preliminary draft account of the matters it addresses. For these reasons, the CIA, respectfully withholds the entirety of Volume V pursuant to FOIA exemption (b)(5).

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed this 17th day of November 2011.

[Signature]

DAVID S. ROBARGE
Chief Historian
Central Intelligence Agency
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JACK B. PFEIFFER,

Plaintiff,

v.

CENTRAL INTELLIGENCE AGENCY,

Defendant.

Civil Action 87-1270 (JHP)

DECLARATION OF J. KENNETH MCDONALD

J. Kenneth McDonald, hereby declares and says:

1. I am the Chief Historian of the Central Intelligence Agency (CIA), having joined the Agency in August 1981 to direct the History Staff in the Office of the Director of Central Intelligence. I am a graduate of Yale University, and have B.Litt. and D.Phil. degrees in Modern History from Oxford University, where I studied under the supervision of Norman H. Gibbs, Chichele Professor of the History of War and Fellow of All Souls College. Before assuming my duties as the CIA's Chief Historian I served in a number of university and government positions. From 1961 to 1981 at George Washington University I was an Assistant and Associate Professor of International Affairs, with concurrent University appointments as Director of the Naval War College Graduate Center, 1964-1967, and as Director of the Foreign Affairs Intern Program, 1970-1972. While on leave from George Washington University I was a Visiting Fellow in History at Yale University in spring semester 1968, and a Senior Associate Member of St. Antony's College, Oxford University, in the
1968-1969 academic year. In later leaves from George Washington
University I served on the faculty of the U.S. Naval War College,
with appointments as Chairman of the Strategy Department, Ernest
J. King Professor of Maritime History, and Chester W. Nimitz
Professor of National Security and Foreign Affairs. My writing,
in a number of journal articles and chapters contributed to books,
has focused principally on the history of twentieth century
British and American naval policy. I have lectured at
universities and war colleges in the United States and Great
Britain, and I am a member of the International Institute for
Strategic Studies.

2. During the course of my duties as Chief Historian of the
CIA, I have become aware that plaintiff Jack B. Pfeiffer has filed
a lawsuit in this court, under the Freedom of Information Act
(FOIA), seeking access to two CIA-originated documents. I am
submitting this Declaration to discuss the reasons why one of the
documents sought, an internal draft CIA history entitled, "CIA's
Internal Investigation of the Bay of Pigs Operation," and dated 28
December 1984, must be withheld in its entirety pursuant to
exemption 5 of the FOIA. I will discuss in detail why I am
convinced that disclosure of this document, which I will refer to
as the "Internal Investigation" document, could seriously impair
the ongoing historical manuscript review process at the CIA.
Because of the potential harms that could flow from a disclosure
of this document, it is my firm conviction that this document must
be withheld in its entirety pursuant to exemption 5. The
statements made herein are based upon my personal knowledge,
information provided me during the course of my official duties,
and upon advice and counsel of the Office of General Counsel at CIA.

3. Since other Agency officials are submitting declarations describing why this same document must be withheld pursuant to FOIA exemptions 1 and 3 as well as under exemption 5, I shall try not to duplicate the discussion in those declarations. My declaration will explain why disclosure of this internal draft history would compromise the deliberative processes of the CIA. In order for the Court to understand the harms that could flow from disclosure, I shall first explain the origins of the Internal Investigation document in the CIA's history program. Next I shall describe the history program's role in the CIA and how its review process works today. Finally, I shall explain why the release of this Internal Investigation document would expose the CIA's deliberative process in reviewing draft history manuscripts, and by this exposure produce a severely chilling effect on the CIA's historians' creativity and freedom to advance views that are unorthodox or critical of the CIA.

**Origins of the Internal Investigation Document**

4. Except for the year 1980, Dr. Pfeiffer worked as a historian at the CIA from 1969 until his retirement in December 1984. In 1973, following a reorganization of the CIA History Staff, Dr. Pfeiffer was assigned to prepare a classified monographic study of the CIA's involvement in the Bay of Pigs Operation in 1960-1961. In those years, as this Court will recall, the United States Government organized and supported a large group of Cuban exiles who opposed Fidel Castro's recent rise to power in Cuba. In April 1961, a 1,500 man brigade of these
exiles, with CIA and military support, landed at Playa Giron, Cuba, in an effort to replace Castro's communist government with a more democratic one. The operation can only be described as a debacle, and Castro's forces captured and imprisoned most of the exiles who survived the abortive invasion.

5. After receiving his 1973 assignment to compile a classified official CIA history of the Bay of Pigs operation, Dr. Pfeiffer worked only on this project (except for the year 1980) until he retired in December 1984. All CIA History Staff histories are prepared as classified documents, and there was never any CIA or History Staff plan or commitment to declassify or publish the Bay of Pigs monograph assigned to Dr. Pfeiffer. As a member of the History Staff between 1973 and 1979, Dr. Pfeiffer produced three classified volumes which dealt principally with the preparations for the Bay of Pigs operation. After an assignment to the Classification Review Division in 1980, Dr. Pfeiffer returned to work on his Bay of Pigs study in 1981, and in November of that year submitted a classified draft fourth volume, which included draft chapters that have become the subject of this lawsuit. One chapter he later revised into the draft manuscript entitled, "The Taylor Committee Investigation of the Bay of Pigs." Since this document has already been released to Dr. Pfeiffer in redacted form, I shall not discuss it further here. Two other chapters in Dr. Pfeiffer's 1981 draft fourth volume--one on the Inspector General's report and the other on the Directorate of Plans' response to that report--together form the first version of the Internal Investigation document. As revised by Dr. Pfeiffer in 1984, this is the primary document at issue in this
lawsuit and the document that I shall discuss in this declaration.

6. I should emphasize that the document at issue is a classified draft historical manuscript or chapter, which Dr. Pfeiffer first prepared for my review in 1981 while he was an employee of the CIA. Because in my professional judgment the draft had serious deficiencies as a historical study, I informed Dr. Pfeiffer in December 1981 that it would not be appropriate to forward his work in its present form for further review. At that time I gave him a full report of the draft's defects, as I saw them, with respect to organization and approach, writing, and analysis. My Deputy Chief, Dr. Roberta S. Knapp, also read this draft, and concurred in my evaluation of it. Assigned to the Center for the Study of Intelligence in the Office of Training and Education in early 1983, Dr. Pfeiffer continued to work on this draft manuscript—the Internal Investigation document—until he retired from CIA on 31 December 1984. Although he did not re-submit it for my review, I read his revised Internal Investigation document after he retired, and found that he had not addressed the deficiencies I described in my first review. The Internal Investigation document has therefore never got beyond the first stage of the CIA review process for historical studies, and it remains simply an individual CIA historian's preliminary draft account of the matters it treats. I should note, however, that when I assign a staff historian to complete a history of the Bay of Pigs Operation, Dr. Pfeiffer's research material and drafts will doubtless be of value in his or her work.

7. On 28 December 1984, four days before he retired, Dr. Pfeiffer submitted a copy of a purported "unclassified" version of
the Internal Investigation document to the Agency's Information and Privacy Coordinator, requesting Mandatory Review for declassification under Executive Order 12356, to permit him to publish the manuscript. After CIA had denied Dr. Pfeiffer's original Mandatory Review request and appeal, he submitted an FOIA request for the Internal Investigation document. When that request was denied pursuant to exemptions 1 and 3 of the FOIA, Dr. Pfeiffer initiated this lawsuit to gain access. During my review of this matter, I have personally determined that exemption 5 must be asserted as a justification for withholding the information from Dr. Pfeiffer.

"The CIA's Historical Writing and Review Process"

8. I believe it important for the Court to understand how the historical writing and review process works at the CIA. After joining the Agency in August 1981 I organized a new History Staff charter and arranged for the formal historical review process that is in effect today. Within the Agency, the History Advisory Board is responsible for approving new historical studies and for reviewing and deciding upon the circulation of histories as they are completed. Membership of the Board consists of the CIA's Executive Director as Chairman; the Deputy Directors for Administration, Intelligence, Operations, and Science and Technology as members; and the Chief Historian as Executive Secretary. I request the History Advisory Board's approval for any major historical project that I wish to have my staff undertake. Upon approval by the Board, I then assign a staff historian to research and write a first draft of the history for my review. Once I receive a first draft, my Deputy Chief and I
review and edit it. After the author makes any necessary revisions and I have approved it, the manuscript is copy edited. I may then arrange for its further preliminary review by officers elsewhere in the Agency who are interested and knowledgeable in its subject matter. When the author has dealt with these critiques, and I am satisfied that the manuscript is in acceptable final draft form, I will submit it to the History Advisory Board for review. When the Board has approved the draft history (possibly after further revisions) and agreed upon its circulation, the manuscript is then submitted to the Deputy Director of Central Intelligence (DDCI) and the Director of Central Intelligence (DCI) for review and final approval as an official CIA historical study. The DDCI and DCI can accept it as written, propose further revisions, or reject it. If the DDCI and DCI approve the work, the manuscript returns to me for final editorial review, reproduction and dissemination. This multi-tiered editorial review process ensures that every history is carefully edited and reviewed, and that it is approved by the Agency's top management before it is disseminated as an official CIA historical study. It is also worth noting that each step of this review process may involve unique editorial, interpretive, and substantive revisions that would be evident to anyone who had access to succeeding drafts.

9. From this account of the deliberative process in our institutional review structure, I shall briefly turn to the History Staff's three principal functions, which are:

   (1) To preserve the CIA's institutional memory and historical records;
(2) To provide a specialized reference service for the CIA and other government agencies; and

(3) To write the history of the CIA.

Since Dr. Pfeiffer's draft CIA history, the Internal Investigation document sought in this action, falls into the third category, I shall discuss only that particular function of the History Staff.

10. As a professional historian I am convinced that a carefully researched, clearly written, and well-reasoned history can provide a multitude of benefits for the CIA. For our research we depend upon access to all Agency records and people. Because of the classified nature of CIA's organization, programs and operations, the overwhelming preponderance of the records and evidence we use in our histories is classified. In order to produce fully documented and authoritative histories that will be useful to the CIA, we take full advantage of our unique access to the CIA's classified documents and information. The nature of our subjects and sources thus leads us to write classified histories that are for the Agency's internal use rather than for public dissemination. Among other things, this means that the CIA History Staff has a special opportunity to write with objectivity and candor, since there is less temptation to produce the kind of celebratory or self-serving history that open publication may invite. Writing for an internal audience, we have no brief to defend the Agency before public opinion or to produce apologies that will delude ourselves and distort our ability to understand and use our collective experience. The classified nature and comparatively limited circulation of our histories mean that we write history specifically and solely to help the CIA and its
decision-makers carry out their responsibilities. This simplifies and focuses our task, as compared to that of other official historians who write histories that must be cleared and approved for general publication. Although differing in this respect from other government historical offices, the History staff nevertheless plays a unique and valuable role within the CIA.

II. I am convinced of the utility of historical studies for CIA, because I know that the CIA—like all other institutions and organizations—cannot plan or act without being influenced by its historical experience. Whether consciously or not, all decision-makers draw on past experience, and they do use history, even if only for advocacy or comfort. It is not a question of whether the CIA uses history, but rather of what kind of history it uses, and how well. We aim to write histories that will provide the CIA with information, context, and perspective, whether for purposes of training, reference or decision-making. Recognizing that decision-makers need accurate background information, professional historians are trained to search for the relevant facts and to determine whether a historical analogy is useful or misleading. An Agency official considering a proposed program or operation is well advised to review historical studies of similar past activities, which can offer him or her insight and perspective into the kinds of actions that have succeeded or failed, and why. A good history can thus provide a critical perspective for assessing the relevance and effectiveness of past intelligence activities.

II. The CIA's History Staff principally produces institutional history, which treats the Agency's organization,
programs and operations, in order to provide an accurate and accessible account of what it has done. This kind of history seeks to offer the Agency's managers and decision-makers an organized and shared institutional memory. By honestly analyzing both successes and failures institutional history can help the CIA's leaders make sound future decisions. To be useful, however, an institutional history must be based on thorough research and objective analysis of the evidence, and it must be presented in a clear and well-organized manner. A poorly prepared—or intentionally skewed—history can cause positive harm to the CIA and the officers who use it.

**Disclosure and the Deliberative Process**

13. I should now turn to the particular reasons why the Internal Investigation document must be withheld from disclosure to Dr. Pfeiffer, or to any other member of the public. The Internal Investigation document remains a draft history of one aspect of a CIA operation, which I reviewed and found unsatisfactory in both its 1981 and 1984 versions. In my view as the CIA's Chief Historian, Dr. Pfeiffer's account is an uncritical defense of the CIA officers who planned and executed the Bay of Pigs operation. It offers a polemic of retributions against CIA officers who later criticized the operation, and against those U.S. officials who Dr. Pfeiffer contends were responsible for its failure. For these reasons I found the Internal Investigation document an unprofessional piece of special pleading, and a weak starting point for a history of the CIA's internal investigation of the Bay of Pigs operation. Whatever the draft's merits or flaws, however, its disclosure to the public would obviously
impair any future CIA historian's effort to complete a Bay of Pigs
history that differed significantly from Dr. Pfeiffer's
interpretation. It would also have a severe chilling effect on
all CIA historians, who would henceforth have to be prepared to
defend each successive draft of a history in progress against
public criticisms made possible by the disclosure under the FOIA
of earlier or later stages of the work. Neither individual
official historians nor official history offices should be under
the kind of public pressure that the disclosure of the
deliberative process in preparing histories would produce.
Because of these facts, this draft manuscript must continue to be
withheld from Dr. Pfeiffer.

14. This draft history, never having been approved for
submission to Agency review beyond the History Staff, will
eventually go through the full revision, editing and review
process when I assign a new historian to complete it. Its
disclosure now in response to Dr. Pfeiffer's FOIA request would
seriously damage the CIA's deliberative process as it operates
through the historical review mechanism. Indeed, if Dr.
Pfeiffer's Internal Investigation document is now released to the
public, later drafts or the final form of this history may be
compared to Dr. Pfeiffer's version to determine what changes in
evidence, argument and interpretation were made in completing this
work. This kind of comparison would give the public an inside
view of the give and take of the Agency's deliberative process.
To reveal editorial judgments, as for example a new author's
approach to an existing draft, could stifle the creativity and
candid exchange of ideas needed to produce sound histories.
Moreover, Agency historians may well hesitate to advance new interpretations and unorthodox approaches if they know that their drafts are subject to disclosure through an FOIA request. I cannot expect my staff to write forthright and venturesome works, if each successive draft that they produce is subject to public disclosure. For all these reasons, I believe it imperative to withhold drafts of histories in order to protect the integrity of the deliberative process involved in writing, revising and reviewing our historical studies.

15. In conclusion, I should again emphasize that Dr. Pfeiffer is not seeking the declassification and release of a completed official CIA history. He is rather seeking a classified preliminary draft CIA history, which as Chief Historian I evaluated in its first version in 1981, and again in a revised version after Dr. Pfeiffer retired. In both readings I found his draft unsuitable for submission for further review. To disclose this draft to the public would make it difficult for another CIA historian to produce a history on this subject that took a different view of the Bay of Pigs operation or of the officers who planned and carried it out. Beyond this specific hazard to the deliberative process in completing this particular Bay of Pigs history, to disclose this draft document would have a more persistent and pervasive chilling effect on all CIA historians' independence, and on their willingness to try out unpopular or unorthodox interpretations in drafting and revising historical studies. It would in fact serve notice that they might face public criticism for the opinions and interpretations they advance in successive drafts of a history in progress; Disclosure of this
document could thus have a serious impact upon the CIA History
Staff's ability to produce carefully researched, clearly written,
analytical accounts of the CIA and its activities. For all of
these reasons, I respectfully submit that the requested document,
i.e. "The CIA's Internal Investigation of the Bay of Pigs
Operation," is exempt from disclosure in its entirety pursuant to
FOIA exemption 5.

16. I declare under penalty of perjury that the foregoing is
ture and correct to the best of my knowledge.

J. Kenneth McDonald

EXHIBIT B
SUPPLEMENTAL DECLARATION OF J. KENNETH MCDONALD

J. Kenneth McDonald, hereby declares and says:

1. As Chief Historian of the Central Intelligence Agency (CIA) I submitted a previous declaration on 4 November 1987. Having since then read the Plaintiff's response, including the declarations of Dr. Jack B. Pfeiffer, Mr. Richard Bissell and Mrs. Eulalie Hammond, I submit this Supplemental Declaration to respond to certain of their contentions. The statements made herein are based upon my personal knowledge, information provided me in the course of my official duties, and upon advice and counsel from the Office of General Counsel at CIA.

2. At the outset I should perhaps state an obvious truth that Dr. Pfeiffer's case entirely ignores. This is that no U.S. Government agency--and certainly not the CIA--would assign an employee to draft a history of an agency activity, and then permit that employee, by simply submitting a copy of his draft work to his supervisor and without any review or approval, to decide
unilaterally that his work had become a completed, final and officially sanctioned agency history. Clearly no such thing happened in this case, and I shall explain why Dr. Pfeiffer's contentions to the contrary are unfounded and without merit.

3. The question of whether the requested document, "The CIA's Internal Investigation of the Bay of Pigs Operation" (the "Internal Investigation" manuscript), is exempt from disclosure pursuant to FOIA exemption 5 can best be answered by determining the nature of Dr. Pfeiffer's assigned duties as a CIA historian in the last 12 years of his CIA career, the regulations then covering CIA historians, and the nature of the history that he actually wrote during that period, 1973-1984.

4. Dr. Pfeiffer was employed by CIA from September 1955 to December 1984. By his own testimony, from 1969 to 1984 he worked as a CIA historian, except for the period from January through December 1980 when he worked in the CIA's Classification Review Division. Complaint at para. 3.

5. I shall first discuss Dr. Pfeiffer's relevant assigned duties as a historian on the CIA History Staff from 1974 to the end of 1979. In 1974, Dr. Pfeiffer was assigned to prepare a CIA history of the Bay of Pigs Operation. Complaint at para. 8. Pfeiffer Decl. at para. 8. Before he left the History Staff at the end of 1979, Dr. Pfeiffer completed the first three classified volumes of the history of the Bay of Pigs Operation. Pfeiffer Decl. at para. 16. None of these three volumes is at issue in the present case, since none contains the Internal Investigation
manuscript in any form. Moreover, Dr. Pfeiffer states that

I did not believe, and do not believe today, that any of these three volumes could be declassified. I never attempted nor suggested that any of the first three volumes in the Bay of Pigs history could be considered for declassification.

Pfeiffer Decl. at para. 16.

As a CIA historian on the CIA History Staff in this 1974-1979 period, Dr. Pfeiffer completed (after a multi-stage CIA review according to the regulations in force at the time) only these first three classified volumes, and no other portions, of the history of the Bay of Pigs operation. Pfeiffer Decl. at para. 16. Hammond Decl. at para. 4. At the end of 1979 Dr. Pfeiffer was relieved of his duties as CIA Chief Historian and reassigned to the Classification Review Division, where he worked as a reviewer to the end of 1980.

6. During Dr. Pfeiffer's 1974-1979 assignment as a CIA historian his work was governed by Headquarters Notice (HN) 1-97, "CIA History Program," signed by Acting Director of Central Intelligence William E. Colby on 8 August 1973. See attachment 1 (Names deleted). Mr. Colby's HN 1-97 of 8 August 1973 was superseded, however, first by HN 1-165, "CIA Historical Staff," signed for Director Turner by Deputy Director of Central Intelligence Frank C. Carlucci on 21 November 1980, see attachment 2, and then by HN 1-187, "CIA History Staff," signed by Director of Central Intelligence William J. Casey on 25 January 1982. See attachment 3. HN 1-187 remains effective today. New procedures for the review process were stated in HN 1-193, "Establishment of the History Advisory Board," which Deputy Director of Central
Intelligence John W. McMahon signed on 2 December 1982. See attachment 4. (Although all Headquarters Notices routinely note expiration dates approximately six months after their issue, as Chief Historian I can certify that the procedures and policies stated in Headquarters Notices with respect to the CIA History Staff and Program remained in effect as a matter of standard Agency practice until a new Headquarters Notice superseded and revised them.)

7. During the 1973-1980 period that the CIA History Program followed HN 1-97, Dr. Pfeiffer completed only the first three volumes of the Bay of Pigs history, which he began as classified history, completed as classified history, and believes today must remain classified history. For this reason, the 1973 Headquarters Notice 1-97 statement that one of the CIA Historical Staff's objectives was "to develop accurate accounts of certain of CIA's past activities in terms suitable for inclusion in Government-wide historical and declassification programs" is entirely irrelevant to the three volumes of the CIA history of the Bay of Pigs operation that Dr. Pfeiffer actually worked on and completed in the 1973-1980 period. Since Dr. Pfeiffer does not claim that he completed--or even began work on--the Internal Investigation manuscript during the 1973-1980 period that HN 1-97 governed the CIA History Program, his references to that regulation are irrelevant to the document now at issue. Indeed, the 1973 Colby notice is in fact irrelevant to any work Dr. Pfeiffer undertook on the history of the Bay of Pigs operation (or any other history)
8. I shall now discuss Dr. Pfeiffer’s assigned duties from the time he left the CIA History Staff at the end of 1979 until he retired from CIA at the end of 1984. Except for the year 1980 (when he was assigned to the Classification Review Division), he continued to serve as a CIA historian from January 1981 to his retirement in 1984. In this four-year period, he worked as a CIA historian while assigned first to the Director of Central Intelligence (DCI) Development Complement (January 1981 to February 1983) and then to the Center for Study of Intelligence (February 1983 to 31 December 1984). Complaint at para. 3.

9. On 10 December 1980 a memorandum from Deputy Director of Central Intelligence Frank C. Carlucci informed Dr. Pfeiffer that he was to be allowed to finish his history of the Bay of Pigs, with a deadline of 31 December 1981 for its completion. Mr. Carlucci added that beginning 1 January 1981 and until an Agency historian was appointed, Dr. Pfeiffer would report to the CIA Executive Secretary.

10. Dr. Pfeiffer was therefore assigned to the DCI Development Complement in January 1981, with only one duty to perform, to finish the CIA history of the Bay of Pigs Operation. The History Staff gave him office space and secretarial support, and during 1981 he worked to finish a final fourth volume of the Bay of Pigs history.

11. In the year since Dr. Pfeiffer had left it, the History Staff had been completely reorganized. On 21 November 1980, HN
1-165, "CIA Historical Staff," had transferred the Historical Staff from the Directorate of Administration to the Office of the Director of Central Intelligence. "The Chief Historian," it stated, "will be responsible to the Director for the development and implementation of the Agency's Historical Program." There was no allusion to the preparation of any unclassified or declassified histories, except to provide that only the Director could approve the release of completed histories to the public. After MH 1-165 of 21 November 1980 was issued, neither Dr. Robert S. Knapp (who was Acting Chief Historian November 1980-August 1981), nor I (after reporting for duty as Chief Historian on 2 August 1981), ever indicated to Dr. Pfeiffer in any way that he was authorized or permitted to do work other than his assignment from the Deputy Director of Central Intelligence, to finish the classified history of the Bay of Pigs operation. In this period there was therefore never any plan or commitment to permit—much less direct—Dr. Pfeiffer to write an unclassified history, or to prepare a history for declassification.

12. On 14 October 1981, however, Dr. Pfeiffer submitted a memorandum, "Status Report and Recommendation re: BOP [Bay of Pigs] History," to me as Chief of the CIA History Staff. See attachment 5 (Names, and information in the document's attachment A that constitutes internal deliberations, have been deleted). In this memo, he proposed that, after his draft history had been reviewed, approved and submitted to the Executive Secretary, he be permitted to prepare an unclassified history of the Bay of Pigs
Operation, "per the possible 'release to the public' option mentioned in HN 1-165 of 21 November 1980." (HN 1-165 stated that "Completed histories will be under the control of the Director and the Deputy Director concerned, provided that release to the public will be subject to the approval of the Director.") On receipt of this memorandum I informed Dr. Pfeiffer that I would not approve his undertaking to prepare a version of his history for possible declassification. Dr. Pfeiffer's 14 October 1981 memorandum to me and my reply establishes that at that time Dr. Pfeiffer clearly understood (a) that the 1973 Colby HN 1-97 was no longer relevant; (b) that he needed my permission as Chief Historian to undertake to prepare a history for declassification; and (c) that I had specifically denied his request for that permission.

13. On 16 November 1981 Dr. Pfeiffer submitted for review a 500-page classified draft manuscript, entitled "Post-Mortems of the Bay of Pigs Operation," to me as CIA Chief Historian. I reviewed this manuscript, which he submitted as the draft Volume IV of the Bay of Pigs history, and reported on it to him in a memorandum of 23 December 1981. Thus, in December 1981 Dr. Pfeiffer had been working toward completing the CIA history of the Bay of Pigs operation that he had begun in 1974, and he had properly submitted his classified draft manuscript for review to me, as CIA Chief Historian responsible for the implementation of the CIA History Program.

14. This classified draft Volume IV, "Post-Mortems of the Bay
of Pigs Operation," had five chapters of the following titles and
lengths (the notes and appendices added another 46 pages):

Chapter 1. Introduction (11 pages)
Chapter 2. The Maxwell Taylor Committee (247 pages)
Chapter 3. The Inspector General's "Survey" (120 pages)
Chapter 4. The DDP's "Analysis" of the Inspector General's
"Survey" (61 pages)
Chapter 5. Review of the Reviews of the Bay of Pigs
(15 pages)

Having carefully read both Dr. Pfeiffer's 1981 draft and the
Internal Investigation manuscript, I can state unequivocally that
the latter document is not a new history but rather a revision of
chapters 3 and 4 of his 1981 draft Volume IV.

15. In a memorandum of 23 December 1981, I reported to Dr.
Pfeiffer that in my opinion, it would not be appropriate to
forward this volume in its present form for further review as a
completed draft history. I then explained, in some detail, my
reservations with respect to the draft, which was seriously
deficient in three general areas: organization and approach;
writing; and analysis.

16. Thus, at the end of 1981, it is clear (a) that Dr.
Pfeiffer was serving as a CIA historian; (b) that he had submitted
a draft volume IV of the Bay of Pigs history (including the
Internal Investigation manuscript) to the CIA Chief Historian for
review; and (c) that the Chief Historian had determined that this
draft history was not ready for further review in the CIA History
Program. The fact that Dr. Pfeiffer was assigned to the DCI
Development Complement and was not technically a member of the
History Staff does not alter the character of his work product as
a draft.
17. By the end of 1981, however, Dr. Pfeiffer was negotiating with his parent component, the National Foreign Assessment Center (now called the Directorate of Intelligence), over its proposal to declare him excess to their requirements and bring about his early retirement. He therefore remained in the DCI Development Complement and in History Staff office space, until he and his lawyer concluded an agreement with CIA in February 1983. In this 15-month period from December 1981 until February 1983, Dr. Pfeiffer continued to report to me, as CIA Chief Historian, and I can attest that he continued to have only one duty to perform: to finish his classified CIA history of the Bay of Pigs Operation as directed by the Deputy Director of Central Intelligence's memorandum to him of 10 December 1980.

18. In his February 1983 agreement with CIA Dr. Pfeiffer agreed to retire no later than 31 December 1984, and to be transferred from the DCI Development Complement to the Center for the Study of Intelligence. The Agency and Dr. Pfeiffer further agreed that "the bulk of Dr. Pfeiffer's time will be spent completing his Bay of Pigs Study." This was, of course, essentially the same assignment he had gotten from DDCI Carlucci in December 1980, although he was now given until 31 December 1984, to work toward finishing this history. Although the settlement agreement stated his Bay of Pigs history assignment in broad terms, Dr. Pfeiffer in fact spent his remaining time with the Agency revising the 1981 draft of his Volume IV manuscript of the Bay of Pigs study. Thus, the Internal Investigation manuscript
Dr. Pfeiffer seeks in this action is not a separate report that he wrote pursuant to the settlement agreement, but is in fact merely a revision of portions of the single volume draft manuscript that he submitted to me for review on 16 November 1981.

19. I shall now discuss the policies and regulations that governed the CIA History Program during the period from January 1981 to December 1984. On 30 October 1981, I had presented a proposed History Program to the CIA Executive Committee, which that body approved that day. This program made no provision for the preparation of any unclassified histories, or for the declassification of existing histories. Moreover, on 25 January 1982 DCI Casey's HN 1-187, "CIA History Staff," superseded DCI Turner's 1980 HN 1-165, "CIA Historical Staff." The new notice stated—as in the previous notice—that "The Chief Historian is responsible to the DCI for developing and implementing the Agency's History Program."

20. At my request, in order to arrange a formal process to approve topics and review draft histories, Deputy Director of Central Intelligence John N. McMahon on 2 December 1982 signed HN 1-193, "Establishment of the History Advisory Board," see attachment 4, which stated:

1. This notice announces the establishment of the History Advisory Board. The Board will be responsible for approving new historical studies and for reviewing and deciding upon the circulation of histories as they are completed.

2. Membership will consist of the Executive Director as Chairman; the Deputy Directors for Administration, Intelligence, Operations, and Science and Technology as Board members; and Chief, History Staff as Executive Secretary.
As described in my previous declaration of 4 November 1987, after the History Advisory Board reviews, approves and agrees upon the circulation of a draft history, it then submits the manuscript to the DDCI and DCI, who must review and approve or disapprove the Board's decisions. McDonald Decl. at para. 8. As noted in HN 1-187, completed histories are under the control of the DCI and the Deputy Director or Head of Independent Office concerned.

21. Dr. Pfeiffer's 14 February 1983 agreement therefore set up no new review procedures, since none was needed. The provisions of HN 1-187 and HN 1-193 just described remained in effect. These published procedures for the review of CIA histories were clearly stated, so that Dr. Pfeiffer should never have been in any doubt about their application to him.

22. The settlement agreement, of course, did not exist until 14 February 1983, and when concluded did nothing to change Dr. Pfeiffer's assignment to finish the CIA history of the Bay of Pigs operation, as directed by DDCI Carlucci in December 1980. There was nothing in the settlement agreement to authorize or permit Dr. Pfeiffer to prepare a so-called "unclassified" version of his draft Bay of Pigs study. In 1984 he could only put his revised Bay of Pigs draft history into the CIA historical review process by submitting it to me, as CIA's Chief Historian. This is because under CIA regulations (HN 1-193 and HN 1-187) no CIA history can be reviewed for approval as a completed CIA history except by submission to the Chief Historian for review by the History Advisory Board (of which he is Executive Secretary), and approval
by the DDCI and DCI. Dr. Pfeiffer's curious claim to have unilaterally pronounced his draft "final and complete" arrogates to himself not only the review responsibilities of the Chief Historian and History Advisory Board, but also the final authority of the Director of Central Intelligence.

23. Dr. Pfeiffer is disingenuous in claiming that the Internal Investigation manuscript was "complete and final" at the time he submitted it to the Director of the Center for the Study of Intelligence (CSI), and that he "did not expect or anticipate that my supervisor or any other CIA official would conduct any review of these studies." Pfeiffer Decl. at para. 11. That he knew that he had submitted a draft history, for review, is evident from his own memorandum of 19 April 1984 to the Director of CSI, on the subject, "Transmittal of DRAFT [emphasis in the original] Manuscript of The Internal Investigation of the Bay of Pigs Operation," which opens by stating, "Forwarded for review and comment is the DRAFT manuscript of The Internal Investigation of the Bay of Pigs Operation." See attachment 6 (Paragraphs 3, 4 and 5, which are irrelevant and constitute internal deliberations, have been deleted). The Director of CSI held the classified draft manuscript that Dr. Pfeiffer submitted with this memorandum, and forwarded it to me as Chief Historian, as I shall explain below, after Dr. Pfeiffer's retirement.

24. All this makes nonsense of Dr. Pfeiffer's claim that the so-called unclassified version of the Internal Investigation manuscript that he seeks in this action is a separate report,
"which I wrote specifically in response to the Colby memorandum...and pursuant to the settlement agreement," Pfeiffer Decl. at para. 12. Dr. Pfeiffer's 14 October 1981 memo to me recognized that the Colby "memorandum" (actually NN 1-97 of 8 August 1973) had been superseded on 21 November 1980, well before he began work on the Internal Investigation manuscript in January 1981. Moreover, the new Headquarters Notices of 1980 and 1982 (HNS 1-165, 1-187 and 1-193) had established clear responsibility for implementing the CIA history program and for the review of CIA histories.

25. In December 1984, as Dr. Pfeiffer's retirement at the end of that month approached, the Director of CSI and I discussed the transfer of Dr. Pfeiffer's manuscripts and records to the History Staff. On 20 December 1984, just before he retired, Dr. Pfeiffer reported to us that he had "forwarded three record boxes of materials for return to HS [History Staff] files." See attachment 7 (Agency names and information relevant to internal deliberations have been deleted). He also suggested that I destroy his draft Volume IV manuscript that I had reviewed in December 1981 (which had contained both the Internal Investigation and Taylor Committee manuscripts), since that draft Volume IV had been superseded by two volumes prepared at CSI, one on the Internal Investigation and the other on the Taylor Committee. I did not destroy the 1981 drafts as Dr. Pfeiffer had suggested. The Director of CSI at this time explained to me that Dr. Pfeiffer had not included his revised Internal Investigation manuscript in the records he sent
us on 20 December 1984, since Dr. Pfeiffer had asked CSI
temporarily to hold that draft manuscript and some other
documents, to await the Agency's decision on Dr. Pfeiffer's
requested declassification review of these records. On 28 January
1985, the Director of CSI and I arranged for one of my staff
historians to inventory the Pfeiffer records still at CSI. This
staff historian brought back Dr. Pfeiffer's list of documents
awaiting Agency declassification decisions, and the Director of
CSI then transferred the 1981 and 1984 drafts of the Internal
Investigation manuscript to me as Chief Historian. Three months
later, in May 1985, the Director of CSI transferred to me the
remainder of the records and manuscripts that Dr. Pfeiffer had
left at CSI. I reviewed Dr. Pfeiffer's Internal Investigation
draft manuscript in both classified and purported "unclassified"
versions, which are both revisions of the 1981 draft Volume IV.
Since I found that Dr. Pfeiffer had not addressed the principal
deficiencies noted in my earlier critique, the manuscript remains
an uncompleted draft history that is unsuitable for submission to
further review. Although the completion of the history of the Bay
of Pigs operation is on the History Staff agenda, since 1985 other
on-going histories have had a higher priority.

26. In response to Dr. Pfeiffer's contention that there are
no relevant differences between the Taylor Committee manuscript
and the Internal Investigation manuscript, I should explain why
the Agency chose to release the former in redacted form and
withhold the latter. First, as Dr. Pfeiffer notes in his 8
November 1984 memorandum to the Chairman of the CIA Publications Review Board, see attachment B, of the volumes he has written on the Bay of Pigs operation, the Taylor Committee manuscript is the one that is most suitable for release, since most of the Taylor Committee's records had already been properly declassified and released to the public. Secondly, the Taylor Committee was an external body whose investigation produced no decisions and had negligible influence on future CIA policy. Any future CIA history of the Bay of Pigs operation can be expected to deal with this investigation quite briefly. Finally, CIA and Dr. Pfeiffer stipulated and agreed that if he causes the released Taylor Committee manuscript to be published, he will cause the following language to be printed in a prominent fashion along with the released document:

This study has not been adopted as an official document of the Central Intelligence Agency. Its statements, analyses, conclusions and positions should not be construed as necessarily being those of the Director of Central Intelligence or of the Central Intelligence Agency.

27. In my judgment as CIA's Chief Historian the draft Internal Investigation manuscript differs significantly from the Taylor Committee manuscript, and requires protection from disclosure by the deliberative process privilege in Exemption 5 of the FOIA. The draft Internal Investigation manuscript, unlike the Taylor Committee manuscript, focuses on an internal CIA investigation, which will require careful analysis in any future CIA history of the Bay of Pigs operation. Although Dr. Pfeiffer's draft Internal Investigation manuscript does not embarrass CIA,
its release would seriously impair any future CIA historian's ability to complete a Bay of Pigs history that differed significantly from Dr. Pfeiffer's interpretation. The disclosure of the Internal Investigation manuscript would have a severe chilling effect not only on CIA historians, but on all U.S. Government historians, who would henceforth be inhibited from trying out innovative, unorthodox or unpopular interpretations in a draft manuscript. To make draft histories vulnerable to FOIA disclosure would greatly increase the danger that an agency's senior management will put pressure on its historians to write—even in preliminary drafts—only "non-controversial" history that conforms closely to an agency's official line. No historian—official or private—can be expected to write with freedom, imagination and candor while facing the risk that any draft, from first to final, may suddenly be exposed to the glare of public disclosure and criticism. History staffs in the Federal government are neither large nor numerous, and to make their draft manuscripts vulnerable to disclosure will erode the independence of those that exist, and make it hard to increase their number.

28. In summary, the Internal Investigation manuscript was and is an internal draft not approved for release or publication, whose disclosure would cause the harms stated above and in my previous declaration. For all of these reasons, I respectfully submit that the requested document, i.e. "The CIA's Internal Investigation of the Bay of Pigs Operation," is exempt from
disclosure in its entirety pursuant to FOIA exemption 5.

29. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

J. Kenneth McDonald