

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

SAIFULLAH PARACHA, <i>et al.</i> ,)	
)	
Petitioners,)	
)	
v.)	Civil Action No. 04-CV-2022 (PLF)
)	
GEORGE W. BUSH,)	
President of the United States, <i>et al.</i> ,)	
)	
Respondents.)	

**RESPONDENTS’ REPLY TO PETITIONER’S MAY 23, 2005 RESPONSE
MEMORANDUM AND MOTION TO DESIGNATE AS “PROTECTED
INFORMATION” CERTAIN INFORMATION IN PETITIONER’S
MAY 23, 2005 RESPONSE MEMORANDUM**

COME NOW respondents, by and through their undersigned counsel, and respectfully submit this reply to Petitioner’s Response To Respondents’ Motion To Designate As “Protected Information” Certain Information Regarding Contacts With Guantanamo Prisoners (filed with the Court Security Office on May 23, 2006) (hereinafter “Petitioner’s Response”) and request that this Court designate as “protected information” certain information in Petitioner’s Response. Portions of Petitioner’s Response should be treated as “protected information” under the governing protective order in this case because they reveal the identity of a Special Agent of the United States Federal Bureau of Investigation named in the February 14, 2006 Declaration of Saifullah Paracha, filed in support of Petitioner’s Motion For Leave To File A Second Amended Petition And To Add The Attorney General As A Respondent (dkt. no. 83). The Court previously ruled that the agent’s identifying information is entitled to “protected information” status. See Minute Order (May 19, 2006).

The identifying information that respondents seek to designate as “protected” has been redacted from the version of Petitioner’s Response that has been approved for public filing. See Exhibit 1 attached hereto. An unredacted version of Petitioner’s Response has been submitted under seal to the Court through the Court Security Officer with information the government seeks to designate as “protected” highlighted in blue (consistent with previous submissions of “protected” material). Consistent with Judge Joyce Hens Green’s November 10, 2004 Order in the other coordinated Guantanamo Habeas cases (entered by this Court on December 16, 2004; dkt no. 13), undersigned counsel for respondents has attempted to confer with Gaillard T. Hunt, counsel for petitioner, but petitioner’s counsel has not indicated whether he intends to challenge the designation of the information as “protected information.”

For the reasons stated below, the Court should designate the redacted portions of Petitioner’s Response as “protected information” under the Protective Order:

1. On December 16, 2004, the Court applied to this case the Amended Protective Order and Procedures for Counsel Access to Detainees at the United States Naval Base in Guantanamo Bay, Cuba (“Protective Order”) that had been entered in the other coordinated Guantanamo Bay detainee cases. The Protective Order establishes procedures regarding the handling of classified national security information and other protected information involved in the Guantanamo Bay detainee cases. Unclassified information that is “worthy of special treatment,” see Protective Order, ¶ 11, may be designated as “protected information” so that it is treated with a heightened level of confidentiality to protect significant government interests, but without the strict access and handling procedures required for classified information. See id., ¶¶ 35-45 & Ex. C.

2. On May 9, 2006, petitioner filed a Motion For Leave To File A Second Amended Petition And To Add The Attorney General As A Respondent (dkt. no. 83). In support of the motion, petitioner submitted a Declaration of Saifullah Paracha (dated February 14, 2006), which named a law enforcement officer with the Federal Bureau of Investigation who is alleged to have personally interviewed petitioner Saifullah Paracha at the United States Naval Base in Guantanamo Bay, Cuba. Because the identity of the Special Agent as a law enforcement officer involved in interviews of petitioner at Guantanamo has not been disclosed or confirmed publicly, respondents' filed a motion to designate this information in the declaration as "protected information." See Respondents' Presently Unopposed Motion To Designate As "Protected Information" Certain Information In February 14, 2006 Declaration of Saifullah Paracha (dkt. no. 84). The Court granted respondents' motion by Minute Order on May 19, 2006.

3. On May 23, 2006, several days after entry of the Court's Minute Order, petitioner filed a response to respondent's motion to designate information in the declaration as "protected information." In the response petitioner reaffirms his lack of opposition to the protected information designations, but at the same time seemingly argues that the information should not be entitled to protected status because it has already been disclosed in other contexts. During the course of this discussion, Petitioner's Response references certain facts that identify the Special Agent whose identity was designated as "protected information" under the Court's May 19, 2006 Minute Order.

4. As noted above and explained in respondents' prior motion for protected status, identifying information about the Special Agent as a law enforcement officer involved in interviews of petitioner at Guantanamo Bay has never been publicly disclosed or confirmed. The

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EXHIBIT 1

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June 2, 2006
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FILED WITH
COURT SECURITY OFFICER
5/23/06 *J. [Signature]*
DATE

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA

SAIFULLAH PARACHA,

Petitioner,

v.

Case No. 04cv02022-PLF
ORAL ARGUMENT IS REQUESTED

Hon. GEORGE W. BUSH,

et al.,

Respondents.


**PETITIONER'S RESPONSE TO
RESPONDENTS' MOTION TO DESIGNATE AS "PROTECTED INFORMATION"
CERTAIN INFORMATION REGARDING
CONTACTS WITH GUANTANAMO PRISONERS**

Respondents moved, in docket item number 84, to designate some information as "protected information" under the protective order. The information consists of seven words in an affidavit of petitioner dated February 14, 2006. This affidavit was filed in support of petitioner's motion of May 9, 2006, docket 83, which asked for permission to file an amended

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petition. The Court granted the protection of the seven words by a minute order on May 19, 2006.

The redaction of this information from the affidavit does not detract from the affidavit's clarity or meaning. Petitioner therefore does not object to the suppression of these words.

The information the government says must be protected are the personal names and gendered pronouns of any government agents who went to Guantanamo. Petitioner, being pro-American and anti-terrorist, is sensitive to the security concerns of government personnel, and is in no position to second-guess the necessity of any general precaution. Petitioner, at this point in the litigation, accepts the government's belief that revelation of these names would compromise the safety of the public servants named. It is therefore with some apprehension that petitioner notes that the government  the information in question.

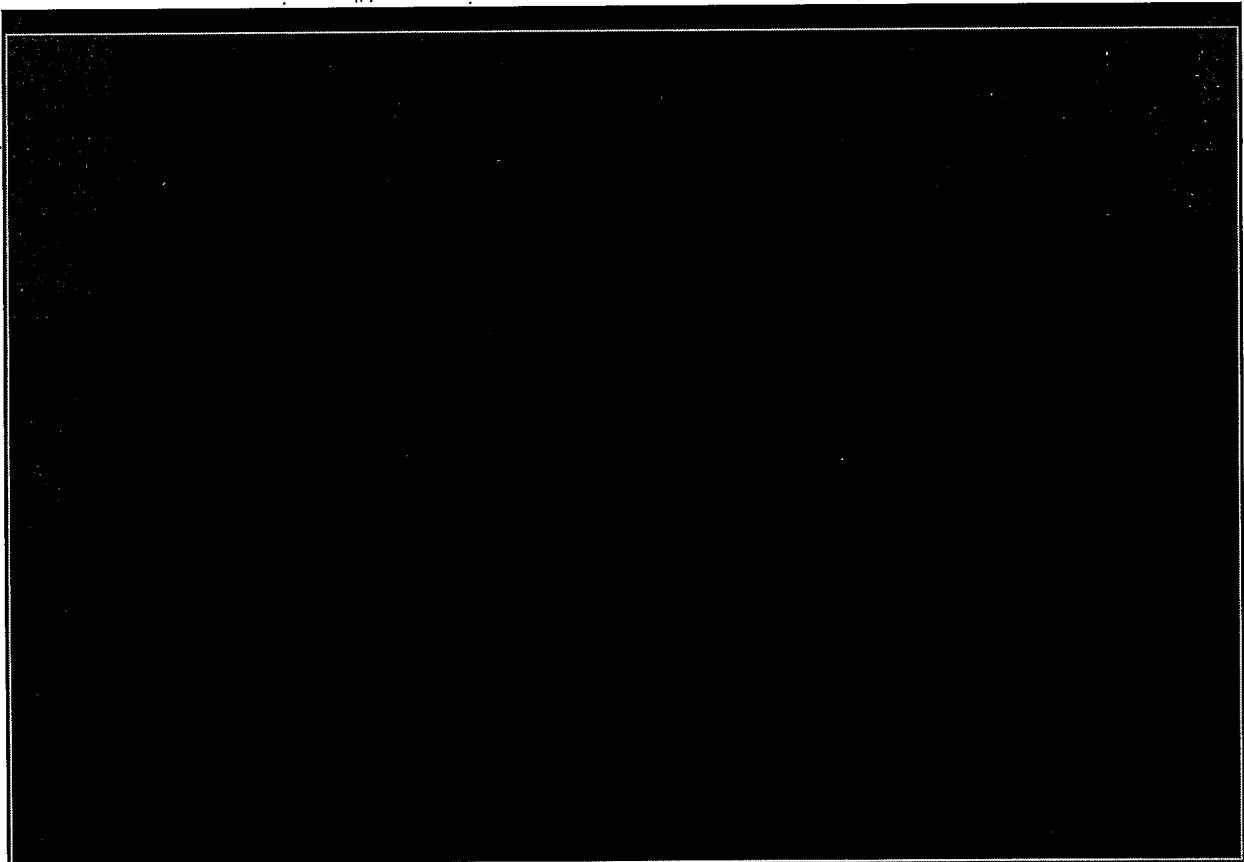
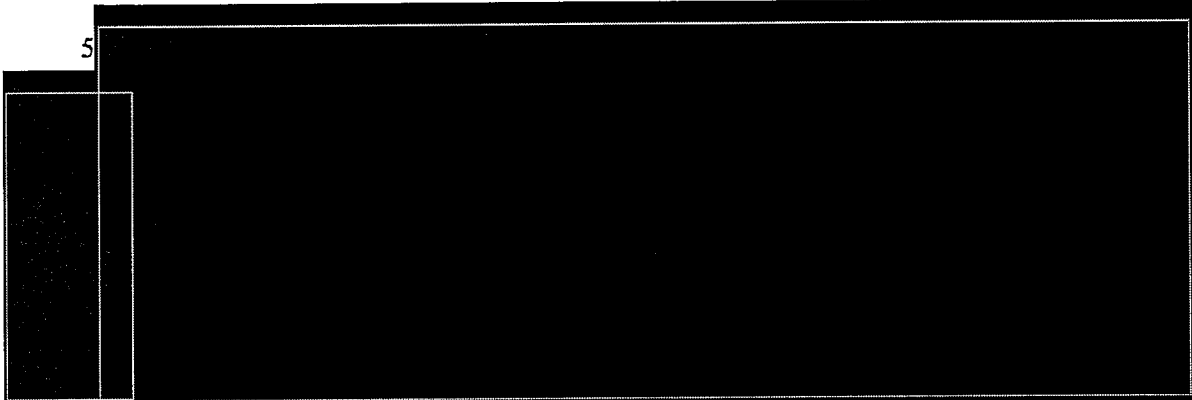
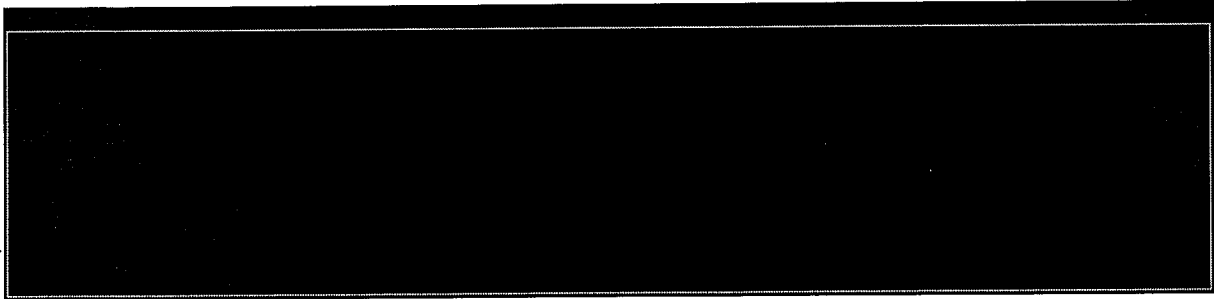
1. The agents who make up petitioner's principal interrogation team told him their real names from the start. That is how one of the names got into petition's affidavit.

2. 

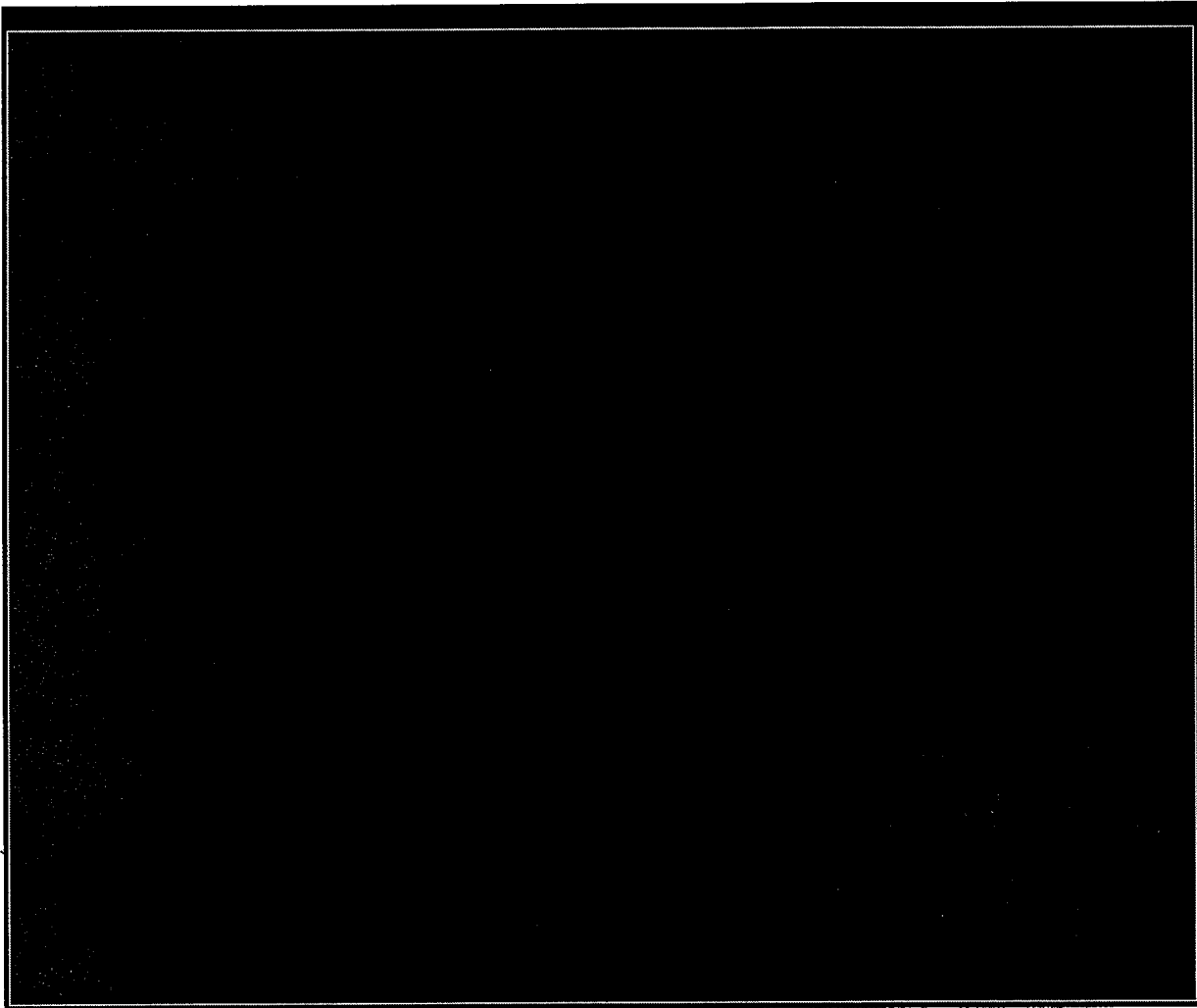
3. 

4. 

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Petitioner does not object at this time to redacting the seven words from his affidavit.

But redaction should not be done with enthusiasm. "Judicial proceedings are supposed to be open, . . . in order to enable the proceedings to be monitored by the public." *Doe v. City of Chicago*, 360 F.3d 667 (7th Cir., 2004), citing *Doe v. Blue Cross-Blue Shield United of Wisconsin*, 112 F.3d 869 (7th Cir., 1997). Already the redactions in this case have caused the government itself to become confused: On October 14, 2005, the government lodged or filed a supplemental appendix in the D.C. Circuit, in *Paracha v. Bush*, No. 05-5194, which had an unredacted version of an affidavit, revealing protected information, so the government had to

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hastily replace the whole appendix. Petitioner and counsel hope never to have to follow this example. The less redaction the better.

Respectfully submitted,

May 22, 2006

/s/ Gaillard T. Hunt

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**(PROPOSED) ORDER DESIGNATING AS “PROTECTED INFORMATION”
CERTAIN INFORMATION IN CERTAIN INFORMATION IN PETITIONER’S
MAY 23, 2005 RESPONSE MEMORANDUM**

Having considered Respondents’ Reply To Petitioners’ May 23, 2006 Response Memorandum And Motion To Designate As “Protected Information” Certain Information In Petitioners’ May 23, 2006 Response Memorandum, it is hereby

ORDERED that respondents’ motion is GRANTED. The information that is redacted from the publicly filed version of Petitioner’s Response To Respondents’ Motion To Designate As “Protected Information” Certain Information Regarding Contacts With Guantanamo Prisoners is hereby designated as “protected information” and is subject to the applicable provisions of the Protective Order entered in this case. See Order dated December 16, 2004 (dkt no. 13).

Dated: _____

UNITED STATES DISTRICT JUDGE