



# Legal Document

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District Of Columbia District Court  
Case No. 1:08-cv-00708-JR

**JAMES MADISON PROJECT v. CENTRAL INTELLIGENCE  
AGENCY**

Document 1



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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

JAMES MADISON PROJECT  
1250 Connecticut Avenue, NW  
Suite 200  
Washington, DC 20036

Plaintiff

v.

CENTRAL INTELLIGENCE AGENCY  
Washington, DC 20505

Defendant.

Civil Action No. 08- \_\_\_\_\_

\* \* \* \* \*

**COMPLAINT**

This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, et seq., as amended, for the disclosure of agency records improperly withheld from plaintiff James Madison Project by defendant Central Intelligence Agency.

**JURISDICTION**

1. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the defendant pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

**VENUE**

2. Venue is appropriate under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391.

**PARTIES**

3. Plaintiff James Madison Project (“JMP”) is a non-profit organization under the laws of the District of Columbia and has the ability to disseminate information on a wide scale. Stories concerning our activities have received prominent mention in many publications including, but not limited to, *Washington Post*, *Washington Times*,

*St. Petersburg Tribune, San Diego Union Tribune, European Stars & Stripes, Christian Science Monitor, U.S. News and World Report, Mother Jones and Salon Magazine.*

4. Defendant Central Intelligence Agency (“CIA”) is an agency within the meaning of 5 U.S.C. § 552 (e), and is in possession and/or control of the records requested by JMP which are the subject of this action.

### **BACKGROUND**

5. John L. Helgerson (“Mr. Helgerson”) has served as the Inspector General of the CIA since April 26, 2002. Since his appointment, Mr. Helgerson has led numerous internal investigations into controversial programs that began in the aftermath and as a result of the September 11, 2001, terrorist attacks, including such high-profile programs as the CIA’s detention and interrogation of terrorist suspects. Mr. Helgerson also conducted an investigation into the CIA’s actions prior to the September 11, 2001, terrorist attacks, resulting in a report which recommended “accountability boards” to consider disciplinary action against a handful of senior officials.

6. Upon information and belief, the prolonged and aggressive nature of these investigations has caused bitter resentment on the part of certain CIA operatives and officials towards the Office of the Inspector General (“OIG”) in general and Mr. Helgerson in particular.

7. On October 12, 2007, the CIA confirmed that Director General Michael V. Hayden (“Director Hayden”) had authorized an internal investigation into the operations of the CIA’s OIG, specifically focusing on the conduct of Mr. Helgerson. The basis of the review is to address complaints that the OIG’s investigations have not consisted of a fair and impartial review but rather as a “crusade” against CIA officials involved in controversial programs. CIA spokesman Paul Gimigliano refused to characterize the internal review – which is being overseen by Robert L. Deitz, Senior Counselor to Director Hayden, and Michael J. Morell, Associate Deputy Director - as an



“investigation” and insisted that Director Hayden’s only objective was to assist the OIG in doing “its vital work even better.”

8. Upon information and belief, the CIA’s stated basis for and characterization of the internal investigation is both misleading and inaccurate. Upon further information and belief, the commencement of such an investigation poses a conflict of interest and threatens to undermine the independence of the OIG.

9. Frederick P. Hitz, who served as the CIA’s Inspector General from 1990 to 1998 and currently teaches at the University of Virginia, stated on October 12, 2007, that any investigation by Director Hayden into the OIG’s work would “not be proper.”

10. Pursuant to the Inspector General Act of 1978, only the President of the United States may remove the Inspector General of a Cabinet-level or major agency. In the event of such action, both houses of Congress must be notified of the rationale justifying the removal.

11. Upon information and belief, Director Hayden lacks the authority to initiate an internal investigation designed to address complaint(s) against both the OIG as a whole and Mr. Helgeson in particular.

12. Pursuant to Executive Order 12993, allegations of misconduct by an Inspector General and/or senior staff members of an agency’s OIG are referred to the Integrity Committee of the President’s Council on Integrity and Efficiency (“PCIE”). Pursuant to Section 2(c) of Executive Order 12993, the Integrity Committee shall determine if there is a substantial likelihood that the allegation “discloses a violation of any law, rule or regulation, or gross mismanagement, gross waste of funds or abuse of authority.” To the extent that an investigation is necessary, the Public Integrity Section of the Department of Justice or the Federal Bureau of Investigation will conduct the investigation on behalf of the Integrity Committee.

13. Upon information and belief, to date, Director Hayden has not referred any complaint(s) against Mr. Helgerson and/or his staff to the Integrity Committee of the PCIE.

**COUNT ONE**

14. JMP repeats and realleges the allegations contained in paragraphs 5 through 13 above, inclusive.

15. By letter dated October 18, 2007, JMP submitted to the CIA a FOIA request which sought copies of all internal CIA documents pertaining to discussions concerning the decision to initiate an internal review of the operations of Mr. Helgerson, and of the OIG as a whole. Copies of news articles from the *Los Angeles Times*, *New York Times*, and *USA Today* that detailed the CIA's confirmation that an internal review had been authorized were included. The request sought a waiver of all fees, noting that JMP is a non-profit organization with the ability to disseminate information on a wide scale, the information would contribute to the public's understanding of government operations or activities and is in the public interest, and that JMP had been granted a fee waiver on all prior requests.

16. By letter dated November 5, 2007, the CIA acknowledged receipt of JMP's request and assigned it Request No. F-2008-00103. The CIA also granted JMP's request for a waiver of fees.

17. By telephone on February 21, 2008, JMP's Deputy Executive Director, Bradley P. Moss, contacted CIA's FOIA Requester Service Center for a status update on the request. The CIA stated that the request was still being processed and indicated that it could not provide a concrete date upon which the process would be completed.

18. By letter dated March 3, 2008, CIA informed JMP that the request was still being processed.

19. As twenty working days have elapsed without a substantive determination by the CIA, JMP has constructively exhausted all required administrative remedies.

20. JMP has a legal right under the FOIA to obtain the information it seeks, and there is no legal basis for the denial by the CIA of said right.

WHEREFORE, plaintiff James Madison Project prays that this Court:

(1) Orders the Central Intelligence Agency to disclose the requested records in their entireties and make copies promptly available to it;

(2) Award reasonable costs and attorney's fees as provided in 5 U.S.C. § 552 (a)(4)(E) and/or 28 U.S.C. § 2412 (d);

(3) Expedite this action in every way pursuant to 28 U.S.C. § 1657 (a); and

(4) Grant such other relief as the Court may deem just and proper.

Date: April 21, 2008

Respectfully submitted,

/s/

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Of Counsel

## CIVIL COVER SHEET

JS-44  
(Rev. 1/05 DC)

<b>I (a) PLAINTIFFS</b> James Madison Project <div style="text-align: right; margin-right: 50px;"><i>11601</i></div>	<b>DEFENDANTS</b> Central Intelligence Agency 
<b>(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (EXCEPT IN U.S. PLAINTIFF CASES)</b> Washington, DC	<b>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY)</b> NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND
<b>(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)</b> Bradley P. Moss, Esq. Mark S. Zaid, P.C., 1250 Connecticut Avenue, NW, Suite 200, Washington, DC 20036 202-907-7945	<b>Case: 1:08-cv-00708</b> <b>Assigned To : Robertson, James</b> <b>Assign. Date : 4/22/2008</b> <b>Description: FOIA/Privacy Act</b>

<b>II. BASIS OF JURISDICTION</b> (PLACE AN X IN ONE BOX ONLY)	<b>III CITIZENSHIP OF PRINCIPAL PARTIES</b> (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) <b>FOR DIVERSITY CASES ONLY!</b>
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☐ 1 U.S. Government Plaintiff

☒ 2 U.S. Government Defendant

☐ 3 Federal Question (U.S. Government Not a Party)

☐ 4 Diversity (Indicate Citizenship of Parties in item III)

	PTF	DFT		PTF	DFT
Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4
Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5
Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6

## IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place a X in one category, A-N, that best represents your cause of action and one in a corresponding Nature of Suit)

<input type="radio"/> <b>A. Antitrust</b>  <input type="checkbox"/> 410 Antitrust	<input type="radio"/> <b>B. Personal Injury/Malpractice</b>  <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Medical Malpractice <input type="checkbox"/> 365 Product Liability <input type="checkbox"/> 368 Asbestos Product Liability	<input type="radio"/> <b>C. Administrative Agency Review</b>  <input type="checkbox"/> 151 Medicare Act <b>Social Security:</b> <input type="checkbox"/> 861 HIA ((1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g) <b>Other Statutes</b> <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)	<input type="radio"/> <b>D. Temporary Restraining Order/Preliminary Injunction</b>  Any nature of suit from any category may be selected for this category of case assignment.  *(If Antitrust, then A governs)*
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<input type="radio"/> <b>E. General Civil (Other)</b>	OR	<input type="radio"/> <b>F. Pro Se General Civil</b>
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<b>Real Property</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property  <b>Personal Property</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<b>Bankruptcy</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>Prisoner Petitions</b> <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition  <b>Property Rights</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>Federal Tax Suits</b> <input type="checkbox"/> 870 Taxes (US plaintiff or defendant <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609	<b>Forfeiture/Penalty</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other  <b>Other Statutes</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 430 Banks & Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 900 Appeal of fee determination under equal access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)
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3

<input type="radio"/> <b>G. Habeas Corpus/ 2255</b>  <input type="checkbox"/> 530 Habeas Corpus-General <input type="checkbox"/> 510 Motion/Vacate Sentence	<input type="radio"/> <b>H. Employment Discrimination</b>  <input type="checkbox"/> 442 Civil Rights-Employment (criteria: race, gender/sex, national origin, discrimination, disability age, religion, retaliation)  <i>*(If pro se, select this deck)*</i>	<input checked="" type="radio"/> <b>I. FOIA/PRIVACY ACT</b>  <input checked="" type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act)  <i>*(If pro se, select this deck)*</i>	<input type="radio"/> <b>J. Student Loan</b>  <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (excluding veterans)
<input type="radio"/> <b>K. Labor/ERISA (non-employment)</b>  <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> <b>L. Other Civil Rights (non-employment)</b>  <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 American w/Disabilities-Employment <input type="checkbox"/> 446 Americans w/Disabilities-Other	<input type="radio"/> <b>M. Contract</b>  <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> <b>N. Three-Judge Court</b>  <input type="checkbox"/> 441 Civil Rights-Voting (if Voting Rights Act)

**V. ORIGIN**

- ☒ 1 Original Proceeding  
 ☐ 2 Removed from State Court  
 ☐ 3 Remanded from Appellate Court  
 ☐ 4 Reinstated or Reopened  
 ☐ 5 Transferred from another district (specify)  
 ☐ 6 Multi district Litigation  
 ☐ 7 Appeal to District Judge from Mag. Judge

**VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)**

Action under 5 U.S.C. § 552 to compel disclosure of records improperly withheld from Plaintiff by Defendant.

**VII. REQUESTED IN COMPLAINT**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

JURY DEMAND:

Check YES only if demanded in complaint  
 YES ☐ NO ☒

**VIII. RELATED CASE(S) IF ANY**

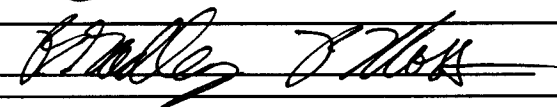
(See instruction)

YES ☐NO ☒

If yes, please complete related case form.

DATE April 21, 2008

SIGNATURE OF ATTORNEY OF RECORD


**INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44**

Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the Cover Sheet.

- I. COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff is resident of Washington, D.C.; 88888 if plaintiff is resident of the United States but not of Washington, D.C.; and 99999 if plaintiff is outside the United States.
- III. CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV. CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of case.
- VI. CAUSE OF ACTION: Cite the US Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII. RELATED CASES, IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk's Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

ML