



U.S. Department of Justice

United States Attorney
Northern District of Illinois

Patrick J. Fitzgerald
United States Attorney

Dirksen Federal Courthouse
219 South Dearborn Street, 5th Floor
Chicago, Illinois 60604
(312) 353-5300

FOR IMMEDIATE RELEASE
MONDAY JANUARY 23, 2012
WWW.JUSTICE.GOV

PRESS CONTACTS:
Randall Samborn (312) 353-5318
Dean Boyd (202) 514-2007
TTY (866) 554-5309

**FORMER CIA OFFICER JOHN KIRIAKOU CHARGED WITH DISCLOSING
COVERT OFFICER'S IDENTITY AND OTHER CLASSIFIED INFORMATION
TO JOURNALISTS AND LYING TO CIA'S PUBLICATIONS REVIEW BOARD**

Investigation involving photos seized from Guantanamo detainees concludes no criminal violations by defense team; rather, classified information Kiriakou allegedly illegally disclosed to a journalist was provided by the journalist to a defense investigator

ALEXANDRIA, Va. — A former CIA officer, John Kiriakou, was charged today with repeatedly disclosing classified information to journalists, including the name of a covert CIA officer and information revealing the role of another CIA employee in classified activities, Justice Department officials announced. The charges result from an investigation that was triggered by a classified defense filing in January 2009, which contained classified information the defense had not been given through official government channels, and, in part, by the discovery in the spring of 2009 of photographs of certain government employees and contractors in the materials of high-value detainees at Guantanamo Bay, Cuba. The investigation revealed that on multiple occasions, one of the journalists to whom Kiriakou is alleged to have illegally disclosed classified information, in turn, disclosed that information to a defense team investigator, and that this information was reflected in the classified defense filing and enabled the defense team to take or obtain surveillance photographs of government personnel. There are no allegations of criminal activity by any members of the defense team for the detainees.

Kiriakou, 47, of Arlington, Va., was a CIA intelligence officer between 1990 and 2004, serving at headquarters and in various classified overseas assignments. He is scheduled to appear at 2 p.m. today before U.S. Magistrate Judge John F. Anderson in Federal Court in Alexandria.

Kiriakou was charged with one count of violating the Intelligence Identities Protection Act for allegedly illegally disclosing the identity of a covert officer and two counts of violating the Espionage Act for allegedly illegally disclosing national defense information to individuals not authorized to receive it. Kiriakou was also charged with one count of making false statements for

allegedly lying to the Publications Review Board of the CIA in an unsuccessful attempt to trick the CIA into allowing him to include classified information in a book he was seeking to publish.

The four-count criminal complaint, which was filed today in the Eastern District of Virginia, alleges that Kiriakou made illegal disclosures about two CIA employees and their involvement in classified operations to two journalists on multiple occasions between 2007 and 2009. In one case, revealing the employee's name as a CIA officer disclosed classified information as the employee was and remains covert (identified in the complaint as "Covert Officer A"). In the second case, Kiriakou allegedly disclosed the name and contact information of an employee, identified in the complaint as "Officer B," whose participation in an operation to capture and question terrorism subject Abu Zubaydah in 2002 was then classified. Kiriakou's alleged disclosures occurred prior to a June 2008 front-page story in *The New York Times* disclosing Officer B's alleged role in the Abu Zubaydah operation.

"Safeguarding classified information, including the identities of CIA officers involved in sensitive operations, is critical to keeping our intelligence officers safe and protecting our national security," said Attorney General Eric Holder. "Today's charges reinforce the Justice Department's commitment to hold accountable anyone who would violate the solemn duty not to disclose such sensitive information."

Patrick J. Fitzgerald, United States Attorney for the Northern District of Illinois, who was appointed Special Attorney in 2010 to supervise the investigation, said: "I want to thank the Washington Field Office of the FBI and the team of attorneys assigned to this matter for their hard work and dedication to tracing the sources of the leaks of classified information." Mr. Fitzgerald announced the charges with James W. McJunkin, Assistant Director in Charge of the Washington Field Office of the Federal Bureau of Investigation, and they thanked the Central Intelligence Agency for its very substantial assistance in the investigation, as well as the Air Force Office of Special Investigations for its significant assistance.

"Protecting the identities of America's covert operatives is one of the most important responsibilities of those who are entrusted with roles in our nation's intelligence community. The FBI and our intelligence community partners work diligently to hold accountable those who violate that special trust," said Mr. McJunkin.

The CIA filed a crimes report with the Justice Department on March 19, 2009, prior to the discovery of the photographs and after reviewing the Jan. 19, 2009, classified filing by defense counsel for certain detainees with the military commission then responsible for adjudicating charges. The defense filing contained information relating to the identities and activities of covert government personnel, but prior to Jan. 19, 2009, there had been no authorized disclosure to defense counsel of the classified information. The Justice Department's National Security Division, working with the FBI, began the investigation. To avoid the risk of encountering a conflict of interest because of the pending prosecutions of some of the high-value detainees, Mr. Fitzgerald was assigned to supervise the investigation conducted by a team of attorneys from the Southern District

of New York, the Northern District of Illinois, and the Counterespionage Section of the National Security Division who were not involved in pending prosecutions of the detainees.

According to the complaint affidavit, the investigation determined that no laws were broken by the defense team as no law prohibited defense counsel from filing a classified document under seal outlining for a court classified information they had learned during the course of their investigation. Regarding the 32 pages of photographs that were taken or obtained by the defense team and provided to the detainees, the investigation found no evidence the defense attorneys transmitting the photographs were aware of, much less disclosed, the identities of the persons depicted in particular photographs and no evidence that the defense team disclosed other classified matters associated with certain of those individuals to the detainees. The defense team did not take photographs of persons known or believed to be current covert officers. Rather, defense counsel, using a technique known as a double-blind photo lineup, provided photograph spreads of unidentified individuals to their clients to determine whether they recognized anyone who may have participated in questioning them. No law or military commission order expressly prohibited defense counsel from providing their clients with these photo spreads.

Further investigation, based in part on emails recovered from judicially-authorized search warrants served on two email accounts associated with Kiriakou, allegedly revealed that:

- Kiriakou disclosed to Journalist A the name of Covert Officer A and the fact that Covert Officer A was involved in a particular classified operation. The journalist then provided the defense investigator with the full name of the covert CIA employee;
- Kiriakou disclosed or confirmed to Journalists A, B, and C the then-classified information that Officer B participated in the Abu Zubaydah operation and provided two of those journalists with contact information for Officer B, including a personal email address. One of the journalists subsequently provided the defense investigator with Officer B's home telephone number, which the investigator used to identify and photograph Officer B; and
- Kiriakou lied to the CIA regarding the existence and use of a classified technique, referred to as a "magic box," in an unsuccessful effort to trick the CIA into allowing him to publish information about the classified technique in a book.

Upon joining the CIA in 1990 and on multiple occasions in following years, Kiriakou signed secrecy and non-disclosure agreements not to disclose classified information to unauthorized individuals.

Regarding Covert Officer A, the affidavit details a series of email communications between Kiriakou and Journalist A in July and August 2008. In an exchange of emails on July 11, 2008, Kiriakou allegedly illegally confirmed for Journalist A that Covert Officer A, whose first name only

was exchanged at that point, was “the team leader on [specific operation].” On August 18, 2008, Journalist A sent Kiriakou an email asking if Kiriakou could pick out Covert Officer A’s last name from a list of names Journalist A provided in the email. On Aug. 19, 2008, Kiriakou allegedly passed the last name of Covert Officer A to Journalist A by email, stating “It came to me last night.” Covert Officer A’s last name had not been on the list provided by Journalist A. Later that same day, approximately two hours later, Journalist A sent an email to the defense investigator that contained Covert Officer A’s full name. Neither Journalist A, nor any other journalist to the government’s knowledge, has published the name of Covert Officer A.

At the time of Kiriakou’s allegedly unauthorized disclosures to Journalist A, the identification of Covert Officer A as “the team leader on [specific operation]” was classified at the Top Secret/Sensitive Compartmented Information (SCI) level because it revealed both Covert Officer A’s identity and his association with the CIA’s Rendition, Detention, and Interrogation (RDI) Program relating to the capture, detention, and questioning of terrorism subjects. The defense investigator was able to identify Covert Officer A only after receiving the email from Journalist A, and both Covert Officer A’s name and association with the RDI Program were included in the January 2009 classified defense filing. The defense investigator told the government that he understood from the circumstances that Covert Officer A was a covert employee and, accordingly, did not take his photograph. No photograph of Covert Officer A was recovered from the detainees at Guantanamo.

In a recorded interview last Thursday, FBI agents told Kiriakou that Covert Officer A’s name was included in the classified defense filing. The affidavit states Kiriakou said, among other things, “How the heck did they get him? . . . [First name of Covert Officer A] was always undercover. His entire career was undercover.” Kiriakou further stated that he never provided Covert Officer A’s name or any other information about Covert Officer A to any journalist and stated “Once they get the names, I mean this is scary.”

Regarding Officer B, the affidavit states that he worked overseas with Kiriakou on an operation to locate and capture Abu Zubaydah, and Officer B’s association with the RDI Program and the Abu Zubaydah operation in particular were classified until that information was recently declassified to allow the prosecution of Kiriakou to proceed.

In June 2008, *The New York Times* published an article by Journalist B entitled “Inside the Interrogation of a 9/11 Mastermind,” which publicly identified Officer B and reported his alleged role in the capture and questioning of Abu Zubaydah – facts which were then classified. The article attributed other information to Kiriakou as a source, but did not identify the source(s) who disclosed or confirmed Officer B’s identity. The charges allege that at various times prior to publication of the article, Kiriakou provided Journalist B with personal information regarding Officer B, knowing that Journalist B was seeking to identify and locate Officer B. In doing so, Kiriakou allegedly confirmed classified information that Officer B was involved in the Abu Zubaydah operation. For example, Kiriakou allegedly emailed Officer B’s phone number and personal email address to Journalist B, who attempted to contact Officer B via his personal email in April and May 2008. Officer B had provided his personal email address to Kiriakou, but not to Journalist B or any other

journalist. Subsequently, Kiriakou allegedly revealed classified information by confirming for Journalist B additional information that an individual with Officer B's name, who was associated with particular contact information that Journalist B had found on a website, was located in Pakistan in March 2002, which was where and when the Abu Zubaydah operation took place.

After *The New York Times* article was published, Kiriakou sent several emails denying that he was the source for information regarding Officer B, while, at the same time, allegedly lying about the number and nature of his contacts with Journalist B. For example, in an email dated June 30, 2008, Kiriakou told Officer B that Kiriakou had spoken to the newspaper's ombudsman after the article was published and said that the use of Officer B's name was "despicable and unnecessary" and could put Officer B in danger. Kiriakou also denied that he had cooperated with the article and claimed that he had declined to talk to Journalist B, except to say that he believed the article absolutely should not mention Officer B's name. "[W]hile it might not be illegal to name you, it would certainly be immoral," Kiriakou wrote to Officer B, according to the affidavit.

From at least November 2007 through November 2008, Kiriakou allegedly provided Journalist A with Officer B's personal contact information and disclosed to Journalist A classified information revealing Officer B's association with the RDI Program. Just as Journalist A had disclosed to the defense investigator classified information that Kiriakou allegedly imparted about Covert Officer A, Journalist A, in turn, provided the defense investigator information that Kiriakou had disclosed about Officer B. For example, in an email dated April 10, 2008, Journalist A provided the defense investigator with Officer B's home phone number, which, in light of Officer B's common surname, allowed the investigator to quickly and accurately identify Officer B and photograph him. Both Officer B's name and his association with the RDI Program were included in the January 2009 classified defense filing, and four photographs of Officer B were among the photos recovered at Guantanamo.

In the same recorded interview with FBI agents last week, Kiriakou said he "absolutely" considered Officer B's association with the Abu Zubaydah operation classified, the affidavit states. Kiriakou also denied providing any contact information for Officer B or Officer B's association with the Abu Zubaydah operation to Journalists A and B prior to publication of the June 2008 *New York Times* article. When specifically asked whether he had anything to do with providing Officer B's name or other information about Officer B to Journalist B prior to the article, Kiriakou stated "Heavens no."

As background, the affidavit states that sometime prior to May 22, 2007, Kiriakou disclosed to Journalist C classified information regarding Officer B's association with Abu Zubaydah operation, apparently while collaborating on a preliminary book proposal. A footnote states that Journalist C is not the coauthor of the book Kiriakou eventually published.

Prior to publication of his book, The Reluctant Spy: My Secret Life in the CIA's War on Terror, Kiriakou submitted a draft manuscript in July 2008 to the CIA's Publication Review Board (PRB). In an attempt to trick the CIA into allowing him to publish information regarding a classified investigative technique, Kiriakou allegedly lied to the PRB by falsely claiming that the

technique was fictional and that he had never heard of it before. In fact, according to a transcript of a recorded interview conducted in August 2007 to assist Kiriakou's coauthor in drafting the book, Kiriakou described the technique, which he referred to as the "magic box," and told his coauthor that the CIA had used the technique in the Abu Zubaydah operation. The technique was also disclosed in the June 2008 *New York Times* article and referred to as a "magic box."

In his submission letter to the PRB, Kiriakou flagged the reference to a device called a "magic box," stating he had read about it in the newspaper article but added that the information was "clearly fabricated," as he was unaware of and had used no such device. The affidavit contains the contents of an August 2008 email that Kiriakou sent his coauthor admitting that he lied to the PRB in an attempt to include classified information in the book. The PRB subsequently informed Kiriakou that the draft manuscript contained classified information that he could not use, and information regarding the technique that Kiriakou included in the manuscript remained classified until it was recently declassified to allow Kiriakou's prosecution to proceed.

Upon conviction, the count charging illegal disclosure of Covert Officer A's identity to a person not authorized to receive classified information carries a maximum penalty of five years in prison, which must be imposed consecutively to any other term of imprisonment; the two counts charging violations of the Espionage Act each carry a maximum term of 10 years in prison; and making false statements carries a maximum prison term of five years. Each count carries a maximum fine of \$250,000.

A complaint contains only allegations and is not evidence of guilt. The defendant is presumed innocent and is entitled to a fair trial at which the government has the burden of proving guilt beyond a reasonable doubt.

The government is being represented in court by Assistant U.S. Attorneys Iris Lan (Southern District of New York) and Mark E. Schneider (Northern District of Illinois), and DOJ trial attorney Ryan Fayhee, of the Counterespionage Section of the National Security Division. Assistant U.S. Attorney Lisa Owings (Eastern District of Virginia) will assist in the matter under local court rules.

###