

Declaration of Scott A. Koch
Information and Privacy Coordinator
Central Intelligence Agency

Exhibit D

J. William Leonard Letter
(Feb. 4, 2004)



Information Security Oversight Office

National Archives and Records Administration

700 Pennsylvania Avenue, NW Washington, DC 20408



February 4, 2004

Mr. Franz Boening
Deer Mountain Estates
Harpers Ferry, WV 25425

Dear Mr. Boening:

In your initial correspondence of December 13, 2002, you outlined a number of oppositions with respect to how the Central Intelligence Agency (CIA) has handled several documents associated with a complaint you have made pursuant to the Intelligence Community Whistleblowers Protection Act of 1998. In addition, you registered additional concerns on May 20, 2003, with respect to two other documents associated with this matter. We only recently received the last piece of needed information from the CIA, thus the lateness of this reply.

Based upon your correspondence, we approached this issue from two perspectives. First, that you believe that you were denied your right to file a classification challenge with the Interagency Security Classification Appeals Panel (ISCAP) with respect to several documents associated with your original "whistleblower" complaint. Second, that you believe CIA improperly classified information contrary to the provisions of Executive Order 12958 as amended (Order).

With respect to the first complaint, in order for individuals to have standing to file a classification challenge with the ISCAP, they must be "authorized holders of information" (Order, § 1.8). An "authorized holder" is defined in the Information Security Oversight Office's (ISOO) Classified National Security Information Directive No. 1 (Part 2001, 32 C.F.R.) as "any individual ... who has been granted access to specific classified information in accordance with the provisions of the Order ...". In response to inquiries from this office, the CIA has represented that any access to classified information you gained and which you included in your original complaint was not granted in accordance with your duties at the CIA. They have further represented that you did not have a need-to-know in the performance of your official duties for the specific classified information accessed in preparation of your original complaint. As such, notwithstanding my initial determination of April 15, 2003, based upon additional information provided by the CIA, I have determined that you are not an authorized holder of the information which you accessed in preparation of your complaint. Thus, in this instance, you do not have standing to make a classification challenge to the ISCAP in accordance with the Order.

-2

Notwithstanding my determination above, I did pursue your complaint pursuant to §5.2 (b) (6) of the Order which charges me with the responsibility to "consider and take action on complaints and suggestions from persons within or outside the Government with respect to the administration of the program established under (the) Order." Specifically, I pursued your complaint that the CIA improperly classified information contrary to provisions of the Order.

Based upon my review of this second complaint, to include a review of the specific information in question, I have determined that the information satisfies the classification standards set forth in § 1.1 of the Order. I further determined that the information concerned intelligence activities, sources and methods and thus satisfied the criteria set forth in § 1.4 of the Order. Finally, based upon information made available to me, I have concluded that the CIA's classification decision in this instance was not in order to circumvent any of the prohibitions and limitations of § 1.7 of the Order. In view of the above, I have determined that the CIA's classification of the information in question is appropriate and find no merit in support of your complaint.

I understand that the CIA is working with you in order to develop an unclassified version of your original complaint. I encourage you to continue working with them to that end.

Sincerely,

/Signed/ J. William Leonard

J. William Leonard
Director

Declaration of Scott A. Koch
Information and Privacy Coordinator
Central Intelligence Agency

Exhibit E

PRB Letter (Jan 5, 2006)



Washington, D. C. 20505

Publications Review Board
1H11 IP Building
E-mail: prb@ucia.gov

Telephone: 703.613.3070
703.613.1219
Facsimile: 703.613.3004

5 January 2006

Mr. Franz Boening
██████ Deer Mountain Est.
Harpers Ferry, WV 25425

Dear Mr. Boening:

In response to your e-mail message of 28 November 2005, the Publications Review Board requires that you rewrite your "M Documents" outside of a government memo format stating in your own words what you desire to communicate. As mentioned in our previous messages, what you resubmit must include specific, open source citations (author, title, source, date, page) for the statements you wish to make. These citations must be placed in the body of the text linked to specific sentences and paragraphs.

Please contact me if you have any questions or if we can be of assistance.

Sincerely yours,

A handwritten signature in cursive script that reads "R. Puhl".

R. Puhl
Chairman, Publications Review Board

Declaration of Scott A. Koch
Information and Privacy Coordinator
Central Intelligence Agency

Exhibit F

PRB Letter (June 20, 2006)



Washington, D.C. 20505

Publications Review Board
1H11 IP Building
Washington, D.C. 20505

Telephone: 703.613.3070
Facsimile: 703.613.3004
E-mail: prb@ucia.gov

20 June 2006

Mr. Franz Boening
██████████ Deer Mountain Est.
Harpers Ferry, WV 25425

Dear Mr. Boening:

The Publications Review Board has completed its review of your manuscript consisting of five memorandums dated 10 May 2001, 16 January 2003, 24 March 2003, 20 May 2004, and 22 November 2004. The Board determined that, in accordance with the terms of your secrecy agreement, the following information in your manuscript is inappropriate for disclosure in the public domain and must be revised or deleted prior to publication:

10 May 2001 Memorandum

Page 33

Line 10

Delete the third word in the line.

Lines 11 – 12

Delete the seventh word in line 11 through the first word in line 12.

Lines 18 – 19

Delete the last word in line 18 through the fifth word in line 19.

Lines 20 – 26

Delete all of lines 20 through 26.

Line 29

Delete the first word in the line.

Line 35

Delete the third word in the line.

Page 34

Line 16

Delete the fourth word in the line.

Lines 16 – 17

Delete the eleventh word in line 16 through the fifth word in line 17.

Line 20

Delete the seventh word in the line.

Line 21

Delete the ninth word in the line.

Line 23

Delete the ninth word in the line.

Line 27

Delete the third word in the line.

Line 37

Delete the fourth word in the line.

Page 35

Line 2

Delete the penultimate word in the line.

Line 5

Delete the first word in the line.

Line 6

Delete the third word in the line.

Line 10

Delete the eighth word in the line.

Line 11

Delete the ninth word in the line.

Lines 15 – 16

Delete the sixth word in line 15 through the sixth word in line 16.

Line 16

Delete the last word in the line.

Lines 17 – 25

Delete the eleventh word in line 17 through the first word in line 25.

Line 26

Delete the sixth word in the line.

Line 27

Delete the tenth word in the line.

Line 31

Delete the eighth through eleventh words in the line.

Line 32

Delete the eighth word in the line.

Lines 32 – 33

Delete the thirteenth word in line 32 through the first word in line 33.

Line 34

Delete the seventh and tenth words in the line.

Line 36

Delete the seventh and thirteenth words in the line.

Line 37

Delete the third and eighth words in the line.

Lines 38 – 40

Delete the third word in line 38 through the second word in line 40.

Line 40

Delete the eleventh word in the line.

Line 41

Delete the sixth word in the line.

Page 36

Lines 4 – 7

Delete the sixth word in line 4 through the eleventh word in line 7.

Line 13

Delete the fourth word in the line.

Line 15

Delete the first and twelfth words in the line.

Line 24

Delete the first word in the line.

Lines 25 – 30

Delete the eleventh word in line 25 through the first word in line 30.

Line 33

Delete the first and last words in the line.

Line 34

Delete the fifth word in the line.

Line 36

Delete the first word in the line.

Page 37

Line 1

Delete the sixth word in the line.

Line 3

Delete the third through sixth word in the line.

Lines 11 – 22

Delete the eleventh word in line 11 through the tenth word in line 22.

Line 23

Delete the fourth word in the line.

Line 25

Delete the first word in the line.

Line 26

Delete the first word in the line.

Line 27

Delete the fourth, fifth, and last words in the line.

Lines 29 – 32

Delete the seventh word in line 29 through line 32.

Line 37

Delete the seventh word in the line.

Line 38

Delete the first word in the line.

Page 38

Lines 1 – 10

Delete the first word in line 1 through the penultimate word in line 10.

Line 12

Delete the eighth and ninth words in the line.

Line 13

Delete the first word in the line.

Lines 13 – 16

Delete the twelfth word in line 13 through the penultimate word in line 16.

Line 19

Delete the seventh word in the line.

Line 21

Delete the fourth word in the line.

Line 23

Delete the second through fourth words in the line.

Lines 23 – 28

Delete the eighth word in line 23 through line 28.

Lines 29 – 35

Delete the seventh word in line 29 through the last word in line 35.

Lines 36 – 41

Delete the ninth word in line 36 through line 41.

Page 39

Lines 1 – 3

Delete the first word in line 1 through the fourth word in line 3.

Lines 7 – 9

Delete the last word in line 7 through the third word in line 9.

Line 10

Delete the ninth word in the line.

Line 11

Delete the tenth and eleventh word in the line.

Line 18

Delete the last word in the line.

Line 21

Delete the eighth word in the line.

Line 23

Delete the fourth through seventh words in the line.

Line 24

Delete the penultimate word in the line.

Line 39

Delete the seventh word in the line.

Page 40

Line 1

Delete the seventh word in the line.

Line 4

Delete the first through sixth words in the line.

Lines 6 – 15

Delete the eighth word in line 6 through the last word in line 15.

Lines 16 – 17

Delete the last word in line 16 through the seventh word in line 17.

Line 18

Delete the first word in the line.

Lines 18 – 21

Delete the seventh word in line 18 through the second word in line 21.

Line 21

Delete the penultimate word in the line.

Lines 22 – 25

Delete the fifth word in line 22 through the second word in line 25.

Line 27

Delete the first and last words in the line.

Line 31

Delete the eighth word in the line.

Line 39

Delete the third word in the line.

Pages 41 – 53

Delete all of page 41 through page 53.

Page 54

Line 2

Delete the third and ninth words in the line.

Line 10

Delete the tenth word in the line.

Lines 11 – 12

Delete the first word in line 12 through the eleventh word in line 12.

Line 25

Delete the third through last words in the line.

Line 26

Delete the eighth through tenth words in the line.

Line 28

Delete the tenth word in the line.

Line 30

Delete the ninth and tenth words in the line.

Line 33

Delete the fourth word in the line.

Page 55

Line 1

Delete the fourth and fifth words in the line.

Line 17

Delete the eighth and ninth words in the line.

Line 21

Delete the fourth word in the line.

Lines 22 – 23

Delete the second word in line 22 through the tenth word in line 23.

Line 24

Delete the fifth through last words in the line.

Page 57

Line 16

Delete the fifth through eighth words in the line.

Lines 19 – 24

Delete all of lines 19 through 24.

Page 58

Line 2

Delete the last word in the line.

Lines 3 – 4

Delete the last word in line 3 and the first word in line 4.

Line 7

Delete the fifth word in the line.

Line 8

Delete the eighth word in the line.

Lines 9 – 10

Delete the third word in line 9 through the eighth word in line 10.

Line 11

Delete the sixth through tenth words in the line.

Lines 12 – 14

Delete the third word in line 12 through line 14.

Lines 15 – 16

Delete the third word in line 15 through the second word in line 16.

Line 16

Delete the seventh through eleventh words in the line.

Lines 17 – 20

Delete the penultimate word in line 17 through line 20.

Line 21

Delete the ninth through twelfth words in the line.

Line 25

Delete the penultimate word in the line.

Line 26

Delete the last word in the line.

Lines 33 – 36

Delete the first word in line 33 through the ninth word in line 36.

Page 59

Line 1

Delete the seventh word in the line.

Line 2

Delete the first word in the line.

Line 3

Delete the sixth and seventh words in the line.

Line 7

Delete the third, eighth, and ninth words in the line.

Line 8

Delete the first, second, and seventh words in the line.

Line 16

Delete the third through ninth words in the line.

Lines 16 – 17

Delete the penultimate word in line 16 through line 17.

Lines 19 – 20

Delete the first word in line 19 through the sixth word in line 20.

Line 21

Delete the fifth word in the line.

Lines 21 – 22

Delete the tenth word in line 21 through the fourth word in line 22.

Line 22

Delete the tenth word in the line.

Line 24

Delete the first, third, fourth, and fifth words in the line.

Line 25

Delete the fourth word in the line.

Line 26

Delete the fifth through twelfth words in the line.

Lines 27 – 28

Delete the third word in line 27 through the third word in line 28.

Line 29

Delete the second through last words in the line.

Line 30

Delete the seventh through last words in the line.

Page 60

Line 1

Delete the fourth word in the line.

Line 6

Delete the fourth word in the line.

Line 8
Delete the second and third words in the line.

Line 9
Delete the first word in the line.

Lines 10 – 25
Delete the tenth word in line 10 through line 25.

Line 26
Delete the ninth word in the line.

Lines 29 – 38
Delete all of lines 29 through 38.

Line 41
Delete the seventh word in the line.

Page 61

Lines 2 – 3
Delete the tenth word in line 2 through the first word in line 3.

Line 3
Delete the third word in the line.

Line 6
Delete the ninth word in the line.

Line 9
Delete the sixth word in the line.

Line 10
Delete the fifth and sixth word in the line.

Line 12
Delete the third word in the line.

Line 14
Delete the seventh, eighth, and penultimate words in the line.

Line 15
Delete the seventh word in the line.

Lines 17 – 18
Delete the third word in line 17 through the first word in line 18.

16 January 2003 Memorandum

Page 62

Line 2
Delete the fourth word in the line. Please note that we have deleted the last names of current Agency employees. You may wish to substitute an initial for the last names.

Line 3
Delete the third word in the line.

Line 12
Delete the second word in the line.

Line 14
Delete the eighth word in the line.

Line 17

Delete the third word in the line.

Line 38

Delete the sixth and ninth words in the line.

Page 63

Line 5

Delete the fourth word in the line.

Line 12

Delete the first word in the line.

Line 24

Delete the third word in the line.

Line 26

Delete the fifth word in the line.

Line 28

Delete the eleventh word in the line.

Line 33

Delete the eleventh word in the line.

Line 36

Delete the seventh word in the line.

Line 37

Delete the second word in the line.

Line 39

Delete the eighth word in the line.

Line 41

Delete the tenth and thirteenth words in the line.

Line 42

Delete the first and fourth words in the line.

Page 64

Line 6

Delete the second word in the line.

Line 8

Delete the third word in the line.

Line 13

Delete the fourth word in the line.

Line 15

Delete the tenth word in the line.

Line 18

Delete the third word in the line.

Line 20

Delete the fifth word in the line.

Line 24

Delete the second word in the line.

Line 25

Delete the third and fifth words in the line.

Line 27

Delete the second word in the line.

Page 65

Line 2

Delete the fifth word in the line.

Line 22

Delete the ninth word in the line.

Page 66

Line 15

Delete the fourth word in the line.

Line 24

Delete the second word in the line.

Line 26

Delete the twelfth word in the line.

Page 67

Line 13

Delete the last word in the line.

Line 14

Delete the twelfth word in the line.

24 March 2003 Memorandum

Page 2

Lines 11 – 12

Delete the third word in line 11 through the third word in line 12. The Agency does not acknowledge a relationship with this individual.

Lines 12 – 16

Delete the eighth word in line 12 through the first word in line 16.

Line 34

Delete the sixth word in the line.

Line 36

Delete the tenth word in the line.

Page 7

Line 31

Delete the thirteenth and fourteenth words in the line.

Lines 33 – 40

Delete the twelfth word in line 33 through line 40.

Line 41

Delete the twelfth word in the line.

Page 9

Line 21

Delete the third word in the line. You may wish to substitute an initial for the last name.

Line 23

Delete the third word in the line.

Line 36

Delete the second word in the line.

Line 37

Delete the last word in the line.

Page 10

Line 6

Delete the eleventh word in the line.

Page 13

Line 42

Delete the twelfth through sixteenth words in the line.

Page 17

Line 2

Delete the sixth word in the line. You may wish to substitute an initial for the last name.

Line 3

Delete the fifth word in the line.

Line 4

Delete the fifth word in the line.

Line 6

Delete the fifth word in the line.

Line 8

Delete the fifth word in the line.

Line 9

Delete the fifth word in the line.

Line 10

Delete the fifth word in the line.

Line 11

Delete the fifth word in the line.

Line 13

Delete the fifth word in the line.

Line 16

Delete the fifth word in the line.

Line 17

Delete the fifth word in the line.

Line 19

Delete the fifth word in the line.

Line 20

Delete the fifth word in the line.

Line 21

Delete the fifth word in the line.

Line 22

Delete the fifth word in the line.

Line 25

Delete the fifth word in the line.

Line 26

Delete the fifth word in the line.

Line 27

Delete the fifth word in the line.

Line 28

Delete the fifth word in the line.

Line 29

Delete the fifth word in the line.

Page 18

Line 5

Delete the fourth and fifth words in the line.

Line 7

Delete the fourth through seventh words in the line.

Line 9

Delete the tenth word in the line.

Line 13

Delete all of line 13.

Lines 18 – 19

Delete the thirteenth word in line 18 through line 19.

Line 23

Delete the fourth and fifth words in the line.

Line 25

Delete the seventh through tenth words in the line.

Line 31

Delete the fourth through eighth words in the line.

Line 32

Delete the fifth through last words in the line.

Page 19

Lines 1 – 2

Delete all of lines 1 and 2.

20 May 2004 Memorandum

Page 23

Line 7

Delete the last two words in the line.

Line 8

Delete the first word in the line.

Line 9

Delete the fourth through sixth words in the line.

Line 12

Delete the second word in the line.

Line 16

Delete the first three words in the line.

Line 22

Delete the fourth through seventh words in the line.

Line 23

Delete the ninth word in the line.

Line 26

Delete the last two words in the line.

Page 24

Line 44

Delete the fifth and sixth words in the line.

Page 28

Line 2

Delete the sixth word in the line.

Page 29

Line 1

Delete the eighth word in the line.

Page 30

Line 35

Delete the fifteenth word in the line.

Line 39

Delete the eleventh word in the line.

22 November 2004 Memorandum

Page 1

Line 33

Delete the third word in the line.

Page 2

Line 2

Delete the last word in the line.

A copy of the edited pages is enclosed for your records.

If you add material to or change the manuscript the Board has reviewed, you must submit these additions or changes to us before giving them to your publisher or anyone else. Please mark or otherwise indicate the new material clearly so we can expedite our review. Additional items that require submission include, but are not limited to, photographs, photograph captions, illustrations, diagrams, tables, charts, or maps.

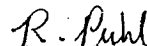
The Board requires that you include the following disclaimer:

All statements of fact, opinion, or analysis expressed are those of the author and do not reflect the official positions or views of the CIA or any other U.S. Government agency. Nothing in the contents should be construed as asserting or implying U.S. Government authentication of information or Agency endorsement of the author's views. This material has been reviewed by the CIA to prevent the disclosure of classified information.

The Board is also in possession of a set of reference documents that you provided. Please inform the Board within ten days of receipt of this letter if you want them returned to you and we will do so.

Do not hesitate to contact me if you have any questions or if we can be of further assistance.

Sincerely yours,



R. Puhl
Chairman, Publications Review Board

Declaration of Scott A. Koch
Information and Privacy Coordinator
Central Intelligence Agency

Exhibit G

PRB E-mail (June 30, 2006)

Subject: Re: PRB review of M documents

From: rich [REDACTED]

Date: Fri, 30 Jun 2006 14:57:40 -0400

To: Franz Boening [REDACTED]

Franz,

As we have told you a number of times in the past, if you rewrite your M story in a different format, outside the official-looking memo-type one it currently is in; and attribute those statements to open sources in the new format (as you basically have), there should be no problem with you getting your message out. The deletions noted in our letter pertain to the information as presented in the old format and not to the information itself.

As you should be well aware, anyone with access to classified systems can easily access classified information on a wide variety of subjects, including those they don't work on.

We are looking into the "1-2 document" issue.

We will return your source material.

Let me know if you have any more questions.

Franz Boening wrote:

Dear PRB,

Thank you for finally processing the majority of the M collection of "personal documents." Although it took your office 10+ months to almost complete the job (i.e., about 1000% longer than the time it is supposed to take), you actually processed the documents! This is an accomplishment for me and for you. (Please see para five below.)

Obviously, I have a big problem with your assertion that M's name cannot be mentioned by name. This is the heart of the first complaint. But why can M's name and country of employment not be released? Why not? He is mentioned by name in all of the source documents that I provided to your office.

Moreover, I did not agree in my CIA secrecy agreement to keep newspaper articles, public analysis, public statements, and my personal opinions secret. Finally, your office's letter of January 2006 and Paul Chretien's multiple Lotus Note statements of summer 2005 said that the M documents could be released if I demonstrated that they were based on overt sources. I did this to everyone's satisfaction. Do you now assert that I have not satisfied this

requirement? Why the change?

Please respond to the following questions:

1. Where in my secrecy agreement did I agree to keep overt information secret? I recall having promised to keep CIA information secret, which, frankly, I have done. Which of my 80+ source documents did CIA author? Any? Cite even one document, please.

2. When and how during my CIA career did I have access to classified documents on M that I used to write my collection? I vigorously deny ever having read even one classified M document in my entire life. Did I ever work on Latin America topics in my entire career? Please explain.

(Note: Of course, as I acknowledged years ago, I have read previously classified documents on M available at the National Security Archive--documents that were produced by other USG agencies. But, the documents were no longer classified when I read them.)

3. Are the deletions your office took in my collection secret under law or only "inappropriate for disclosure" as your memo of 20 June asserted. Does "inappropriate for disclosure" mean secret under EO 12958? I noted that none of your deletions cited the section of the EO that might allow the deletion. Why not?

How can CIA withhold media and civil society documents produced by others? By what right can your organization do this? What section of the EO allows this? Do the perogatives of CIA trump the First Amendment of the Constitution? If the deletions are not secret or otherwise classified, I do not accept them. I am a retired American, who refuses to forfeit his First Amendment rights!

(As you know, under CIA regulations, the only standard you can apply to retirees is whether material is classified. Not format, not taste, not "we hate this guy," not "this is embarrassing" etc. The material used in any document submitted to your office cannot be based on classified material; otherwise you can withhold it. I have always accepted this. However, by your own standards, nothing in my collection can be considered classified because none of it is based on CIA material.)

4. Why is the nervous CIA disclaimer necessary? Although I have always

expressed a willingness to CIA to include such a disclaimer--since 2001, in fact, as a courtesy--why is a disclaimer necessary when no identity is mentioned? My willingness to include a disclaimer was always premised on the assumption that CIA would release the topic of discussion--M. I find the inclusion of a disclaimer when no topic is mentioned to be, frankly, insulting. (Kafkaesque, perhaps?) Please note that even if M's name were included, it seems to me that CIA will still have adequate deniability. Why not simply deny or not comment on my M collection? Remember, CIA has asserted that my collection is personal in nature. Personal, right? Private opinions, no? Based on newspaper articles? Why do you see fit to delete the subject of conversation if your disclaimer is included?

5. Where is the 1-2 document that I authored and originally acknowledged might rpt might be secret in 2001? This annex, you will recall, detailed the truly excruciating details of M's alleged relationship with CIA, along with the likely violations of law. Why have you not processed it? When will this document be finished? Do I not have right to have all of my personal documents processed?

6. When is the last time that CIA sought to delete overt newspaper accounts, public statements, and public analysis from the personal writings of a retired employee? In the 1970's? Ever? Is this a wise decision from a public policy standpoint? Will this decision withstand legal challenge?

Kindly return to me my source materials. In the meantime, I reserve the right to pursue release of further M information--contained in my "personal writings"--in another forum.

Most sincerely,
Franz Boening

Declaration of Scott A. Koch
Information and Privacy Coordinator
Central Intelligence Agency

Exhibit H

PRB Letter (Aug. 11, 2006)



Washington, D. C. 20505

Publications Review Board
1H11 IP Building
E-mail: prb@ucia.gov

Telephone: 703.613.3070
703.613.1219
Facsimile: 703.613.3004

11 August 2006

Mr. Franz Boening
[REDACTED] Deer Mountain Est.
Harpers Ferry, WV 25425

Dear Mr. Boening:

The Publications Review Board located the "2001 classified annex" document that you created when employed by the Agency. A classification review was completed of the document. The Board determined that, in accordance with the terms of your secrecy agreement, all of the information contained within the document is inappropriate for disclosure in the public domain (i.e., is considered to be classified information).

This concludes our action on your original request for the prepublication review of your six-part manuscript consisting of five memorandums dated 10 May 2001, 16 January 2003, 24 March 2003, 20 May 2004, 22 November 2004, and the 2001 classified annex.

We have now reviewed and deleted classified material from these documents. You may use them as you see fit. If you undertake to rewrite these documents or otherwise state in your own words what you desire to communicate, you are required to submit this new material for prepublication review. What you resubmit must include specific, open source citations (author, title, source, date, page) for the statements you wish to make. These citations must be placed in the body of the text and be linked to specific sentences and paragraphs.

Per your request, we are returning your reference packet along with this letter.

Sincerely yours,

A handwritten signature in black ink that reads "R. Puhl".

R. Puhl
Chairman, Publications Review Board