Charles Robert
441 B. West Broadway
Long Beach, New York 11561
516-889-2251

7-24-15 White Paper (WP) of the Robert II v CIA and DOJ, cv 02-6788 (Seybert, J), plaintiff reporting facts that have occurred after he filed his October 3, 2014 WP status report, his October 7, 2014 filing of his Individual Motion Practice Rule F (2) letter request for a Summary Judgment Motion conference, and his October 27, 2014 letter informing the Court that the co-defendants had violated the Court's Local Rule F (2)

This is the Robert I v CIA, cv 00-4325 (Seybert, J), and Robert II v CIA and DOJ, cv 02-6788 (Seybert, J), plaintiff's White Paper (WP) that supplements his July 24, 2015 letter to the Court requesting a pre-Summary Judgment Motion conference. This WP supplements the plaintiff's October 3, 2014 WP and provides the Court with key background facts that have subsequently occurred. The plaintiff believes these are relevant facts for his application for a pre-Summary Judgment Motion conference at which there could be a quiet settlement agreement.

The plaintiff's July 24, 2015 letter is respectfully suggesting that because of the latest drum beat of events as discussed below, there is now an extraordinary opportunity for the Court's Rule F (2) Summary Judgment Motion conference to result in the long sought Robert II v CIA and DOJ quiet settlement. The plaintiff's optimism is based on AG Lynch's April 23, 2015 Senate confirmation and her June 17, 2015 Installation pledges. See 7-24-15 WP § K below.

The plaintiff respectfully suggests that if Magistrate Judge Kathleen Tomlinson scheduled the pre-Summary Judgment Motion conference, then this would result in CIA General Counsel Caroline Krass and Acting EDNY U.S. Attorney Kelly T. Currie having to provide the Court with reasons why the co-defendants have violated this Court's Rule F (2). CIA General Counsel Krass (2014-) will first provide those reasons to Acting EDNY U.S. Attorney Currie. That process may lead CIA General Counsel Krass and Acting EDNY U.S. Attorney Currie to agree to recommend that their clients, co-defendants John Brennan and AG Loretta Lynch, consider plaintiff's quiet settlement offer. If so, then co-defendant AG Lynch will consult with co-defendant CIA Director Brennan and learn the Top Secret CIA facts that EDNY U.S. Attorney Lynch heretofore had not been privy. They may decide a quiet settlement is appropriate.

The plaintiff asserts that the facts discussed in his Robert II v CIA and DOJ October 3, 2014 and July 24, 2015 WPs are facts that explain why CIA General Counsel Krass and EDNY U.S. Attorney Lynch had violated this Court's Rule F (2) Summary Judgment Motion by not filing the co-defendants' 1) Counter Statement to the plaintiff's July 28, 2014 "Plaintiff's Local Rule 56.1 Statement of Material Facts of Motion For Summary Judgment " and 2) three page Summary Judgment letter in response to the plaintiff's October 7, 2014 letter. The plaintiff's optimism that there will be a quiet settlement is based on the fact that former-EDNY U.S. Attorney Lynch is now co-defendant AG Lynch with Top Security clearance to read for the first time the FOIA requested 1985 "North Notebook" documents. AG Lynch will learn from reading those documents along with the 1985-2015 "main Justice" case file notes and e-mails in the Robert FOIA actions, whether plaintiff's grave allegations are true. If so, then AG Lynch will consider plaintiff's quiet settlement offer as a reasonable end to this fifteen year litigation.

This FOIA action began fifteen years ago as Robert v CIA, cv 00-4325 (Seybert, J), when AG Loretta Lynch was the 1999-2001 EDNY U.S. Attorney. AG Lynch now has Top Security clearance to read the same CIA classified "North Notebook" documents that she did not have clearance to read as the EDNY U.S. Attorney. As a result, she can determine in August, 2015 whether the plaintiff's assertions are correct that the four 1985 CIA classified documents are connect-the-dots documents with the mosaic of Robert FOIA requested documents withheld in the 1985-2015 Robert FOIA actions. If so, then AG Lynch will know whether the plaintiff's almost incredible AG-FBI-CIA allegation is true: The 1982-2015 AGs and FBI Directors have known that CIA Director Casey (1981-1986) had conducted E.O. 12333 illegal CIA domestic "special activities" at IMC and the NSA without the knowledge of the Article I Intelligence Committees or Article II President Reagan or Article III Judges including the FISC. See 12-14-11 Robert II v CIA and DOJ Status Affidavit, http://snowflake5391.net/12-14-11_RIIvCIAandDOJStatusAffidavit%20.pdf, and his 8-15-12 Robert II v CIA and DOJ Status Affidavit, http://snowflake5391.net/8-15-12_RobertIIvCIA_Status_Affidavit.pdf.

The plaintiff has also filed with the EDNY Clerk his June 16, 2015 Comment for the Privacy and Civil Liberties Oversight Board (PCLOB) re his knowledge of E.O. 12333 CIA counterterrorism activities at International Medical Center Inc. (IMC) and the NSA. That Comment was based upon the PCLOB's invitation for Comments re E.O. 12333 intelligence activities and his thirty years of FOIA litigation (1985-2015). His PCLOB Comment discusses the link between Robert II v CIA and DOJ, Robert VIII v DOJ, HHS, and SSA and the alleged "defrauding" of Presidents Reagan and Obama. See 6-16-15 PCLOB Comment §§ 11-14.

This would be a timely pre-Summary Judgment Motion conference because AG Lynch is now in the process of deciding whether to provide Senator Diane Feinstein, Senate Judiciary Committee Chairman Charles Grassley, and Senate Intelligence Committee Richard Burr with a copy of AAG of the OLC Ted Olson's May 24, 1984 Top Secret OLC FISA Memo sent to AG Smith. "Re Constitutionality of Certain National Security Agency Electronic Surveillance Activities Not Covered Under the Foreign Intelligence Surveillance Act of 1979." Senator Feinstein had requested that AG Nominee Lynch provide that document. See § D below.

After reading the May 24, 1984 Top Secret "OLC Olson FISA Memo," AG Lynch will consult with co-defendant CIA Director Brennan. AG Lynch will learn the answer to the "elephant-in-the-room" question: Has CIA Director Brennan had access to the 1982-2015 E.O. 12333 Top Secret "**FISA exempt**" NSA TSP "haystacks" of comingled foreign and U.S. citizens' stored content data retained on USG servers, and accessed that data without the knowledge of the Congress or President Obama or the FISC? See §§ H, J, O below.

This would be a timely pre-Summary Judgment Motion conference because AG Lynch is also now learning the facts that the CIA and the NSA are providing the PCLOB re E.O. 12333 Top Secret domestic counterintelligence activities. AG Lynch is also learning the facts that USG agencies have provided to the Public Interest Declassification Board (PIDB) which has informed the public of the extraordinary PIDB-CIA-NARA pilot automatic declassification project to release President Reagan's Administration's e-mails (1979 +25=2014). The Robert II v CIA and DOJ four one-page CIA classified 1985 "North Notebook" documents are connect-the-dots documents with the 2015 PIDB-CIA-NARA President Reagan Administration's e-mails. See 6-16-15 PCLOB Comment §§ 7, 8, 11-14, 17-19 and §§ B, G, N, P below.

The plaintiff has informed the PCLOB that if there is not a quiet settlement by the end of the summer of 2015, then the plaintiff will file a Volume II with the PCLOB. The PCLOB has informed the public that it would be providing a Report to the President by the end of 2015. The plaintiff has mail served CIA General Counsel Krass and Acting EDNY U.S. Attorney Currie his 95 page 6-16-15 PCLOB Comment. The plaintiff has posted his 6-16-15 PCLOB Comment on http://snowflake5391.net/6-16-15%20Robert%20II%20v%20CIA%20and%20DOLJ.pdf.

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A. President Obama's November 8, 2014 nomination of EDNY U.S. Attorney Loretta Lynch (1999-2001 and 2010-2014) to be the successor of AG Eric Holder (2009-2015)

On November 8, 2014, President Obama nominated EDNY U.S. Attorney Lynch (1999-2001 and 2010-2014) to be AG Holder's successor. The Robert II v CIA and DOJ plaintiff was most pleased with the President's choice. He has always had the highest regard for EDNY U.S. Attorney Lynch and believed that she would be a superb AG. He also believed that if AG Nominee Lynch was confirmed, then this would lead to the plaintiff's long sought Robert II v CIA and DOJ quiet settlement which would be coordinated with his long sought Robert VIII v DOJ, HHS, and SSA quiet settlement. This was the purpose of the plaintiff's 316 page July 27, 2010 Robert VIII WP. http://snowflake5391.net/7_27_10_RobertVIII.pdf.

The plaintiff had served EDNY AUSA Kathleen Mahoney with the July 27, 2010 WP anticipating that she would provide accurate facts to EDNY U.S. Attorney Lynch (June 2, 1999-May 2, 2001). On May 8, 2010, U.S. Attorney Lynch had begun her second Constitutional watch as the EDNY U.S. Attorney. The plaintiff believed that EDNY AUSA Mahoney would recommend that U.S. Attorney Lynch recommend to her clients that they accept the quiet settlement offer. AUSA Mahoney knew that Robert VIII was subject to a Second Circuit Reinstatement agreement. She knew that if there was no quiet settlement, then the plaintiff would reinstate the Second Circuit Robert VIII appeal. See 6-16-15 PCLOB Comment § 14.

The plaintiff believed that there would be a 2010 quiet settlement because EDNY AUSA Mahoney had been the lead EDNY AUSA not only in Robert VII v DOJ and Robert VIII v DOJ, HHS, and SSA, but also in Ford v. Shalala, 87 F. Supp 2d 163 (E.D.N.Y. 1999). She knew whether HHS General Counsel Juan de Real (1981-1985) had been CIA Director Casey's illegal CIA domestic agent when he made his 1982-1985 Jackson v. Schweiker, 683 F. 2d 1076 (7th Cir. 1982), "nonacquiescence" policy decisions, and when in 1984 he initiated the "Fraud Against the Government" investigation of Robert, a/k/a Snowflake 5391 to the DOJ, seeking Robert's incarceration and disbarment. She also knew AG Holder was implementing a Ford v Shalala "nonacquiescence" policy as applied to the millions of 1994-2010 Ford class members whose due process rights continued to be violated. See 7-27-10 Robert VIII WP §§ B-J, Z.

The plaintiff believed that there would be a quiet settlement because he knew EDNY U.S. Attorney Lynch possessed the Schweiker v. Chilicky, 108 S. Ct. 2460 (1988), "normal sensibilities" of human beings. "The trauma to respondents, and thousands of others like them, must surely have gone beyond what anyone of normal sensibilities would wish to see imposed on innocent disabled citizens." Id. 2470. See 7-27-10 Robert VIII WP §§ Q-U, Z, AA, EE, FF.

However, the 2010 plaintiff did not anticipate that the EDNY U.S. Attorney "stovepipe" that had bypassed EDNY U.S. Attorney Raymond Dearie (1982-1986) during U.S. v Duggan, 743 F.2d 59 (2d Cir. 1984) and Robert v Holz, cv 85-4205 (Wexler, J), had continued to bypass EDNY U.S. Attorney Lynch in August, 2010. The plaintiff did not know that the August, 2010 "command and control" attorney of EDNY AUSA Mahoney was Associate AG Thomas Perrelli (2009-2012) and not EDNY U.S. Attorney Lynch. As a result, there was no Robert VIII quiet settlement, the Robert VIII appeal was reinstated, and the due process rights of the 1994-2010 Ford v Shalala class continued to be violated. That EDNY U.S. Attorney stovepipe continued to bypass EDNY U.S. Attorney Lynch from 2010-2015. See 6-16-15 PCLOB Comments §§ 14, 17.

B. The December 8, 2014 PIDB Report re declassification reforms, the transformation of documents from classified walls to transparent windows that inform the public how the CIA conducted domestic "special activities," and PIDB Member Wainstein's knowledge of the FOIA requested E.O. 12333 May 24, 1984 Top Secret "OLC Olson FISA Memo"

On December 8, 2014, the Public Interest Declassification Board (PIDB) issued a Supplemental Report: Setting Priorities: An Essential Step in Transforming Declassification. http://www.archives.gov/declassification/pidb/recommendations/setting-priorities.pdf. The PIDB is tasked with implementing President Obama's December 29, 2009 E.O. 13256 § 3.3 Automatic Declassification, 25 year standard, by transforming intelligence community documents from classified walls to transparent windows. This is in order for the public to learn how the intelligence community, including the CIA, performed over twenty five years ago. This PIDB Report is relevant to Robert II v CIA and DOJ because the PIDB is available to provide 2015 guidance to AG Lynch re the declassification of the four 1985 CIA classified "North Notebook" documents and the E.O. 12333 May 24, 1984 Top Secret "OLC Olson FISA Memo." PIDB Member Kenneth Wainstein cited to this OLC FISA Memo in his leaked Top Secret November 20, 2007 Memo to AG Mukasey. See 6-16-15 PCLOB Comments §§ 1, 2, 7-14, 18, 19.

Acting PIDB Chairman Skaggs' cover letter to President Obama explained that the PIDB was providing recommendations to the President for transformational declassification reforms:

> After studying declassification practices in use at agencies and at the National Declassification Center (NDC), we concluded that a coordinated government-wide policy focused on declassifying historically significant records with greatest interest to the public made most sense. The Setting Priorities report lays out the case for that approach. Declassification policy remains virtually unchanged since automatic declassification started almost three decades ago. We credit automatic declassification for driving the declassification of over a billion pages of records since then. Id. 1. Emphasis added.

The PIDB lists on its website that PIDB "Functions" include promoting public access to national security matters. "Promotes the fullest possible public access to a thorough, accurate, and reliable documentary record of significant U.S. national security decisions and activities in order to: support the oversight and legislative functions of Congress; support the policymaking role of the executive branch; respond to the public interest on national security matters; and promote reliable historical analysis and new avenues of historical study in national security matters." Id. Emphasis added. http://www.archives.gov/declassification/pidb/index.html#about

The plaintiff asserts that the PIDB has been tasked with the duty of transforming 25 year old classified "walls" that shield documents that reveal the E.O. 12333 Top Secret CIA domestic "special activities" that occurred over 25 years ago, into transparent "windows" through which the 535 Members of Congress and the public can learn how the CIA conducted its "special activities within the United States when there were no Article I, Article II, or Article III checks and balances. If the PIDB performs its tasked function and applies the E.O. 13256 § 3.3, Automatic Declassification 25 year standard to the 1985 E.O. 12333 Top Secret CIA domestic "special activities" at IMC and the NSA, then the 535 Members of Congress and the public will learn of the Top Secret illegal CIA domestic "special activities" at IMC and the NSA.

AG Lynch can ask the PIDB to perform their function to "promote reliable historical analysis" to study national security matters. This includes the delicate issue of the public learning 2015 "Past is Prologue" facts from 1985 declassified documents that reveal the E.O. 12333 illegal CIA domestic "special activities" that were conducted at IMC and the NSA.

AG Lynch can ask the PIDB to render a decision re the declassification of the four 1985 CIA classified "North Notebook" documents. The PIDB has a duty to provide AG Lynch with a reason why after the twenty-fifth year of 2010, the 1985 "North Notebook" documents were not subject to automatic declassification (1985+25=2010). The plaintiff asserts that AG Lynch's request to the PIDB would provide the PIDB with an opportunity to confront head on the issue of the declassification of documents that reveal that CIA Director Casey had conducted an illegal CIA domestic "special activity" at IMC. See 12-14-11 Robert II v CIA and DOJ Affidavit § H.

The plaintiff asserts that the PIDB's decision re the Robert II v CIA and DOJ 1985 "North Notebook" documents is an important decision because of the 2015 "Past is Prologue" effect of a decision to declassify the 1985 documents. If the "North Notebook" documents corroborate the plaintiff's allegation that an illegal CIA domestic "special activity" was conducted at IMC where HHS General Counsel del Real (1981-1985) became the 1985-1986 IMC Chief of Staff, then this fact will directly affect the millions of 1994-2015 Ford v Shalala class members. These Ford plaintiffs continue in 2015 to have their monthly federal SSI benefits reduced by one-third because of the DOJ 1982 Jackson v Schweiker "nonacquiescence" policy decision made by AG Smith and his AAG of the OLC Olson. They ratified the decision of HHS General Counsel del Real, as an illegal CIA domestic agent, that the Seventh Circuit had "incorrectly" decided Jackson v Schweiker. See 7-27-10 Robert VIII WP §§ R-U, Z.

CIA General Counsel Krass knows whether HHS General Counsel-IMC Chief of Staff Juan del Real was CIA Director Casey's 1981-1986 illegal CIA domestic agent. If so, then she knows whether Jackson v Schweiker "nonacquiescence" policy funds have been diverted as an illegal unaudited HHS-SSA funding source to pay for the "immaculate construction" and maintenance of the 1982-2015 E.O. 13333 Top Secret "FISA exempt" NSA TSP servers. If so, then she knows that this E.O. 12333 illegal CIA domestic "special activity" of funding the NSA TSP Top Secret "FISA exempt" NSA TSP servers, should end during the summer of 2015. See 12-14-11 Robert II v CIA and DOJ Affidavit § VV and 6-16-15 Robert PCLOB Comment § 14.

AG Lynch can also ask the PIDB to declassify the May 24, 1984 Top Secret "OLC Olson FISA Memo" for which the Robert II v CIA and DOJ plaintiff filed a December 3, 2013 FOIA request. AG Lynch can ask her Office of Information and Privacy (OIP) Director Melanie Pustay who ordered her not to docket and not to process the plaintiff's December 3, 2013 FOIA OLC request for this Top Secret 1984 OLC FISA Memo. See 12-3-13 OLC WP §§ A-F, http://snowflake5391.net/12_3_13_FISA_MEMOS.pdf, 10-3-14 Robert II v CIA and DOJ WP §§ P, R, S, Z , and 6-16-15 Robert PCLOB Comment §§ 13, 14, 15, 19, 20.

The plaintiff is asserting that both AG Lynch and the PIDB should know why President Obama's December 29, 2009 E.O. 13256 § 3.3 Automatic Declassification, 25 year standard, does not apply to the FOIA requested May 24, 1984 Top Secret "OLC Olson FISA Memo" because 1984+25=2009. The PIDB should make its own decision whether the DOJ 1984 FISA Memo should be declassified for all 2015 535 Members of Congress and the public to read.

One of the PIDB Members is former-AAG of the National Security Division (NSD) Kenneth Wainstein. He is the author of the Snowden leaked November 20, 2007 Memorandum for the Attorney General that cited to the May 24, 1984 "OLC Olson FISA Memo." He knows why the E.O. 12333 May 24, 1984 "OLC Olson FISA Memo" and May 6, 2004. "OLC Goldsmith FISA Memo" were classified. He knows why the May 6, 2004 "OLC Goldsmith FISA Memo" was issued after OIPR Counsel James Baker, now the FBI General Counsel (2014-), had made his March 1, 2004 Robert FOIA decision ratifying the CIA Director Tenet's CIA FOIA Officer's decision to use FOIA exemption 1 and the Glomar Response" defense to withhold the "FISC Robert" documents. He knows whether HHS General Counsel del Real was a 1984 CIA agent when he made Robert the 1984 target of the "Fraud Against the Government" investigation seeking Robert's incarceration. See 6-16-15 PCLOB Comments §§ 1, 2, 3, 7, 8, 11, 14, 18, 20.

CIA General Counsel Krass, the 2013-2014 Acting AAG of the OLC, knows the post-Riley v California significance of May 24, 1984 Top Secret "OLC Olson FISA Memo." She knows why PIDB Member Wainstein, as the AAG of the National Security Division (2006-2008), included in his November 20, 2007 Memo to AG Mukasey, a citation to AAG of the OLC Olson's May 24, 1984 FISA Memo. "Re Constitutionality of Certain National Security Agency Electronic Surveillance Activities Not Covered Under the Foreign Intelligence Surveillance Act of 1979." She knows that PIDB Member Wainstein knows the post-Riley v California legal significance of AAG of the OLC Olson's May 24, 1984 conclusion that the Fourth Amendment did not apply to "constitutionally" seized data. "Traditional Fourth Amendment analysis holds that once evidence is constitutionally seized, its dissemination or subsequent use raises no additional Fourth Amendment question." Id. Emphasis added.

PIDB Member Wainstein knows that since one of the PIDB functions is to "promote reliable historical analysis and new avenues of historical study in national security matters," that the declassification of AAG of the OLC Olson's Top Secret May 24, 1984 "OLC Olson FISA Memo" would transform a classified OLC Memo wall into a transparent OLC window. If the PIDB declassifies this Top Secret OLC FISA document, then all 535 Members of Congress and the public will learn the legal basis for the 1982-2015 CIA Directors conducting their back door warrantless domestic searches of the 1982-2015 E.O. 12333 Top Secret **"FISA exempt**" NSA TSP "haystacks" of U.S. citizens' comingled stored content data both before and after the June 25, 2014 Riley v California decision. See 10-3-14 Robert II v CIA and DOJ WP §§ P-Z.

PIDB Member Wainstein also knows whether AAG of the OLC Olson's May 24, 1984 Top Secret "OLC Olson FISA Memo" determined that the President has unlimited Article II Commander in Chief inherent authority to protect the nation. If so, then is the legal basis for the E.O. 12333 CIA "special activity" of implementing the 1986-2015 Barrett "nonacquiescence" policy whereby CIA domestic material facts have been intentionally withheld from the Article III Judges in the 1985-2015 Robert FOIA actions. "Finally, acceptance of the view urged by the federal appellants would result in a blanket grant of absolute immunity to government lawyers acting to prevent exposure of the government in liability." Barrett v. United States, 798 F. 2d 565, 573 (2d Cir. 1986). Emphasis Added. He knows this CIA domestic "special activity" has included withholding material CIA facts from Magistrate Judge Lindsay in DOJ's Robert II v CIA and DOJ *in camera ex parte* communications, and the withholding of material CIA facts from Judge Garaufis, the Second Circuit, and the Supreme Court in Robert VII v DOJ and Robert VIII v DOJ, HHS, and SSA. See 6-16-15 Robert PCLOB Comment §§ 14, 19, 20, 21.

The plaintiff further asserts after AG Lynch reads the CIA classified "North Notebook" documents and the May 24, 1984 Top Secret "OLC Olson FISA Memo," she will learn that one of the CIA's domestic "sources and methods" is to make Article III Judges, including the FISC, the "handmaiden of the Executive." This is accomplished by withholding material CIA facts from the Article III Judges. "Under no circumstances should the Judiciary become the handmaiden of the Executive." Doe, et. al. v Mukasey, Mueller, and Caproni, 549 F 3d 861, 870 (2d Cir. 2008). AG Lynch will learn from reading the 1985-2015 Robert FOIA case file notes and e-mails that USG attorneys intended to deceive the Article III Judges whenever they intentionally withheld material CIA facts in the USG's FRCP 11 signed pleadings. See 7-27-10 Robert VIII WP § PP, 12-14-11 Robert II v CIA and DOJ Status Affidavit §§ M, P, 8-15-12 Robert II v CIA and DOJ Status Affidavit §§ G, H, 12-3-13 OLC WP §§ L, R, 10-3-14 Robert II v CIA and DOJ WP §§ P-Z, BB, CC, and 6-16-15 Robert PCLOB Comment §§ 17, 20, 21.

The plaintiff asserts that AG Lynch should know whether CIA General Counsel Krass is the PIDB's CIA liaison when the PIDB is considering the automatic declassification of any E.O. 12333 Top Secret document that reveal illegal CIA domestic "special activities" that were never reported to the Intelligence Committees in violation of **§** 413 (a) of the National Security Act. This is an important CIA domestic fact because the Robert II v CIA and DOJ plaintiff is asserting that the 1985 CIA classified "North Notebook" documents are connect-the-dots documents with the May 24, 1984 Top Secret "OLC Olson FISA Memo," because they reveal the E.O. 12333 Top Secret illegal CIA domestic "special activities" conducted at IMC and the NSA in 1985. He is asserting that the PIDB will know these are "Past is Prologue" documents because they reveal that the illegal CIA domestic "special activities" were based on AAG of the OLC Olson's opinions that the exclusionary provision of the FISA of 1978 and the Boland Amendment were "unconstitutional" encroachments on the President's Article II Commander in Chief inherent authority to take whatever action is necessary to protect the nation from enemies. See 6-16-15 Robert PCLOB Comment §§ 12-14 and §§ N, S below.

AG Lynch's knowledge of whether CIA General Counsel Krass is the PIDB contact re the automatic declassification of documents more than 25 years old, became more important on June 25, 2015 when the PIDB informed the public that the PIDB-CIA-NARA pilot project to declassify President Reagan's Administration's classified e-mails has been successful. If CIA General Counsel Krass is the PIDB liaison, then CIA General Counsel Krass has access to the PIDB-CIA-NARA successful pilot project algorithms to easily locate CIA classified documents re IMC and the NSA. She can learn whether the 1985 CIA e-mail documents corroborate 1) the existence of the E.O. 12333 illegal CIA domestic "special activity" that was conducted at IMC and 2) whether Jackson v Schweiker "nonacquiescence" funds were used to fund the "immaculate construction" and maintenance of the 1980s E.O. 12333 Top Secret "**FISA exempt"** NSA TSP servers. See 6-16-15 Robert PCLOB Comment § 14 and § N below

Thus, the PIDB is a tremendous resource for AG Lynch to utilize when she considers the plaintiff's quiet settlement offer. She knows that PIDB Members can now read the four one-page CIA classified 1985 "North Notebook" documents along with the President Reagan's Administration's CIA e-mails sent to HHS General Counsel del Real and know these classified documents provide a transparent window to the illegal CIA domestic "special activity" at IMC.

C. The January 15, 2015 DNI's Bulk Collection of Signals Intelligence: Technical Options solution for President Obama to solve the problem of the retention of the content of the 1982-2015 E.O. 12333 Top Secret "FISA exempt" NSA TSP servers that contain U.S. citizens' comingled stored content data now retained in USG's Utah Data Center servers

On January 15, 2015, DNI Clapper informed President Obama of the DNI's adoption of the National Research Council of the National Academies Bulk Collection of Signals Intelligence: Technical Options Report. http://www.nap.edu/ catalog/19414/bulk-collection-of-signals-intelligence-technical-options. It provided a solution for President Obama to solve the problem of the retention of the content of the 1982-2015 E.O. 12333 Top Secret "**FISA exempt**" NSA TSP servers that contain U.S. citizens' comingled stored content data retained in the USG's Utah Data Center servers. This Report has taken on greater importance because of the June 2, 2015 enactment of the USA Freedom Act which prohibited USG's storage of metadata, but not content data. This Report provides Congress with a blueprint for a 2015 FISA amendment that could provide standards for the USG storage of U.S. citizens' comingled stored content data.

DNI Clapper acknowledged the Report's conclusion that it was not technically feasible to avoid the need for the USG to continue to store bulk collection of content data, but that there are other steps to provide oversight of the ongoing collection of US citizens' content data:

> The Director of National Intelligence requested the **National Academies of Sciences** to assess, as directed by the President, the technical feasibility of creating software-based alternatives that would allow the Intelligence Community to avoid the need for bulk collection. The January 2015 report, Bulk Collection of Signals Intelligence: Technical Options, is publicly available and concludes that there is no software-based alternatives that will provide a complete substitute for bulk collection in the detection of some national security threats, but the report suggested other steps to reduce privacy and civil liberties risk and improve oversight of bulk collection activities. We are currently reviewing how to address these important findings. Id. Emphasis added.
> http://icontherecord.tumblr.com/ppd-28/2015/seeking-independent-advice

The plaintiff asserts that AG Lynch has an affirmative duty to read the Bulk Collection of Signals Intelligence: Technical Options because CIA Director Brennan's continues to conduct post-USA Freedom Act 2015 CIA back door warrantless domestic searches of the 1982-2015 E.O. 12333 Top Secret "**FISA exempt**" NSA TSP "haystacks" of US citizens' comingled stored content data that cannot technically be separated from the foreign comingled stored content data. The legal basis for the post-USA Freedom Act E.O. 12333 Top Secret "FISA exempt" NSA TSP continues to be the May 24, 1984 Top Secret "OLC Olson FISA Memo." See 10-3-14 Robert II v CIA and DOJ WP §§ P, Z and 6-16-15 Robert PCLOB Comments §§ 2, 5, 17, 18, 22, 24.

The Report in its Preface "the Charge to the Committee," makes clear that the authors of the Bulk Collection Report did not address any legal issues. "It will not address the legality or value of signals intelligence collection" Id. viii. After AG Lynch's April 23, 2015 confirmation, she has had the duty to address the legality of the continued collection and retention of U.S. citizens' comingled stored content data as identified in the Bulk Collection Report.

The Committee explained that its mission to present alternatives to bulk collection was directly impacted by the FISA's distinguishing between foreign and U.S. persons:

> In general terms, the committee saw its mission as exploring whether technological software-based alternatives to bulk collection might be identified in order to retain, to the extent possible current intelligence capabilities, while intruding less on parties that of known or potential interest to the IC. The legal protections provided by the Fourth Amendment and legislation such as the Foreign Intelligence Surveillance Act distinguish between foreign and U.S. persons; a factor that informed the committee's thinking. Id. viii. Emphasis added.

The Committee noted the importance of a clearer meaning of "bulk collection" because the NSA collected and stored foreign and U.S. persons' comingled content data:

> Based in part on briefings from the IC, the committee adopted a definition better suited to understanding the trade-off between liberty and effective intelligence: *If a significant portion of the data collected is not associated with current targets, it is bulk collection; otherwise it is targeted*. There is no precise definition of bulk collection, but rather a continuum, with no bright line separating bulk from targeted. The committee' acknowledges that the use of the word "significant" makes the definition imprecise as well. The IC prefers targeted collection because it narrows its attention as much as possible during collection to use its limited resources efficiently, to comply with rules about what is allowed and to limit intrusions on privacy. Id. 2. Italics in original, but underlings added for emphasis.

AG Lynch will learn from ODNI General Counsel Robert Litt (2009-) that DNI Clapper had agreed with the proposed 2015 USA Freedom Act amendments. DNI Director Clapper determined that there was no national security risk with the metadata program being implemented without the USG storing the metadata. If asked, ODNI General Counsel Litt will inform AG Lynch whether DNI Director Clapper concluded that the "bulk collection" of the 1982-2015 E.O. 12333 comingled foreign and U.S. citizens content data must continue because there is no software solution to the fact the foreign and U.S. citizens data is comingled. AG Lynch will learn that he knows that CIA Director Brennan continues to conduct warrantless searches of the "bulk collection" of the 1982-2015 E.O. 12333 "**FISA exempt**" NSA TSP "haystacks" of U.S. citizens' comingled stored content data in the Utah Data Center servers. This is necessary to protect the national security because the metadata "hits" trigger the analysts use of algorithms to access the needed content data re foreign and U.S. persons' domestic terrorists.

The Committee's Conclusion 1 highlights the "Past is Prologue" fact that the NSA's 2015 continued collection and storage of bulk collection content data is necessary in order that present and future analysts can go back in time to track newly discovered terrorists actions:

> **Conclusion 1. There is no software technique that will fully substitute for bulk collection where it is relied on to answer queries about the past after new targets become known.**

> A key value of bulk collection is its record of past SIGNIT that may be relevant to subsequent investigations. If past events become interesting in the present, because intelligence-gathering priorities change to include detection of new kinds of threats or because of new events such as the discovery that an individual is a terrorist, historical events and the context they provide will be available for analysis only if they were previously collected. Id. 9. Emphasis added.

The Committee explained there was a "most agree" accepted Fourth Amendment analysis of searches of U.S. citizens' comingled stored collected data. This was after the Article II 2001-2008 STELLAR WIND program was codified with the Article I FISA amendment of 2008:

> Notwithstanding the operation of the predecessor program to Foreign Intelligence Act (FISA) Section 215, outside of the requirements of FISA, **most agree** now that the IC can target U.S. persons only when permitted explicitly with Foreign Intelligence Surveillance Court (FISC) involvement using procedures designed to ensure Fourth Amendment protections. The legal protections provided by the Fourth Amendment and various domestic legislation, such as FISA, distinguish between foreign and U.S. persons; in particular the latter enjoy the protections of the Fourth Amendment. In cases where information about U.S. persons is collected as a part of authorized foreign intelligence collection activities, minimization rules approved by the U.S. Attorney General require special handling for privacy protection, consistent with foreign intelligence needs, which typically will require removing the names of U.S. persons or other identifying information prior to dissemination. Of course, the names of U.S. persons can be included when necessary to understand the foreign intelligence information. Id. 30-31. Emphasis added.

The plaintiff asserts that AG Lynch will learn that this "most agree" analysis is not accurate because of the existence of the Top Secret 1984-2015 "FISA secret law" that is explained in the May 24, 1984 Top Secret "OLC Olson FISA Memo" with its different Fourth Amendment analysis. "Traditional Fourth Amendment analysis holds that once evidence is constitutionally seized, its dissemination or subsequent use raises no additional Fourth Amendment question." Emphasis added. See 10-3-14 Robert II v CIA and DOJ WP §§ A, B.

The Committee's Conclusion 2.2 recognizes the need to continue to collect and store U.S. citizens' comingled content data, but advises that there are automatic control mechanism that can provide oversight bodies with tools to protect U.S. citizens Fourth Amendment rights:

> **Conclusion 2.2. Automated controls can provide new opportunities to make controls more transparent by giving the public and oversight bodies the opportunity to inspect the software artifacts that describe and implement the controls. Increased transparency can give people outside the IC more confidence that the controls are appropriate, although the need for secrecy about some of the details makes complete confidence unlikely**. Id. 77. Emphasis added.

The plaintiff asserts that if AG Lynch agrees with DNI Clapper that there would be a national security risk if the NSA did not continue its bulk collection and storage of the 2015 E.O. 12333 NSA TSP "haystacks" of U.S. citizens' comingled stored content data at the Utah Data Center, then AG Lynch will agree with the Committee's Conclusion 2.2 that there should be automated controls to protect U.S. citizens Fourth Amendment rights. The protection of the U.S. citizens' Fourth Amendment rights can be accomplished at the same time that the NSA continues to collect and retain the comingled foreign and domestic stored content data.

However, AG Lynch has to decide whether the June 25, 2014 Riley v California Fourth Amendment holding re U.S. citizen's cell phone's stored content data, applies to the 1982-2015 E.O. 12333 Top Secret "**FISA exempt**" NSA TSP servers. Upon information and belief, AG Lynch has not yet made that decision. AG Lynch will have to make that decision in August, 2015 because the June 29, 2015 FISC In Re FBI decision determined the Second Circuit's May 7, 2015 ACLU v Clapper, 785 F.3rd 787 (2d Cir. 2015) decision was "incorrectly" decided. AG Lynch must decide whether SG Verrelli should file an ACLU v Clapper Petition for a writ of certiorari because it is to be filed by August 7, 2015. See §§ I, Q, R below.

However, in order for AG Lynch to make that decision, AG Lynch has to consider the fact that none of the 535 Members of Congress who voted on the USA Freedom Act that was enacted on June 2, 2015, has ever read the May 24, 1984 Top Secret "OLC Olson FISA Memo." That OLC Memo determined that the exclusionary provision of the FISA was an "unconstitutional" encroachment on the President's unlimited Article II Commander in Chief "inherent authority" to conduct warrantless domestic surveillance of U.S. citizens to protect the nation from terrorists. AG Lynch also has to consider President Obama's § 413 (a) of the National Security Act Congressional Notification "shall" duty if she honors Senator Diane Feinstein's January 28, 2015 request of AG Nominee Lynch to provide a copy of AAG of the OLC Olson's 1984 "seminal" E.O. 12333 OLC opinion. See 7-14-15 WP §§ D, P.

Thus, AG Lynch will have to review in August, 2015 the post-USA Freedom Act inchoate DOJ policy as to the continued CIA warrantless domestic searches of the 1982-2015 E.O. 123333 Top Secret "**FISA exempt**" NSA TSP "haystacks" of U.S. citizens' comingled stored content data that continues to be stored in the Utah Data Center servers. Fortunately, the National Research Council of the National Academies January 15, 2015 Bulk Collection of Signals Intelligence: Technical Options Report, provides AG Lynch with a recommended solution in its Conclusion 2.2: "New automated controls can provide opportunities to make controls more transparent by giving the public and oversight bodies the opportunity to inspect the software artifacts that describe and implement the controls." Id. Emphasis added.

AG Lynch knows that on January 15, 2015 DNI Clapper adopted Bulk Collection of Signals Intelligence: Technical Options Report as the technical basis to use to solve President Obama's conundrum re the post-USA Freedom Act USG's storage of U.S. persons' comingled content data. AG Lynch can consider the plaintiff's June 16, 2015 PCLOB recommendation. The plaintiff suggested that a logical and easy to implement solution for President Obama's conundrum re the 2015 CIA's warrantless access 1982-2015 E.O. 12333 "**FISA exempt**" NSA TSP "haystacks" of U.S. citizens' comingled stored content data, is for President Obama to issue a new E.O. that includes a "Riley v California FISC warrant" requirement applied to any searches of U.S. citizens' comingled stored content data. See 6-16-15 PCLOB Comment § 5.

D. The January 28, 2015 Senate Judiciary Committee confirmation hearing for AG Nominee Lynch, Senator Feinstein's request for a copy of the 1984 E.O. 12333 "OLC Olson FISA Memo," and AG Lynch's decision whether to provide a copy to the Senator

On January 28, 2015, at the Senate Judiciary Committee confirmation hearing for AG Nominee Lynch, Senator Diane Feinstein asked the AG Nominee whether she would provide the Committee with a copy of AAG of the OLC Theodore Olson's 1984 Top Secret E.O. 12333 Memo. AG Lynch responded by informing the Senator that if she is confirmed, then she would "commit to you to work with this Committee, as well as the Intelligence Committee." AG Lynch now has to decide whether to provide a copy of the May 24, 1984 Top Secret "OLC Olson FISA Memo" to the Senate Committees. See 6-16-15 PCLOB Comment §§ 1, 2, 5, 15-24.

C Span isolated Senator Feinstein's question and the response at 1:20 of the hearing.

> Senator Feinstein: As a Member of the Judiciary and Intelligence, we have sought access to opinions called OLC opinions. These opinions often represent the best and most comprehensive expression of the legal basis for intelligence activities. Congress is actually charged with overseeing. So without these opinions, you don't really know the legal basis upon which an administration has made—has based certain activities, and it's been very frustrating to us. In particular, executive branch officials have previously advised the Committee of the existence of a seminal opinion written by Ted Olson decades ago governing the conduct of collection activities under Executive Order 12333. My question is can we have your commitment that you will made a copy of this OLC opinion available to Members of both Intelligence and Judiciary Committee? Probably your first tough question.
>
> AG Nominee Lynch: I think with respect to the OLC opinions, you are correct, they represent a discussion and an analysis of legal issues on a wide variety of subjects. When a variety of agencies come to the Department for that independent advice that we must provide them, Certainly I'm not aware of the discussions had about this previous opinion in terms of providing it. Certainly I will commit to you to work with this Committee, as well as the Intelligence Committee, to find a way to provide the information that you need consistent with Departments own law enforcement and investigative priorities. Id. Emphasis added. http://www.c-span.org/video/?c4525445/sen-feinstein-loretta-lynch-make-surveillance-olc-memos-available-congress.

Thus, AG Lynch has a duty to read AAG of the OLC Olson's May 24, 1984 OLC Memo sent to AG William French Smith. Re Constitutionality of Certain National Security Agency Electronic Surveillance Activities Not Covered Under the Foreign Intelligence Surveillance Act of 1979. After reading that OLC FISA Memo, AG Lynch will know whether AAG of the OLC Olson had determined that the exclusivity provision of the FISA was an "unconstitutional" encroachment on the President's unlimited Article II Commander in Chief authority.

AG Lynch will also know the answer to the "elephant-in-the-room" question: Has CIA Director Brennan accessed the 1982-2015 E.O. 12333 Top Secret "**FISA exempt**" NSA TSP "haystacks" of comingled foreign and U.S. citizens' stored **content** data in USG servers?

E. The February 3, 2015 posting of the CIA PPD-28 standards that established the continuation of the violation of the exclusivity provision of the FISA by continuing to exempt CIA back door warrantless searches of the 1982-2015 E.O. 12333 Top Secret "FISA exempt" NSA TSP "haystacks" of U.S. citizens' comingled stored content data

On February 3, 2015, DNI Clapper posted on IC on the Record the unclassified PPD-28 CIA Signals Intelligence Activities policy. It reveals that CIA analysts will continue in 2015 to conduct back door warrantless domestic searches of the 1982-2015 E.O. 12333 Top Secret "FISA exempt" NSA TSP "haystacks" of U.S. citizens' comingled stored content data. https://www.cia.gov/library/reports/Policy-and-Procedures-for-CIA-Signals-Intelligence-Activities.pdf. As a result, this CIA PPD-28 document provides AG Lynch with an opportunity to review to the Article II "FISA secret law" as explained in the Top Secret May 24, 1984 "OLC Olson FISA Memo," the May 6, 2004 "OLC Goldsmith FISA Memo," and the July, 2014 "OLC Riley v California Memo." It also provides AG Lynch with an opportunity to approve CIA analysts continued searches of the 1982-2015 E.O. 12333 bulk collected data in the Utah Data Center, but subject to a suggested statutory "Riley v California FISC warrant" requirement whenever CIA analysts conduct searches of U.S. citizens' comingled stored content data. See 10-3-14 Robert II v CIA and DOJ WP §§ P-AA and 6-16-15 PCLOB Comment §§ 5, 6.

CIA General Counsel Caroline Krass approved the CIA PPD-28 standard. It informs the public that the CIA PPD-28 codifies many existing practices that had not been put forth in a single regulatory issuance. It states that the CIA PPD-28 does not alter E.O. 12333 standards:

> The collected, use, retention, and dissemination of information concerning "United States persons" are governed by multiple legal and policy requirements, such as those required by the Foreign Intelligence Surveillance Act of 1978 (FISA) and Executive Order 12333. This regulation is not intended to alter the rules applicable to U.S. persons in FISA, the Privacy Act, Executive Order 12333, or other applicable law. Id. 1-2. Emphasis added.

CIA General Counsel Krass knows why the CIA PPD-28 does not cite to the E.O. 12333 OLC FISA opinions. This is an important fact because CIA General Counsel Krass had known that if AG Nominee Lynch was confirmed, then AG Lynch would have to decide whether to respond to Senator Feinstein's request whereby the AG would provide to the Senate Judiciary Committee and the Intelligence Committees the May 24, 1984 Top Secret "OLC Olson FISA Memo" with its 1984 determination that if U.S. citizens' content data was "constitutionally" seized, then the Fourth Amendment does not apply. "Traditional Fourth Amendment analysis holds that once evidence is constitutionally seized, its dissemination or subsequent use raises no additional Fourth Amendment question." Id. Emphasis added. 6-16-15 PCLOB Comment § 2.

CIA General Counsel Krass knows that on April 23, 2015 when the Senate confirmed AG Nominee Lynch, her relationship with EDNY U.S. Attorney Lynch (2010-2015) had changed. AG Lynch could now read the CIA classified FOIA requested documents that EDNY U.S. Attorney Lynch did not have clearance to read. CIA General Counsel Krass knows that Robert II v CIA and DOJ co-defendant Lynch can now read the May 24, 1984 "OLC Olson FISA Memo" along with the September 5, 2014 re-reclassified March 18, 2011 reclassified May 6, 2004 "OLC Goldsmith FISA Memo," and the July, 2014 "OLC Riley v California Memo."

F. The March 3, 2015 PPD-28 Statement of Assistant to the President for Homeland Security and Counterterrorism Monaco that ratified the continuation of the 1982-2015 CIA Directors back door warrantless domestic searches of E.O. 12333 Top Secret "FISA exempt" NSA TSP "haystacks" of U.S. citizens' comingled stored content data

On February 3, 2015, Assistant to the President for Homeland Security and Counterterrorism Lisa Monaco issued a White House statement on behalf of President Obama. Update on Implementation of Signals Intelligence Reform and Issue of PPD-28. http://www.whitehouse.gov/the-press-office/2015/02/03/statement-assistant-president-homeland-security-and-counterterrorism-lis. She indicated that DNI Clapper had secured intelligence community compliance with PPD-28 by their filing of individual agency PPD-28 guidelines with DNI Clapper. As a result, this Statement was a ratification of the continuation of the 1982-2015 CIA Directors back door warrantless domestic searches of E.O. 12333 Top Secret "**FISA exempt**" NSA TSP "haystacks" of U.S. citizens' comingled stored content data. See § D above.

Assistant to the President for Homeland Security and Counterterrorism Monaco noted that the PPD-28 guidelines, including the CIA PPD-28 guidelines, would be discussed by the PCLOB and other intelligence community groups as to the balance between protecting the national security and respecting U.S. citizens' privacy and civil liberties rights:

> These reports and the progress made to date will be discussed in upcoming meetings with the Privacy and Civil Liberties Oversight Board, the Review Group on Intelligence and Communications Technologies, and others.
>
> As the President indicated in PPD-28, our signals intelligence activities must take into account that all persons have legitimate privacy interests in the handling of their personal information. At the same time, we must ensure that our Intelligence Community has the resources and authorities necessary for the United States to advance its national security and foreign policy interests and to protect its citizens and the citizens of its allies and partners from harm. As we continue to face threats from terrorism, proliferation, and cyber-attacks, we must use our intelligence capabilities in a way that optimally protects our national security and supports our foreign policy while keeping the public trust and respecting privacy and civil liberties. Id. Emphasis added.

The plaintiff asserts that President Obama does not know that Assistant to the President Monaco has provided all 535 Members of Congress with a White House indirect admission that the CIA continues in 2015 to implement the E.O. 12333 Top Secret "**FISA exempt**" NSA TSP. He asserts that she knew that President Obama did not know that CIA Director Brennan was continuing the serial violation of the exclusivity provision of the FISA of 1978 whenever he conducted 2015 back door warrantless searches of the 1982-2015 E.O. 12333 "**FISA exempt**" NSA TSP "haystacks" of U.S. citizens' comingled stored content data. If so, then she knew that President Obama had not adopted the "FISA secret law" that is explained in the May 24, 1984 Top Secret "OLC Olson FISA Memo" whereby the President has unlimited Article II Commander in Chief authority to conduct warrantless surveillance of U.S. citizens to protect the nation. If so, then Assistant to the President Monaco "defrauded" President Obama who has not adopted the "FISA secret law." See 12-14-11 Robert II v CIA and DOJ Status Affidavit § C.

G. The March 23, 2015 PCLOB Notice inviting public comments on E.O. 12333 counterterrorism activities, the PCLOB in-depth investigation of CIA and NSA activities, and AG Lynch's E.O. 12333 conundrum re illegal CIA domestic intelligence activities

On March 23, 2015, the PCLOB published a Federal Register Notice inviting public comments on E.O. 12333 counterterrorism activities. The PCLOB informed the public that it would focus on an in-depth investigation of CIA and NSA activities. If AG Lynch learns of the E.O. 12333 illegal CIA domestic intelligence activities at IMC and the NSA, then she has a duty to report these facts to President Obama. The President has a § 413 (b) of the National Security Act "shall" duty to file a "corrective action" plan to remedy illegal CIA domestic intelligence activities. AG Lynch now has a conundrum because she will not "defraud" President Obama as AG Meese had "defrauded" President Reagan. See 6-16-15 PCLOB Comment §§ 11-14.

On March 23, 2015, the PCLOB posted a Federal Register Notice Request for Public Comments on Activities Under Executive Order 12333. 80 FR No. 55, 15259. https://www.pclob.gov/library/FederalRegister-PCLOB-2015-03-24.pdf. The PCLOB invited public comments to inform the PCLOB on the impact of E.O. 12333 counterterrorism activities on U.S. citizens' privacy rights and civil liberties:

> PCLOB seeks public input to inform the Board's examination of activities conducted under Executive Order (E.O.) 12333—United States Intelligence Activities. Although the Board recognizes that much information about activities under E.O. 12333 is classified and/or not publicly available, the Board seeks comments regarding any concerns about counterterrorism activities conducted under E.O. 12333 based on the information that is currently unclassified and publicly available, as well as suggestions for questions the PCLOB should ask as part of its inquiry. Id. Emphasis added.

The PCLOB informed the public in its Project Description of its "PCLOB Examination of E.O. 12333 Activities in 2015" that it would concentrate on CIA and NSA activities:

> During the next stage of its inquiry, the Board will select two counterterrorism-related activities governed by, and will then conduct focused, in- depth examinations of those activities. The Board plans to concentrate on activities of the CIA and NSA, and to select activities that involve one or more of the following: (1) bulk collection involving a significant chance of acquiring U.S. person information; (2) use of incidentally collected U.S. person information; (3) targeting of U.S. persons; and (4) collection that occurs within the United States or from U.S. companies. Id. Emphasis added.
> https://pclob.gov/library/20150408-EO12333_Project_Description.pdf.

The plaintiff has informed the PCLOB that he remains a 2015 FISA "aggrieved person" because CIA Director Casey had conducted back door warrantless surveillance of the E.O. 12333 Top Secret "**FISA exempt**" NSA TSP "haystacks" of Robert's comingled stored content data that continues to be stored at the Utah Data Center. AG Lynch will learn from CIA General Counsel Krass and the DOJ Robert FOIA case file notes and e-mails, whether this is true.

H. DNI Clapper's April 25, 2015 declassification of the five Intelligence Community IGs Classified July 10, 2009 Report re President Bush's post-9/11 NSA President Surveillance Program (PSP) that was based on the "FISA secret law" which was reclassified to prevent the public from learning of the E.O. 12333 May 24, 1984 "OLC Olson FISA Memo"

On April 25, 2015, DNI Clapper posted on the IC on the Record website, three volumes of declassified Inspector General Reports re the five Intelligence Community (IC) Inspector Generals (IGs) July 10, 2009 investigation of President Bush's post-9/11 NSA Presidential Terrorist Program (PSP). However, DNI Clapper reclassified many pages that revealed the "FISA secret law" upon which the post-9/11 NSA PSP was based. This prevented the public from learning whether the post-9/11 2001-2006 NSA PSP was based on the pre-9/11 1982-2001 E.O. 12333 Top Secret "**FISA exempt**" NSA TSP whereby the 1982-2009 CIA Directors seamlessly conducted back door warrantless searches of the "haystacks" of U.S. citizens' comingled stored content data. This CIA program was based on the E.O. 12333 May 24, 1984 Top Secret "OLC Olson FISA Memo." See 10-3-14 Robert II v CIA and DOJ WP §§ A, B.

On April 25, 2015, DNI Clapper reported in The Department of Justice Releases Inspectors Generals Reports Concerning Collection of Activities Authorized by President George W. Bush After the Attacks of September 11, 2001:

> The documents released consist of statutorily mandated, detailed reviews of the PSP by the Inspectors General of five different agencies—DoJ, DoD, NSA, the Central Intelligence Agency, and ODNI—as well as a joint report signed by the IGs of each of these agencies. The reports describe the White House's initiation of the PSP through presidential authorization; DoJ's role in analyzing the legality of the PSP; NSA's implementation of the presidential authorizations through PSP collection, analysis, and reporting processes; CIA's and FBI's use of PSP-derived intelligence in their counterterrorism efforts; the ODNI's support of the program in providing periodic threat assessments; and the Intelligence Community's and assessment of the value of the program in identifying and combating terrorist threats. Id. Emphasis added. http://icontherecord.tumblr.com/

AG Lynch can ask the 2015 IC General Counsels CIA General Counsel Caroline Krass, DNI General Counsel Robert Litt, DOD General Counsel Stephen Preston, Acting NSA General Counsel Teisha Anthony, DHS General Counsel Stevan Bunnell, FBI General Counsel James Baker, and Assistant to the President for Homeland Security and Counterterrorism Lisa Monaco, whether the post-9/11 2001-2009 NSA PSP was based on the pre-9/11 1982-2001 E.O. 12333 May 24, 1984 Top Secret "OLC Olson FISA Memo" which was cited in the September 5, 2014 re-reclassified March 18, 2011 reclassified May 6, 2004 Top Secret "OLC Goldsmith FISA Memo, and the July, 2014 Top Secret "OLC Riley v California Memo." This is a logical how-could-this-have-happened question after reading only Volume I of the declassified IG documents.

AG Lynch should know whether the post-9/11 NSA PSP was based on the E.O. 12333 May 24, 1984 Top Secret "OLC Olson FISA Memo" when she decides whether to provide Senator Feinstein with a copy of the 1984 "seminal" E.O. 12333 Olson memo. This is especially the case given the PIDB-CIA-NARA pilot program to automatically declassify President Reagan's Administration's e-mails that include e-mails re any OLC Boland Amendment Memos.

CIA General Counsel Krass, the 2001-2009 OLC Attorney-Advisor-Senior Counsel, knows the importance of AG Lynch reading the July 10, 2009 Top Secret separate report of the DOJ IG Glenn A. Fine that DNI Clapper posted as Volume III on IC on the Record. "A Review of the Department of Justice's Involvement with the President's Surveillance Program." She knows DOJ IG Fine's DOJ report goes into much more detail than the joint IC IGs July 10, 2009 Report. She knows that AG Lynch should be reading the reclassified pages of IG Fine's declassified report to understand why all of the 1984-2015 AGs for Presidents Reagan, Bush, Clinton, Bush, and Obama did not inform their Presidents that they were violating the § 413 (a) of the National Security Act Congressional Notification "shall" duty by not informing the "Gang of Eight" and the Intelligence Committees of the existence of AAG of the OLC Olson's May 24, 1984 Top Secret OLC FISA Memo sent to AG Smith. "Re Constitutionality of Certain National Security Agency Electronic Surveillance Activities Not Covered Under the Foreign Intelligence Surveillance Act of 1979." See 6-16-15 Robert PCLOB Comment §§ 9-13.

The plaintiff notes below some important facts revealed in the Volume I Joint IC IGs "Report on the President's Surveillance Program" re 2015 FBI General Counsel Baker's March 1, 2004 knowledge of the existence of the May 24, 1984 Top Secret "OLC Olson FISA Memo." On that date as OIPR Counsel (1996-2006), he ratified CIA Director Tenet's CIA FOIA Officer's use of FOIA exemption 1 and the "Glomar Response" defense to withhold the FOIA requested 1980s "FISC Robert" documents. This is an important Robert II v CIA and DOJ time line *mens rea* fact because on April 9, 2004 Magistrate Judge Arlene Lindsay issued her Robert II v CIA and DOJ Magistrate's Report that was based on the FRCP 11 signed representations made by USG attorneys. See 12-14-11 Robert II v CIA and DOJ Status Affidavit §§ E, K, L, P.

CIA General Counsel Krass knows from reading the Robert II v CIA and DOJ 2004 CIA case file notes and e-mails along with the OIPR Counsel Baker's October 1, 2004 "corrected" Robert VII v DOJ Declaration, http://www.snowflake5391.net/baker.pdf, whether USG attorneys had implemented the Barrett "nonacquiescence" policy and intentionally withheld material facts from Magistrate Judge Lindsay. "Finally, acceptance of the view urged by the federal appellants would result in a blanket grant of absolute immunity to government lawyers acting to prevent exposure of the government in liability." Barrett v. United States, 798 F. 2d 565, 573 (2d Cir. 1986). Emphasis Added. See 6-16-15 Robert PCLOB Comment §§ 14, 19, 20, 21.

CIA General Counsel Krass knows from reading the Robert VII v DOJ case file notes and e-mails whether OIPR Counsel Baker knew the 1980s "FISC Robert" documents reveal that Robert had been the illegal target of CIA Director Casey's analysts' illegal back door warrantless domestic searches of the 1982-1987 E.O. 12333 Top Secret "**FISA exempt**" NSA TSP "haystacks" of U.S. citizens' comingled stored content data. If so, then AG Lynch should know this fact when she decides whether to provide Senator Feinstein (and Senate Judiciary Chairman Grassley and Senate Intelligence Chairman Burr) with a copy of the May 24, 1984 Top Secret "OLC Olson FISA Memo." See 6-16-15 Robert PCLOB Comment §§ 2, 8, 10 14, 17, 18, 20.

AG Lynch should know the answer to the what-did-FBI General Counsel Baker-know-and-when-did-he-know-it-question about the-E.O. 12333 May 24, 1984 Top Secret "OLC Olson FISA Memo," before she provides Senator Feinstein with a copy of the 1984 "seminal" E.O. 12333 OLC opinion of AAG of OLC Olson. This is especially the case because one of the original 2006 PCLOB Members was former-SG Ted Olson (June 2001–July 2004).

DNI Clapper's April 25, 2015 declassified Volume I five IC IGs "Report on the President's Surveillance Program" noted that from 2001-2003 OIPR Baker was only one of three DOJ attorneys "read into NSA PSP" and that did not include AAG of the OLC Jay S. Bybee:

> OLC Deputy Assistant Attorney General John Yoo was responsible for drafting the first series of legal memorandum supporting the PSP. Yoo was the only OLC official read into the PSP from the program's inception until he left DoJ in May 2003. During Yoo's tenure at DOJ, he was one of only three DoJ officials read into the PSP. The other two were Ashcroft and Baker. OLC Assistant Attorney General Jay S. Byee, Yoo's direct supervisor, was never read into the program. Id. 12-13. Emphasis added. http://www.dni.gov/files/documents/424/2009%20Joint%20IG%20Report%20on%20the%20PSP%20Vol.%20I.pdf.

DNI Clapper's April 25, 2015 declassified Volume I five IC IGs "Report on the President's Surveillance Program" noted that OIPR Baker was present at the January 31, 2002 DOJ meeting when FISC Presiding Judge Lamberth was first informed of the NSA PSP:

> On January 31 January 2002, FISC Presiding Judge Royce Lamberth became the first member of the court to be read into the PSP. He was briefed on the program after James Baker, the head of the DoJ's Office of Intelligence Policy and Review (OIPR) –redacted-. Lamberth's briefing was conducted at the DoJ and was attended by Ashcroft, Hayden, Mueller, Yoo, and Baker. Id. 27. Emphasis added.

DNI Clapper's April 25, 2015 declassified Volume I five IC IGs "Report on the President's Surveillance Program" noted that IG Fine had agreed with OIPR Counsel Baker that "candor and transparency" should be the basis for the relationship between DoJ and FISC:

> Baker was read into the PSP only after he came upon "strange unattributed language in a FISA application that suggested the existence of a compartmented program –redacted- . As noted, eventually Lamberth, and later his successor, Kollar-Kotelly, were read in. The DoJ IG believes that not having OIPR officials and members of the FISC read into the PSP, while program-derived information was being disseminated as investigative leads to the FBI and finding its way into FISA applications, put at risk the DoJ's important relationship with the FISC. The DoJ IG agrees with Baker's assessment that, as the government's representative before the FISC, good relations between the DoJ and the FISC depend on candor and transparency. Id. 27-28. Emphasis added.

DNI Clapper's April 25, 2015 declassified Volume I five IC IGs "Report on the President's Surveillance Program" noted that OIPR Counsel Baker was sensitive to the fact that his staff attorneys were FRCP 11 signing FISC applications without knowing PSP facts:

> Implementing the scrubbing procedures, both under Lamberth and Kollar-Kotelly, was a complicated and time-consuming endeavor for OIPR staff.

> Baker, who until March, 2004 was the only individual in OIPR read into the PSP, found himself having to ask OIPR attorneys to compile information about their cases, and sometimes to make changes to their FISA applications, without being able to provide an explanation other than the he had spoken to the Attorney General and the FISC about the situation. Baker regularly told attorneys that they did not have to sign applications that they were not comfortable with, and, in some instances, international terrorism cases had to be reassigned for this reason. Id. 34. Emphasis added.

DNI Clapper's April 25, 2015 declassified Volume I five IC IGs "Report on the President's Surveillance Program" reported that SG Theodore Olson (2001-July, 2004) became involved in the fallout that occurred after the March 10, 2004 confrontation between WH Counsel Gonzales and WH Chief of Staff Andrew Card with AG Ashcroft, DAG Comey, and FBI Director Mueller in AG Ashcroft's hospital room:

> Before leaving the hospital, Comey received a call from Card. Comey testified that Card was very upset and demanded that Comey comet to the White House immediately. Comey told Card that he would meet with him, but not without a witness, and that he intended that witness to be Solicitor General Theodore B. Olson.
>
> Comey and the other DoJ officials left the hospital at 20:10 and met at DoJ. They were joined there by Olson. During the meeting, a call came from the Vice President for Olson, which Olson took on a secure line in Comey's office while Comey waited outside. Comey told us he believes that the Vice President effectively read Olson into the program during that conversation. Comey and Olson then went to the White House at about 23:00 that evening and met with Gonzales and Card. Gonzales told us that little more was achieved at this meeting than a general acknowledgement that a "situation" continued to exist between DoJ and the White House regarding the program. Id. 44. Emphasis added.

The plaintiff has quoted from the April 25, 2015 declassified Volume I five IC IGs "Report on the President's Surveillance Program," to highlight the importance of AG Lynch reading the May 24, 1984 Top Secret "OLC Olson FISA Memo" prior to providing a copy to Senator Feinstein. The plaintiff has respectfully suggested that CIA General Counsel Krass recommend that AG Lynch, her client, consult directly with FBI General Counsel Baker and former-PCLOB Member Ted Olson (2006-2008), to eliminate any confusion as to whether the 1984-2015 Article II Top Secret "FISA secret law" continues to be based on the May 24, 1984 Top Secret "OLC Olson FISA Memo." FBI General Counsel Baker knows the answer.

CIA General Counsel Krass, as the "Guardian of the Guardians," knows whether FBI General Counsel Baker knows that the Robert VII v DOJ "FISC Robert" documents reveal that OIPR Counsel Baker knew on March 1, 2004 that Robert was a CIA target of the 1982 E.O. 12333 Top Secret NSA TSP. If so, then AG Lynch should know this DOJ fact when considering the plaintiff's quiet settlement offer. See 6-16-15 Robert PCLOB Comment §§ 10, 14.

I. The May 7, 2015 Second Circuit ACLU v Clapper decision and applying its statutory interpretation "hiding elephants in mouseholes" metaphor to the E.O. 12333 "secret law" of the 1984 "OLC Olson FISA Memo" and "OLC Olson Boland Amendment Memo"

On May 7, 2015, Second Circuit decided ACLU v Clapper, 785 F. 3d 787 (2d Cir. 2015) re the Section 215 of the USA Patriot Act metadata program. The Second Circuit's decision was a statutory construction decision that used a "hiding elephants in mouseholes" metaphor to reject AG Holder's argument (that became AG Lynch's argument on April 23, 2015) that Congress had intended for the NSA to collect and retain U.S. citizens' metadata. The plaintiff asserts that if AG Lynch applies the "hiding elephants in mouseholes" metaphor to AAG of the Olson's May 24, 1984 interpretation of the exclusivity provision of the FISA and his interpretation of the October 12, 1984 Boland Amendment, then AG Lynch with 20/20 hindsight will reject those 1984 OLC statutory interpretations that were the legal basis for CIA Director Casey's E.O. 12333 Top Secret CIA domestic activities conducted at IMC and the NSA without any Congressional Notification. See 6-16-15 PCLOB Comment §§ 11-14, 24.

The Second Circuit explained its "hiding elephants in mouseholes" metaphor when assessing the intent of Congress upon enacting § 215 of the USA Patriot Act:

> Such a monumental shift in our approach to combating terrorism requires a clearer signal from Congress than a recycling of oft-used language long held in similar contexts to mean something far narrower. "Congress…does not alter the fundamentals of a regulatory scheme in vague terms or ancillary provisions—it does not ….hide elephants in mouseholes. " Whitman v. Am. Trucking Ass'ns., 531 U.S., 468 (2001). The language of 215 is decidedly to ordinary for what the government would have us believe is such an extraordinary departure from any accepted understanding of the term "relevant to an authorized investigation." Id. 75-76. Emphasis added.

The plaintiff asserts that if AG Lynch applies the "hiding elephants in mouseholes" metaphor to the May 24, 1984 Top Secret "OLC Olson FISA Memo, then she will conclude that AAG of the OLC Olson incorrectly decided that the exclusivity provision of the FISA was "unconstitutional." There is no legislative history that reveals that Congress did not mean exactly what it said: There is to be no warrantless wiretapping of U.S. citizens because warrants are required pursuant to either Title III of the Omnibus Crime Control and Safe Streets Act of 1968 or the FISA of 1978. If so, then AG Lynch has the 2015 duty of rescinding AAG of the OLC Olson's Top Secret May 24, 1984 OLC FISA Memo that continues to be the 2015 Article II Top Secret "FISA secret law." See 6-16-15 PCLOB Comment §§ 2, 8-11 and §§ O, P below.

The plaintiff asserts that if AG Lynch applies the "hiding elephants in mouseholes" metaphor to AAG of the OLC Olson's Boland Amendment interpretation, then Congress' intent was also clear: The termination of funding for the Contras. If AAG of the OLC Olson determined the Boland Amendment was an "unconstitutional" encroachment on the President's Article II Commander in Chief authority, then President Reagan had a § 413 (a) of the National Security Act "shall" duty to inform the Intelligence Committees of the "secret law" explained in the "OLC Olson Boland Amendment Memo." If so, then this too is an "elephant-in-the-room" fact that all 535 Members of Congress should know. See 6-16-15 PCLOB Comment §§ 8, 9, 12.

J. The June 12, 2012 CIA declassification of the June, 2005 Executive Summary of CIA Office of Inspector General Report re CIA pre-9/11 accountability

On June 12, 2012, the CIA posted on its CIA Library website a declassified June, 2005 Executive Summary of a 500 page CIA Office of the Inspector General Report re pre-9/11 accountability. https://www.cia.gov/library/reports/Executive%20Summary_OIG%20Report.pdf. CIA General Counsel Krass approved the declassification of this document with some redacted portions being reclassified. This is an important fact because CIA General Counsel Krass knows that this document is now a public admission of the existence of the pre-9/11 E.O. 12333 Top Secret "FISA exempt" NSA TSP upon which President Bush's post-9/11 NSA President's Surveillance Program (PSP) was based. This CIA IG document is evidence that as of June, 2005 the CIA IG knew that there had been a serial violation of the § 413 (a) of the National Security Act "fully and currently informed" Congressional Notification duty as to both the 1982-2001 pre-9/11 E.O. 12333 NSA TSP and the 2001-2005 post-9/11 E.O. 12333 NSA PSP.

The June 12, 2015 CIA Press Release, "CIA Releases Declassified Documents Related to 9/11 Attacks," informed the public of the June, 2005 CIA IG Report re 9/11 accountability:

> Today, CIA has released to the public declassified versions of five internal documents related to the Agency's performance in the lead-up to the attacks of September 11, 2001. The documents can be found at CIA's Freedom of Information Act (FOIA) online reading room at http://www.foia.cia.gov/collection/declassified-documents-related-911-attacks. The first of these documents is a redacted version of the 2005 CIA Office of Inspector General (OIG) *Report on Central Intelligence Agency Accountability Regarding Findings and Conclusions of the Report of the Joint Inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001*. In 2005, then-CIA Director Porter Goss issued a public statement on the OIG report. In 2007, CIA publicly released a redacted executive summary of the report along with a statement from then-Director Michael Hayden. In response to FOIA requests for the full 2005 OIG report, CIA and other agencies conducted an extensive review of the nearly 500-page document in order to release information that no longer needed to be protected in the interests of national security. Id. Underlining added.

The plaintiff asserts that the timing of the declassification of this document on June 12, 2015 ten days after June 2, 2015 when the Congress enacted the USA Freedom Act, was not coincidental. Quite the contrary, the plaintiff asserts that CIA Director Brennan (2013-), the 1999-2001 Chief of Staff of CIA Director Tenet and the 2009-2013 Counterterrorism Deputy Assistant to the President and Deputy National Security Adviser of Homeland Security and Counterterrorism, understood that it was only a matter of time for the 2015 Congressional Oversight Committees to investigate CIA Director Brennan's warrantless domestic searches of the 1982-2015 E.O. 12333 Top Secret "**FISA exempt**" NSA TSP "haystacks" of U.S. citizens' comingled stored content data retained in the Utah Data Center. CIA Director Brennan knew CIA General Counsel Krass knew that CIA Director Casey (1981-1986) and all of his successor 1982-2015 CIA Directors, had violated the exclusionary provision of the FISA based on the May 24, 1984 Top Secret "OLC Olson FISA Memo" that Senator Feinstein asked AG Nominee Lynch to provide. AG Lynch must now decide whether to produce that document. See § D above.

The plaintiff asserts that CIA Director Brennan knew that the heretofore Top Secret Executive Summary of "OIG Report on CIA Accountability With Respect to the 9/11 Attacks" would reveal to the PCLOB, the PIDB, 535 Members of Congress, and the public that all of the 1982-2015 CIA Directors had conducted back door warrantless domestic searches of the 1982-2015 E.O. 12333 Top Secret "**FISA exempt**" NSA TSP "haystacks' of U.S. citizens' comingled stored content data. He also knew that no CIA officials were ever held accountable for any mistakes that led up to 9/11 because they all had the good faith motive of protecting the nation.

However, CIA General Counsel Krass knows that the USG attorneys who continue to participate in the violation of the exclusionary provision of the FISA after the unanimous June 25, 2014 Riley v California decision that the Fourth Amendment applied to a U.S. citizen's cell phone's stored content data, have "The Bivens Problem." This was explained by AAG of the Civil Richard Willard in his March 28, 1986 Personal Liability of Federal Officials The Bivens Problem Memo. She knows the Mitchell v Forsyth, 105 S.Ct. 2806 (1985) "nonacquiescence" policy continues in 2015. "We conclude that the Attorney General is not absolutely immune from suit for damages arising out of his allegedly unconstitutional conduct in performing his national security functions." Id. 2811. See 6-16-15 Robert PCLOB Comment § 18.

Hence, the legal significance of the June 12, 2015 declassified Executive Summary "OIG Report on CIA Accountability With Respect to the 9/11 Attacks" which informed the Congress, PCLOB, the PIDB, and the public the purpose of the June 2005 CIA IG Report:

> The Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence requested that the CIA's Office of Inspector General (OIG) review the findings of their Joint Inquiry (JI) Report and undertake whatever additional investigations were necessary to determine whether any Agency employees were deserving of awards for outstanding service provided before the attacks of September 11, 2001 (9/11), or should be held accountable for failure to perform their responsibilities in a satisfactory manner." Id. v. Emphasis added.

The PCLOB, PIDB, the Congress, and the public learned that the CIA IG Report did not address the systemic CIA and NSA problems that existed prior to 9/11:

> Similarly, because this report was designed to address accountability issues, it does not include recommendations relating to the systemic problems that were identified. Such systemic recommendations as were appropriate to draw from this review of the events of the pre-9/11 period have been forwarded separately to senior Agency managers. In its regular program of audits, investigations, and inspections, the OIG continues to review the counterterrorism programs and operations of the Agency, identifying processes that work well and those that might be improved. Id. v. Emphasis added.

The PCLOB, PIDB, the Congress, and the public now know the "findings of greatest concern" were those that identified "systemic problems." As a result, CIA General Counsel Krass knows that these 2015 CIA systemic problems are now subject to Article I review:

> The findings of greatest concern are those that identify systemic problems of where the Agency's program or processes did not work as they should have, and concerning which a number of persons were involved or aware, or should have been. Where the Team found systemic failures, it has recommended that an Accountability Board assess the performance and accountability of those managers who, by virtue of their position and authorities, might reasonably have been expected to oversee and correct the process. In general, the fact that failures were systemic should not absolve responsible officials from accountability. Id. vi. Emphasis added.

The June, 2005 CIA OIG Executive Summary noted a "persistent strain" in the relationships between the CIA and the NSA:

> The JI report discussed a persistent strain in relations between CIA and the National Security Agency (NSA) that impeded collaboration between the two agencies in dealing with the terrorist challenge from al-Qa'ida. The Team did not document in detail or take a position on the merits of this disagreement, but notes that the differences remained unresolved well into 2001 in spite of the fact that considerable management attention was devoted to the issue, including at the level of the Agency's Deputy Executive Director, Senior officers of the CIA and the IC Management staff that these interagency difference had a negative impact on the IC's ability to perform its mission and only the DCI's vigorous personal involvement could have led to a timely resolution of the matter. Id. x. Emphasis added.

The June, 2005 CIA OIG Executive Summary noted an information sharing problem between the CIA and the FBI that was part of the systemic failure problem:

> **Broader Information Sharing Issues**. The Joint Inquiry charged the CIA's information-sharing problems derived from the differences among agencies with respect to missions, legal authorities, and cultures. It argued that CIA efforts to protect sources and methods fostered a reluctance to share information and limited disclosures to criminal investigators. The report also alleged that most Agency officers did not focus sufficiently on the domestic terrorism front, viewing this as an FBI mission. The 9/11 Review Team's findings are similar in many respects, but the Team believes the systemic failures in this case do not lie in reluctance to share. Rather, the basic problems were poor implementation, guidance, and oversight of processes established to foster the exchange of information, including the detailee program. Id. xvi. Emphasis added.

The plaintiff asserts that CIA General Counsel Krass, the 2001-2009 OLC Attorney-Advisor and Senior Counsel, knew of the CIA and FBI information sharing problem from her knowledge of the March 10, 2004 confrontation between WH Counsel Gonzales and AG Ashcroft, DAG Comey, and FBI Director Mueller. She knows that this led to the May 6, 2004 "OLC Goldsmith FISA Memo" that cited to the May 24, 1984 "OLC Olson FISA Memo."

CIA General Counsel Krass knows whether DOD General Counsel Stephen Preston (2013-) approved CIA Director Brennan's declassification of the Report on Central Intelligence Agency Accountability Regarding Findings and Conclusions of the Report of the Joint Inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001. This is an important *mens rea* fact because DOD General Counsel Preston had been the 1993-1995 DOD Principal Deputy General Counsel and 1995-1998 Civil Division DAAG responsible for appellate litigation before becoming the 2009-2013 CIA General Counsel.

DOD General Counsel Preston, as the 1993-1995 DOD Principal Deputy General Counsel, knew that the 1982-1995 CIA Directors conducted back door warrantless domestic searches of the 1982-1995 E.O. 12333 Top Secret "**FISA exempt**" NSA TSP "haystacks" of U.S. citizens' comingled stored content data. DOD General Counsel Preston, as the 1995-1998 Civil Division DAAG, knew whether "Jackson v Schweiker "nonacquiescence" policy funds continued to be the illegal unaudited HHS funding source for the "immaculate construction" and maintenance of the 1982-1998 NSA TSP servers that could not be funded with classified OMB Budget funds because of the serial violation of the § 413 (a) of the National Security Act Congressional "shall" Notification duty. See 7-27-10 Robert VIII WP §§ U-Z and § P below.

Both CIA General Counsel Krass and DOD General Counsel Preston know that DNI Director Clapper was the 1991-1995 DIA Director on April 5, 1994 when AAG of the OLC Walter Dellinger (1993-1994) decided that there was no Posse Comitatus Act violation when DOD military personnel conducted warrantless "monitoring" of U.S. citizens. He established a "passive-active participation" test that limited the military participation in domestic "law enforcement" to monitoring electronic surveillance in a Memorandum for Jo Ann Harris AAG of the Criminal Division Re: Use of Military Personnel for Monitoring Electronic Surveillance:

> We conclude that military personnel are presently authorized to perform such monitoring operations under a proper reading of the pertinent statutes. Although clarifying legislation on this issue could be considered desirable in the sense that it always is when a statute's interpretation is not entirely free from doubt, we do not believe that such legislation is necessary in this instance." Id. 1. Emphasis added.
> http://www.snowflake5391.net/OLC%204-5-94.pdf.

Both CIA General Counsel Krass and DOD General Counsel Preston knew that AAG of the OLC Dellinger knew of the May 24, 1984 Top Secret "OLC Olson FISA Memo" when he interpreted the FISA of 1978 in his February 14, 1995 Memorandum For Michael Vatis Deputy Director Executive Office for National Security Re Standards for Searches Under Foreign Intelligence Surveillance Act. He answered the question: "You have asked for our opinion whether a search under the Foreign Intelligence Surveillance Act, 50 U.S.C. §§ 1800-1811 ("FISA"), may be approved only when the collection of foreign intelligence is the "primary purpose" of the search or whether it suffices that the collection of foreign intelligence is one of the purposes." Id. 1. http://www.snowflake5391.net/OLC%202-14-95.pdf. AAG of the OLC Dellinger answered by citing to the Second Circuit's 1984 U.S v Duggan decision:

> Even after FISA, however, most courts have adhered to the "primary purpose" standard, either because they have read FISA as incorporating that

standard or because they have considered the standard constitutionally required. In United States v Duggan, 743 F. 2d 59 (2d Cir. 1984) for example, the Second Circuit held that FISA enacted the "primary purpose" test:

> FISA permits federal officials to obtain orders authorizing electronics (sic) surveillance "for the purpose of obtaining foreign intelligence information." 50 U.S.C. § 1802(b). The requirement that foreign intelligence information be the primary objective of the surveillance is plain not only from the language of § 1802(b) but also from the requirements as to § 1804 as to what the information must contain. The application must contain a certification by a designated official of the executive branch that the purpose of the surveillance is to acquire foreign intelligence information….." Id. 3. Emphasis Added.

CIA General Counsel Krass knows from reading the Robert VII v DOJ case file notes, e-mails, and "FISC Robert" documents withheld pursuant to the CIA FOIA Officer's use of FOIA Exemption 1 and the "Glomar Response" defense, that CIA General Counsel Scott Muller (2002-2004) and (Acting) John Rizzo (2004-2009) knew that Robert had been the CIA's target of the 1980s E.O. 12333 Top Secret "FISA exempt" NSA TSP. This is an important Office of the CIA General Counsel *mens rea* fact because CIA General Counsel Krass knows that FBI General Counsel James Baker had been the OIPR Counsel on March 1, 2004 when he ratified the use of FOIA exemption 1 and the "Glomar Response" defense to withhold the "FISC Robert" documents as explained in his October 1, 2004 FRCP 11 signed "corrected" Robert VII v DOJ Declaration. http://www.snowflake5391.net/baker.pdf. See 7-27-10 Robert VIII WP § AAA.

CIA General Counsel Krass, DOD General Counsel Preston, FBI General Counsel Baker, and ODNI General Counsel Litt know why on April 25, 2015 DNI Clapper had posted on IC on the Record the DNI Press Release: "The Department of Justice Releases Inspectors Generals Reports Concerning Collection of Activities Authorized by President George W. Bush After the Attacks of September 11, 2001." They know why on June 12, 2015 DNI Clapper posted on the IC On the Record the DNI Press Release: "CIA Releases Declassified Documents Related to 9/11 Attacks." They also know that the Article II PCLOB and the PIDB can now access the underlying documents that supported the five IC IGs July 9, 2010 Report and the CIA IG's June, 2005 Report. They also know that those IG Reports' underlying documents are subject to Senate and House Intelligence Committee Chairmen requests for production made to AG Lynch.

CIA General Counsel Krass knows that after AG Lynch reads the May 24, 1984 Top Secret "OLC Olson FISA Memo," then she will know that Congressional Oversight Committees can in 2015 formally request a treasure trove of USG documents that prove whether the 2015 Intelligence Community IGs know that the 1982-2015 CIA Directors had conducted back door warrantless domestic searches of the 1982-2015 E.O. 12333 Top Secret "**FISA exempt**" NSA TSP "haystacks" of U.S. citizens' comingled stored content data now being stored in the Utah Data Center. The June 12, 2015 CIA declassification of the June, 2005 CIA IG Executive Summary was a gutsy strategic decision. As a result, AG Lynch should consider CIA General Counsel Krass' recommendation when assessing the quiet settlement offer. See §§ P, S below.

K. June 17, 2015 Installation of AG Lynch speeches of President Obama and AG Lynch highlight principles for AG Lynch's DOJ stewardship and as the basis for a Robert II v CIA and DOJ quiet settlement prior to the pre-Motion Summary Judgment conference

On June 17, 2015, the Investiture Ceremony was held for AG Lynch at which the AG was ceremoniously sworn in by Supreme Court Justice Sonia Sotomayor. The speeches of both President Obama and AG Lynch provide AG standards that AG Lynch can apply when the AG considers the plaintiff's quiet settlement offer that seeks to end the 1982-2015 E.O. 12333 illegal CIA domestic intelligence activities. This 2015 CIA policy is based on AGs implementing the Article II "secret law" theory that the President has unlimited Article II Commander in Chief authority to take whatever action is necessary to protect the nation from enemies. The plaintiff believes that if AG Lynch honors the pledges she had made at her Investiture, then there is a possibility that there could be a Robert II v CIA and DOJ quiet settlement prior to a scheduled pre-Motion Summary Judgment conference. However, that plaintiff's belief is premised on AG Lynch's "main Washington" chain of command attorneys not "defrauding" AG Lynch.

President Obama's introductory remarks highlighted the role of the AG:

> As I said when I nominated Loretta, in a country built on the rule of law, there are few, perhaps no offices more important than that of Attorney General. The person in this position is the American people's lawyer, tasked with enforcing our federal laws and making sure they're applied evenly and equally. …..
>
> The law is her map; justice, her compass. She is tough, but she is fair. She is firm, but kind. Her intelligence and her judgment, her grace under fire have earned the trust and admiration of those she works with and those she serves -- and even those she goes up against. Id. Emphasis added. https://www.whitehouse.gov/the-press-office/2015/06/17/remarks-president-investiture-ceremony-attorney-general-loretta-lynch

After retaking her oath to defend the Constitution, AG Lynch noted her reliance upon her 2015 "main Washington" attorneys, and then made her own AG pledges:

> Of course, I must thank my colleagues and my friends at the Department of Justice for your faith in me and for giving me the opportunity to work for you as we go forth to implement the laws that set us free and bind us together as a nation. I would not have anyone else by my side as we work to preserve our national security and our cherished liberties, to make safe the world of cyberspace, to end the scourge of modern day slavery, and to confront the very nature of our citizens' relationship with those of us entrusted to protect and to serve. …..
>
> Mr. President – I pledge to you to lead this department with integrity, with honor and a total dedication to the cause of justice. To the people of this great nation, I pledge to you that your protection, your liberties and your rights will be my sacred charge. To the law enforcement community, I pledge that this department will be your partner as we work to carry out our highest mission, the protection of the people of this great nation. To

> all my colleagues in this wonderful Department of Justice, I pledge to always remember that "the place of justice is a hallowed place," and continually strive to be worthy of the trust you have placed in me, as we work together to uphold the Constitution, to protect the American people and to serve the cause of justice. Id. Emphasis added. http://www.justice.gov/opa/speech/attorney-general-loretta-e-lynch-delivers-remarks-her-official-investiture-ceremony.

The plaintiff's 2015 quiet settlement offer is based on his belief that in 2015 the DOJ can again become just as AG Lynch described it: "… the place of justice is a hallowed place." AG Lynch has the task of liberating her 2015 daisy chain of DOJ attorney-patriots to no longer be slaves to their belief that the President has unlimited Article II Commander in Chief inherent authority to take whatever action is necessary to protect the nation from enemies. This includes continuing in 2015 to violate the FISA exclusivity provision. After AG Lynch reads AAG of the OLC Olson's May 24, 1984 Top Secret OLC FISA Memo "Re Constitutionality of Certain National Security Agency Electronic Surveillance Activities Not Covered Under the Foreign Intelligence Surveillance Act of 1979," she will know what the plaintiff has learned in his thirty years of FOIA litigation: The 1982-2015 CIA Directors have conducted E.O. 12333 illegal CIA domestic activities without any Article I, Article II, or Article III checks and balances.

When AG Lynch reads the Robert II v CIA and DOJ "North Notebook" documents along with the "main Washington" case file notes and e-mails, she will know whether HHS General Counsel del Real was CIA Director Casey's illegal CIA domestic agent. If so, then she has to be as per President Obama's description: "She is tough, but she is fair." AG Lynch has to be "tough" to stand up to the 2015 daisy-chain of DOJ attorneys who continue to believe in 2015 that the President has unlimited Article II Commander in Chief inherent authority to implement the Top Secret "SSI secret law." AG Lynch has to be "fair" to the millions of 1994-2015 Ford v Shalala class members whose due process rights continue to be violated during President Obama's Constitutional watch, by exercising her own Chilicky "normal sensibilities" of a human being, by securing compliance with Judge Sifton's September 29, 1999 Order that did not occur when AG Lynch was the 2010-2015 EDNY U.S. Attorney. See 7-27-10 Robert VIII WP §§ Q, Z, http://snowflake5391.net/7_27_10_RobertVIII.pdf, § A above and §§ Q, R below.

When AG Lynch reads the May 24, 1984 Top Secret "OLC Olson FISA Memo" then she will know whether AG Smith had deceived Judge Sifton and the Second Circuit in United States v Duggan, 743 F.2d 59 (2nd Cir. 1984), by not informing the Article III Judges of the "FISA secret law" that was established in the OLC FISA Memo. If so, then she will know that from 1984-2015 all of the AGs have violated the deception standard established in NYS Judiciary Law § 487, Misconduct by attorneys. "1. Is guilty of any deceit or collusion, or consents to any deceit or collusion, with intent to deceive the court or any party;" Emphasis Added. This includes deceiving the Second Circuit in U.S. v Duggan, Robert VII v DOJ, 2005 U.S. Dist. LEXIS 39616, 193 Fed. Appx. 8 (2d Cir. 2006), cert. den. 127 S.Ct. 1133 (2007). Robert VIII v DOJ, HHS, and SSA, 439 Fed. Appx 32 (2d Cir. 2011), cert. den. 132 S. Ct. 1549 (2012). Amnesty v Clapper, 638 F. 3d 118 (2d Cir. 2011), rehearing en banc den., 667 F. 3d 163 (2d Cir. 2011), Amnesty v Clapper, 133 S. Ct. 1138 (2013). See 6-16-15 PCLOB §§ 14, 20, 22.

AG Lynch will not deceive Judge Seybert in opposing plaintiff's Summary Judgment Motion. Rather, she will again make the DOJ "… the place of justice is a hallowed place."

L. The June 17, 2015 Second Circuit Turkmen v Hasty decision clarified the Ashcroft v Iqbal standard that would be applied to plaintiff's putative Bivens action alleging that 1985-2015 USG attorneys violated Snowflake 5391's First and Fourth Amendment rights

On June 17, 2015, the Second Circuit decided Turkmen v Hasty, __ F. 3d __ (2d. Cir. 2015), clarifying the Ashcroft v Iqbal, 566 U.S. 662 (2009) "plausibility" standard. AG Lynch's 2015 chain of command DOJ attorneys know that this standard will be applied to the plaintiff's putative Bivens v Six Unknown Federal Narcotics Agents, 91 S.Ct. 1999 (1971), action alleging that his First and Fourth Amendment rights were violated by application of the Christopher v. Harbury, 121 S. Ct. 2171 (2001), standard. With 20/20 hindsight, AG Lynch will learn from reading the 1999-2015 Robert I v CIA and Robert II v CIA and DOJ case file notes and e-mails, that there is now a higher probability that plaintiff Robert would survive AG Lynch's Motion to Dismiss the plaintiff's putative Bivens action. If so, then co-defendant AG Lynch may consider plaintiff's Robert II v CIA and DOJ quiet settlement offer prior to a pre-Summary Judgment Motion conference. See 6-16-15 PCLOB Comment §§ 14, 18 and §§ Q, R below.

On June 17, 2015, the Second Circuit established a Turkmen standard that updated the Iqbal standard. There is a now a Second Circuit "plausibility pleading" standard that keeps open the federal courthouse door. In this way, Article III Judges can ensure that the "rule of law" is applied to all plaintiffs who plausibly allege that USG employees have violated their rights:

> If there is one guiding principle to our nation it is the rule of law. It protects the unpopular view, it restrains fear- based responses in times of trouble, and it sanctifies individual liberty regardless of wealth, faith, or color. Id. slip op. 106. Emphasis added.

On June 20, 2001, in Christopher v Harbury the Supreme Court established the elements necessary to prove a violation of a plaintiff's First Amendment right of access to the Courts. "Whether an access claim turns on a litigating opportunity yet to be gained or an opportunity already lost, the very point of recognizing any access claim is to provide some effective vindication for a separate and distinct right to seek judicial relief for some wrong." Id. 2186. Emphasis added. See 7-27-10 Robert VIII WP §§ D, V, W, X, Y, AA, HH-LL, PP, VV, AAA.

The plaintiff has placed CIA General Counsel Krass and Acting EDNY U.S. Attorney Currie on Notice that the plaintiff will cite to the Turkmen standard in his putative Bivens action against any 2015 USG attorneys who implements the Barrett v. United States, 798 F. 2d 565 (2d Cir. 1986), "nonacquiescence" policy and intentionally withholds material facts from Judge Seybert in Robert II v CIA and DOJ and from Judge Garaufis in Robert VIII v DOJ, HHS, and SSA. "Finally, acceptance of the view urged by the federal appellants would result in a blanket grant of absolute immunity to government lawyers acting to prevent exposure of the government in liability." Id. 573 (2d Cir. 1986). Emphasis Added. See 6-16-15 PLCOB Comment § 19.

The plaintiff has also placed CIA General Counsel Krass and Acting EDNY U.S. Attorney Currie on Notice that the plaintiff will cite the Turkmen standard to any 2015 USG attorneys who deceives the plaintiff by application of NYS Judiciary Law § 487, Misconduct by attorneys. "1. Is guilty of any deceit or collusion, or consents to any deceit or collusion, with intent to deceive the court or any party" Emphasis Added. See 6-16-15 PCLOB Comment §§ 8, 19-21.

The plaintiff has also placed CIA General Counsel Krass and Acting EDNY U.S. Attorney Currie on Notice that FBI General Counsel Baker knows why FBI Chief FOIA Officer David Hardy has not processed and rendered decisions re the plaintiff's *de novo* September 13, 2011, February 9, 2014, and December 29, 2014 FOIA requests for eight sets of FBI documents that had been first requested on July 27, 2010. This is an important fact because FBI General Counsel Baker, the March 1, 2004 OIPR Counsel, has "The Bivens Problem" because he knows that the content of those FBI FOIA requested documents prove whether Robert was a 1980s FISA "aggrieved person." If so, then this fact was intentionally withheld from the Second Circuit in AUSA Mahoney's April 3, 2006 Second Circuit Robert VII v DOJ letter-Brief. See 2-22-12 OGIS FBI WP §§ S, T. http://snowflake5391.net/2_22_12_OGIS_FBI_WP.pdf and 12-19-14 FBI FOIA request §§ F-S, http://snowflake5391.net/FBI_FOIA12-19-14.pdf.

FBI General Counsel Baker knows whether the 1980s "FISC Robert" documents reveal that USG attorneys had withheld material facts from Judge Garaufis, the Second Circuit, and the Supreme Court in Robert VII v DOJ, 2005 U.S. Dist. LEXIS 39616, 193 Fed. Appx. 8 (2d Cir. 2006), cert. den. 127 S.Ct. 1133 (2007). He knows that as OIPR Counsel Baker he had implemented the Barrett "nonacquiescence" policy throughout Robert VII v DOJ. He knows that the plaintiff filed his December 19, 2014 *de novo* FBI FOIA request for the eight sets of FBI documents to secure the release of FBI documents that prove that plaintiff's First Amendment right of access to the Courts continued to be violated in 2014 by application of the Christopher v. Harbury, 121 S. Ct. 2171 (2001), standards. FBI General Counsel Baker knows that the December 19, 2014 *de novo* FBI FOIA requested document contain "smoking gun" evidence that FBI Director Judge Webster-CIA Director Judge Webster (1978-1991) knew that Robert had been the illegal CIA target of the illegal E.O. 12333 Top Secret "FISA exempt" NSA TSP.

FBI General Counsel Baker also knows that 1980s EDNY Chief Robert Begleiter knew that HHS Chief Regional Counsel Annette Blum was following the orders of HHS General Counsel del Real when he initiated the "Fraud Against the Government" investigation of Robert seeking Robert's incarceration and disbarment. This is an important fact because Chief Begleiter was the supervising attorney of EDNY AUSA M. Lawrence Noyer in Robert v Holz and EDNY AUSA Deborah Zwany in Ruppert v Bowen. They all knew that AAG of the Civil Division Willard knew whether HHS General Counsel del Real was CIA Director Casey's illegal CIA domestic agent when he made his 1982-1985 Jackson v Schweiker "nonacquiescence" policy decisions and when in December, 1984 he illegally targeted Robert for the CIA-NSA TSP.

FBI General Counsel Baker also knows that the "HHS Chief Regional Counsel Blum exculpatory" documents that the Snowflake 5391 sought in the SSA disbarment proceeding SSA v Robert, Docket No. R-005-06, confirm Robert's defense that HHS Chief Regional Counsel Blum knew HHS General Counsel del Real was an illegal CIA domestic agent when he initiated the "Fraud Against the Government" investigation of Robert to secure Robert's incarceration and disbarment. FBI General Counsel Baker knows that the *de novo* FBI FOIA requested # 5 "FBI unredacted copy of Robert v DOJ "62-0 file" documents are connect-the-dots documents with the 1980s "HHS Chief Regional Counsel Blum exculpatory" documents.

The plaintiff will cite to the Turkmen v Hasty "rule of law" holding because USG attorneys had deceived both plaintiff and the Second Circuit in Robert VII DOJ and Robert VIII v DOJ, HHS, and SSA. These attorneys violated NYS Judiciary Law § 487. See §§ P, S below.

M. The June 25, 2015 King v Burwell decision applied the Chevron Doctrine by reviewing the statutory provision at issue within the context of the entire statute and determined that the statutory provision was an unambiguous statute and not an ambiguous statute

On June 25, 2015, Supreme Court decided King v Burwell, No. 14-114, and upheld the Affordable Care Act provision re premium subsidies for state and federal private health insurance exchanges. The Court applied the Chevron Doctrine by determining the statute was unambiguous on its face as to the premium subsidies by reading the statutory provision at issue within the context of the entire statute. As in City of Arlington v FCC, 133 S. Ct. 1863 (2013), there was sparring between Chief Justice Roberts and Justice Scalia. This time Chief Justice Roberts wrote the majority opinion. He explained that in applying the first prong of the Chevron Doctrine, the Court had a duty to interpret the statutory provision at issue within the context of the entire statute. This was an unambiguous statute so as not to apply the Chevron Doctrine second prong that applies to an ambiguous statute. AG Lynch has a duty to apply this standard to the exclusionary provision of the FISA of 1978, the Boland Amendment of 1984, and Social Security Act of 1972 enactment of the SSI program. See 6-16-15 Robert PCLOB Comments §§ 16, 23.

Chief Justice Roberts writing for the majority, explained that an ambiguous stature was an "implicit delegation" to the Executive to fill in the statutory gaps. However, the Court has a duty to determine whether the Congress intended this "implicit delegation" to the Executive:

> When analyzing an agency's interpretation of a statute, we often apply the two-step framework announced in Chevron, 467 U. S. 837. Under that framework, we ask whether the statute is ambiguous and, if so, whether the agency's interpretation is reasonable. Id., at 842–843. This approach "is premised on the theory that a statute's ambiguity constitutes an implicit delegation from Congress to the agency to fill in the statutory gaps." FDA v. Brown & Williamson Tobacco Corp., 529 U. S. 120, 159 (2000). "In extraordinary cases, however, there may be reason to hesitate before concluding that Congress has intended such an implicit delegation." Ibid. Id. slip opinion 8. Emphasis added.

Chief Justice Roberts explained the Court's duty is "to construe statutes, not isolated provisions" of statutes enacted by the Congress. Chief Justice Roberts applied this standard to the first prong of the Chevron Doctrine two prong test:

> It is instead our task to determine the correct reading of Section 36B. If the statutory language is plain, we must enforce it according to its terms. Hardt v. Reliance Standard Life Ins. Co., 560 U. S. 242, 251 (2010). But often times the "meaning—or ambiguity—of certain words or phrases may only become evident when placed in context." Brown & Williamson, 529 U. S., at 132. So when deciding whether the language is plain, we must read the words "in their context and with a view to their place in the overall statutory scheme." Id., at 133 (internal quotation marks omitted). Our duty, after all, is "to construe statutes, not isolated provisions." Graham County Soil and Water Conservation Dist. v. United States ex rel. Wilson, 559 U.S. 280, 290 (2010) (internal quotation marks omitted). Id. slip opinion 8-9. Emphasis added.

The plaintiff asserts that AG Lynch has a duty to apply this King v Burwell standard to the exclusivity provision of the FISA of 1978, the Boland Amendment of 1984, and the Social Security Act of 1972 that enacted the SSI program. He asserts that these were unambiguous statutes that contained no ambiguity for the AG to fill in statutory gaps. The plaintiff asserts that if with 20/20 hindsight AG Lynch applies the King v Burwell standard to these three statutes, then she will learn that the E.O. 12333 OLC Article II "secret law" interpretations of these statutes were incorrect. If AG Lynch determines that the AAGs of the OLC Article II "secret law" interpretations were incorrect, then she has a duty to rescind those secret OLC opinions.

The plaintiff further asserts that this is the standard that should be applied when there is an allegation that DOJ "foxes-in-the-hen-house" are usurping the Article III Marbury v Madison duty of the Courts to decide what the law "is," and not the AG or his AAGs of the OLC. He further asserts that because of the PIDB-CIA-NARA pilot project to declassify President Reagan's Administration's e-mails, AG Lynch and CIA General Counsel Krass now have the ability to learn the names of the "foxes-in-the-henhouse" who made the E.O. 12333 decisions to conduct CIA domestic "special activities at the NSA and IMC based on their belief that the exclusionary provision of the FISA of 1978 and the Boland Amendment of 1984 were "unconstitutional" encroachments of the President's unlimited Article II inherent authority to take whatever action is necessary to protect the nation from enemies. They also have the ability to learn if the "foxes in the henhouse" determined that SSI statute that established that uniform standards are to be applied equally in all 50 states, was an "unconstitutional" encroachment on the Presidents Article II authority to use Congressionally appropriated funds to pay for E.O. 12333 CIA domestic "special activities" to protect the nation from its enemies. See 7-27-10 Robert VIII WP §§ K-O , 6-16-15 Robert PCLOB Comments §§ 11, 15, and § B above.

The plaintiff has placed CIA General Counsel Krass on Notice that the Robert II v CIA and DOJ CIA 1985 classified "North Notebook" documents, are connect-the-dots documents with President Reagan's Administration's e-mails re the decision that HHS General Counsel Juan del Real (1981-1985) should become IMC President Miguel Recarey's Chief of Staff (1985-1986). She knows that AG Meese (1985-1988) knew that there was no ambiguity in the Boland Amendment of 1984 whereby Congress intended to prohibit the use of HHS funds to pay for the medical supplies and treatment of the Contras. CIA General Counsel Krass knows that the PIDB-CIA-NARA algorithms can cull out the e-mails that reveal the names of those USG officials who intentionally violated the Boland Amendment of 1984. These were "foxes-in-the-henhouse" who knew the E.O. 12333 CIA domestic "special activity" that was conducted at IMC was illegal. See 12-14-11 Robert II v CIA and DOJ Status Affidavit §§ B-D and §§ N, O below.

The plaintiff has placed CIA General Counsel Krass on Notice that the Robert VII v DOJ "FISC Robert" documents withheld pursuant to OIPR Counsel Baker's March 1, 2004 ratification of the CIA FOIA Officer's use of FOIA exemption 1 and the "Glomar Response" defense, are connect-the-dots documents with President Reagan's Administration's e-mails re the decision to make Robert the target of the 1982 E.O. 12333 Top Secret "**FISA exempt**" NSA TSP. CIA General Counsel Krass knows that the PIDB-CIA-NARA algorithms can cull out the names of those USG officials who violated plaintiff's First and Fourth amendment rights. She knows whether HHS General Counsel del Real was CIA Director Casey's illegal CIA domestic agent when in December, 1984 he initiated the "Fraud Against the Government" investigation of Robert. See 8-15-12 Robert II v CIA and DOJ Status Affidavit §§ C-E and §§ N, R below.

The plaintiff has placed CIA General Counsel Krass on Notice that the Robert v DOJ, 2001 WL 34077473 (EDNY), 26 Fed. Appx. 87 (2d Cir. 2002), documents are connect-the-dots documents with President Reagan's Administration's e-mails. They reveal whether HHS General Counsel del Real was CIA Director Casey's illegal CIA domestic agent when he made his 1982-1985 Jackson v. Schweiker, 683 F. 2d 1076 (7th Cir. 1982), "nonacquiescence" decisions. CIA General Counsel Krass knows that the PIDB-CIA-NARA algorithms can cull out the names of those USG officials who determined that the Seventh Circuit had "incorrectly" decided Jackson v Schweiker. She also knows whether the resulting unaudited 1982-2015 HHS funds have been used to pay for the "immaculate construction" of the NSA TSP servers that could not be paid for with classified OMB Budget funds because of President Reagan's violation of § 413 (a) of the National Security Act Congressional Notification "shall" duty. See 7-27-10 Robert VIII WP §§ Z, AA, 8-15-12 Robert II v CIA and DOJ Status Affidavit §§ D, E, and §§ N, O below.

The plaintiff asserts that AG Lynch has a 2015 duty to apply the King v Burwell holding when determining whether the plaintiff's allegations are true: AG Meese knew in 1985 that the 1984 Boland Amendment and the FISA of 1978 were unambiguous statutes which on their face prohibited the E.O. 12333 CIA domestic "special activities" that CIA Director Casey was conducting at the NSA and IMC. AG Meese knew whether these E.O. 12333 CIA domestic "special activities" were funded with appropriated HHS funds not paid to SSI recipients. If so, then this highlights the importance of the release of May 24, 1984 Top Secret "OLC Olson FISA Memo" because it explains the Article II "secret law" that the exclusionary provision of the FISA of 1978 was an "unconstitutional" encroachment of the President's unlimited Article II inherent authority to take whatever action is necessary to protect the nation from enemies. §§ H, J above.

The plaintiff asserts that Chief Justice Robert's June 25, 2015 King v Burwell decision provides CIA General Counsel Krass with an opportunity to advise CIA Director Brennan, her client, that he should accept the plaintiff's Robert II v CIA and DOJ quiet settlement offer. She can advise CIA Director Brennan that Congress did not intend to implicitly delegate to the President the authority to conduct domestic E.O. 12333 "special activities" at the NSA and IMC. She can advise CIA Director Brennan that Congress unambiguously intended that:

> 1. The exclusionary provision of the FISA of 1978 to mean that any NSA TSP had to be conducted with warrants in compliance with either Title III of the Omnibus Crime Control and Safe Streets Act of 1968 or the FISA of 1978;
>
> 2. The 1984 Boland Amendment meant that no appropriated funds, which included unaudited HHS funds, could be used to pay for the medical supplies and treatment of the Contras;
>
> 3. The 1972 Social Security Act SSI program was to be administered by HHS with one uniform federal standard that is to be equally applied in all 50 states.

CIA General Counsel Krass, the 2013-2014 Acting AAG of the OLC, has the unique skill set to be the nation's "Guardian of the Guardians " by using the King v Burwell decision as a 2015 sword to provide limits on the domestic E.O. 12333 "special activities" of the CIA. If CIA General Counsel Krass uses this King v Burwell sword, then the 2015 "foxes-in-the-henhouse" will not be able argue that these three statutes were ambiguous statutes. See § R below.

The plaintiff asserts that Chief Justice Robert's June 25, 2015 King v Burwell decision also provides AG Lynch with an opportunity to ask her inherited DOJ chain of command attorneys to provide her with a "heads up" memo as to the validity of the plaintiff's almost incredible allegations. The plaintiff believes that Acting AAG of the OLC Karl Thompson, Acting AAG Associate AG Stuart Delery, and Acting AAG of the Civil Division Joyce Branda will all agree that by application of the King v Burwell holding, Congress intended that the 1972 SSI statute, the 1978 exclusionary provision of the FISA, and the 1984 Boland Amendment were to be three unambiguous statutes. If so, then they each have a duty so inform AG Lynch. If so, then AG Lynch can advise President Obama of his § 413 (b) of the National Security Act "shall" duty that he is to file a "corrective action" plan to remedy illegal intelligence activities that resulted from the violations of these laws. See 6-16-15 Robert PCLOB Comment §§ 13, 14.

The plaintiff has specifically asserted that Acting Associate AG Delery is a "fox-in-the-henhouse" because in ACLU v Clapper he had intentionally withheld from the Second Circuit the fact that there was an Article II Top Secret "FISA secret law" that was explained in the May 24, 1984 Top Secret "OLC Olson FISA Memo," the September 5, 2014 re-reclassified March 18, 2011 reclassified Top Secret "OLC Goldsmith FISA Memo," and the July, 2014 Top Secret "OLC Riley v California Memo." Acting Associate AG Delery was the 2009 Chief of Staff and Counselor to the Deputy Attorney General Ogden who had been the 1999-2001 AAG of the Civil Division. He was the 2010 Associate DAG for 2010 Acting DAG Grindler, August 2010-March 2012 Senior Counselor to AG Holder, March 12, 2012 Acting AAG of the Civil Division, August 5, 2013-September 5, 2014 Senate confirmed AAG of the Civil Division. He knows who made the September 5, 2014 decision that the exclusionary provision of the FISA continued to be an ambiguous statute so as to be subject to AAG of the OLC Olson's May 24, 1984 Top Secret OLC FISA Memo. See 6-16-15 Robert PCLOB Comment §§ 1-7, 16, 23.

Acting Associate AG Delery also knows who has made the 2009-2015 decisions that the SSA of 1972 establishing the SSI provision that the HHS Secretary was to use one uniform federal standard that was to be equally applied in all 50 states, was an ambiguous statute. He can inform AG Lynch why in July, 2015 the 1982-2015 Jackson v Schweiker regulation, 20 C.F.R. 416.1130 (b), that applies only to the Seventh Circuit States, continues not to be applied during President Obama's Constitutional watch to the millions of 1994-2015 Ford v Shalala class members who reside in the 47 states that are not the Seventh Circuit states. See 7-27-10 Robert VIII WP §§ B-F, 6-16-15 Robert PCLOB Comment §§ 13, 14, 15, 16, 19, 20, 21, 24.

The plaintiff believes that the June 25, 2015 King v Burwell decision will result in Robert II v CIA and DOJ co-defendant Lynch considering the plaintiff's quiet settlement offer. If co-defendant Lynch decides that the SSA of 1972 that established the SSI program's uniform federal standard provision, the exclusionary provision of the FISA of 1978, and the 1984 Boland Amendment are all unambiguous statutes, then AG Lynch will know that the plaintiff's almost incredible allegations are true. She will know the 2015 PCLOB investigation of the E.O. 12333 CIA and NSA "special activities" at the NSA and IMC will result in the PCLOB Members applying the King v Burwell standard and concluding that all three of these statutes are unambiguous statutes. AG Lynch will also know that the PIDB-CIA-NARA pilot project algorithms provide CIA General Counsel Krass with the ability to learn the names of the "foxes-in-the-henhouse" who determined that these were ambiguous statutes. With PCLOB facts and PIDB e-mails, co-defendant Lynch may agree to the quiet settlement offer. See §§ O-R below.

N. The June 25, 2015 PIDB public meeting re the PIDB-CIA-NARA automatic declassification pilot project re President Reagan's classified e-mail system as to CIA and NSA activities, and the accuracy of the USG Robert II v CIA and DOJ attorneys' FRCP 11 signed documents by application of the Pavelic "this-is-not-a-team-effort" standard

On June 25, 2015, the PIDB held a public meeting re the PIDB-CIA-NARA pilot project for an automatic declassification system that was applied to Presidential Records from President Reagan's Administration's classified e-mails system. CIA General Counsel Krass knows that the project's algorithms can cull out CIA e-mails that are connect-the-dots with the "North Notebook" documents that prove whether the plaintiff's Robert II v CIA and DOJ grave allegations are true. CIA General Counsel Krass also knows that all Robert II v CIA and DOJ FRCP 11 signed pleading pleadings are subject to the Pavelic & Le Fore v Marvel Entertainment Group, 110 S. Ct. 456 (1989), "this-is-not-a-team-effort" standard. "The message there by conveyed to the attorney, that this is not a "team effort" but in the last analysis yours alone, precisely to the point of Rule 11." See 6-16-15 PCLOB Comment §§ 7, 14, 20.

On March 18, 2015, the PIDB informed the public of its June 25, 2015 public meeting to discuss its "Report to the President on Transforming the Security Classification System." The PIDB also informed the public of a CIA and National Archives joint pilot project being tested that automates the declassification of President Reagan's classified e-mail system:

> There will be a briefing on the results of technology pilot projects completed at the Center for Content Understanding at the Applied Research Laboratories (UT: Austin), co-sponsored by the Central Intelligence Agency and the National Archives. In his Second Open Government National Action Plan, the President directed the CIA and the National Archives to pilot new tools to provide classification reviewers with search capability for unstructured data and automate initial document analysis, beginning with the Presidential Records from the Reagan Administration's classified email system. Id. Emphasis added.
> http://www.archives.gov/declassification/pidb/

On July 6, 2015, the PIDB posted on its blog highlights of the June 25, 2015 public meeting. "What We Heard and Learned at our June 25th Public Meeting." The PIDB informed the public that the transcript of the public meeting would be made available upon completion. "A recording of the public meeting will be available online once a transcription of the program is completed." Id. http://transforming-classification.blogs.archives.gov/2015/07/06/what-we-heard-and-learned-at-our-june-25th-public-meeting/.

The PIDB informed the public of a new role for now former-PIDB Member Admiral William Studeman. He will be the Chairman of a newly created Declassification Technology Working Group of agency technologists providing technical declassification solutions:

> In this effort, the PIDB announced at the public meeting the creation of its Declassification Technology Working Group. Chaired by former PIDB member Admiral William Studeman (ret.), this newly established working group consists of agency technologists who will work together for the first time to identify areas of concern and find and advance solutions to the challenges specifically facing declassification. Id. Emphasis added.

This is an important "Past is Prologue" fact because now former-PIDB Member Studeman was the 1988-1992 NSA Director and 1992-1995 CIA Deputy Director. As a result, CIA General Counsel Krass can seek his task force's expertise to access the CIA and NSA Top Secret documents re the 1982-2015 CIA Directors' warrantless domestic searches of the 1982-2015 E.O. 12333 Top Secret "**FISA exempt**" NSA TSP "haystacks" of U.S. citizens' comingled stored content data. This includes the 1980s "FISC Robert" content data withheld in Robert VII v DOJ pursuant to the CIA's use of FOIA Exemption 1 and the "Glomar Response" defense.

The PIDB summarized the report re the PIDB-CIA-NARA pilot project to declassify President Reagan's Administrations e-mails that had "dramatically accurate identification" success:

> We also wish to thank Dr. Cheryl Martin for presenting the results of the pilot projects conducted at the Center for Content Understanding at the Applied Research Laboratories that examined the ability to achieve machine-assisted sensitive content identification in classified records. Dr. Martin and her team of scientists and engineers conducted these pilots on behalf of the Central Intelligence Agency and the National Archives. Notably, the pilot achieved dramatically accurate identification of classified information in email records created during the Reagan Administration, which has significant promise of being able to assist equity identification of content containing agency-owned classified information. The PIDB has been a proponent of the CCU's work in this area for some time. It continues to believe these pilot projects need to advance and expand into new areas of research and that positive outcomes derived from these pilots need to be implemented into current practices at agencies once proven. Dr. Martin's slide presentation is available for viewing here. Id. Emphasis added.

The PIDB made clear its goal of using "advancing technological solutions in support of declassification" in order to assist the President meet his Open Government commitments:

> Finally, we would like to thank you, the public, for attending this meeting and for remaining engaged on this very important topic. The members of the PIDB take our responsibility of representing the public very seriously as we complete their work and respond to the requests made by the President. We understand we would be unable to effect meaningful change without public participation and a willing spirit from the agencies to work collaboratively for the greater good of the people. We look forward to continuing the conversation on all issues concerning the transformation of the security classification system, including advancing technological solutions in support of declassification, and assisting the President in meeting his Open Government commitments. Id. Emphasis added.

The plaintiff asserts that this should include the public learning how the 2015 CIA-NSA TSP decision making process works. CIA General Counsel Krass now has access to 1985 E.O. 12333 Top Secret "FISA exempt" NSA TSP documents by the use of the PIDB-CIA-NARA pilot project algorithms which have "dramatically accurate identification" success. As a result, she can determine whether the plaintiff continues to be a 1985-2015 CIA-NSA FISA "aggrieved person."

CIA General Counsel Krass also knows that President Reagan's classified e-mails now subject to President Obama's E.O. 13526 § 3.3 Automatic Declassification 25 year standard, are connect-the-dots documents to the Robert II v CIA and DOJ "North Notebook" documents. The PIDB-CIA-NARA pilot project dovetails with the PCLOB investigation of how the CIA and NSA conducted the 1982-2015 E.O. 12333 NSA TSP. CIA General Counsel Krass knows that the PCLOB and PIDB projects can provide the Congress and the public with detailed answers to the how-could-this-have-ever-happened-questions re the 1982-2015 CIA Directors participation in the 1982-2015 E.O. 12333 Orwellian-Hooveresque CIA-NSA TSP that has been implemented without any Article I Congress or Article II Presidential, or Article III FISC or Supreme Court checks and balances. AG Lynch should know the answers to these questions.

CIA General Counsel Krass knows that AG Lynch will learn from reviewing President Reagan's Administration's e-mails re the E.O. 12333 CIA domestic "special activities" that are subject to automatic declassification, what the 535 Members of Congress will read if the documents are declassified. The 535 Members of Congress will learn the mind-boggling fact that CIA Directors have had the 1982-2015 capability to "go back in time" and to "listen" to all U.S. citizens' comingled stored content data from their digitized phone calls and e-mails. Thus, the PIDB declassification of President's Reagan's classified e-mails increases the probability that AG Lynch will agree to a 2015 quiet settlement offer. See 6-16-15 PCLOB Comment §§ 8-13.

CIA General Counsel Krass, the 2013-2014 Acting AAG of the OLC, knows that the PIDB pilot project algorithms can also cull out 1982-1986 DOJ e-mails re the E.O. 12333 illegal CIA domestic intelligence activities at IMC and the NSA. This has the unintended consequences of directly affecting all of Robert's 1985-2015 FOIA litigation. CIA General Counsel Krass knows that Justice Scalia's Pavelic "this-is-not-a-team-effort" standard applies to the FRCP 11 signed pleadings filed in Robert v Holz which withheld material facts from Judge Wexler for the purpose of deceiving Judge Wexler in violation of NYS Judiciary Law § 487. See § P below.

CIA General Counsel Krass knows that the PIDB-CIA-NARA algorithms can be applied along with Justice Scalia's Pavelic "this-is-not-a-team" standard, to definitively determine whether in Robert II v CIA and DOJ CIA General Counsels Scott Muller (2002-2004), (Acting) John Rizzo (2004-2009), and Stephen Preston (2009-2013), had intentionally withheld material facts from Magistrate Judge Arlene Lindsay. CIA General Counsel Krass can learn whether the 2002-2015 CIA General Counsels have used a "team effort" litigation policy and procedure to prevent this Court from learning material facts re the E.O. 12333 illegal CIA domestic "special activities" at issue in Robert II v CIA and DOJ. Justice Scalia explained the FRCP 11 standard:

> The message there by conveyed to the attorney, that this is not a "team effort" but in the last analysis yours alone, precisely to the point of Rule 11. Moreover, psychological effect aside, there will be greater economic deterrence upon the signing attorney, who will know for certain that the district court will impose its sanction entirely upon him, and not divert part of it to a partnership of which he may not (if he is only an associate) be a member, of which (if he is a member) might not choose to seek recompense from him. To be sure, the partnership's knowledge that it was subject to sanction might induce it increase "internal monitoring", but one can reasonably believe that more will be achieved by directly increasing the incentive for the individual signer to take care." Id. at 459.

Ironically, the PIDB June 25, 1985 public meeting was held on the 31st anniversary of the June 25, 1984 Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc., decision, the first anniversary of the June 25, 2014 Riley v California, decision, and on the June 25, 2015 King v Burwell decision day. This highlights Justice Scalia's March 20, 2013 City of Arlington v FCC, "foxes-in-the-henhouse" sparring with Chief Justice Roberts re the facts presented when the Chevron doctrine standard is applied to determine whether there is Article III Jurisdiction. The PIDB pilot project can cull out DOJ e-mails that reveal whether the 1985-2015 AGs have been the "foxes-in-the-henhouse" whenever they implemented the 1985-2015 Mitchell v Forsyth, 105 S.Ct. 2806 (1985), "nonacquiescence" policy and filed FISA FRCP 11 signed petitions that withheld CIA facts. "We conclude that the Attorney General is not absolutely immune from suit for damages arising out of his allegedly unconstitutional conduct in performing his national security functions." Id. 2811. See 6-16-15 PCLOB Comment §§ 4, 8, 15-24 and § M above.

CIA General Counsel Krass knows whether the PIDB-CIA-NARA e-mails reveal 1985 CIA "smoking gun" facts that prove that the 1985-2015 AGs have implemented the 1986-2015 Barrett v. United States, 798 F. 2d 565 (2d Cir. 1986), "nonacquiescence" policy by intentionally withholding material facts from Article III Judges throughout the 1986-2015 Robert FOIA litigation. "Finally, acceptance of the view urged by the federal appellants would result in a blanket grant of absolute immunity to government lawyers acting to prevent exposure of the government in liability." Id. 573. Emphasis Added. See 6-16-15 PCLOB Comment §§ 14, 19.

If there is not a Robert II v CIA and DOJ quiet settlement, then CIA General Counsel Krass knows that co-defendant Lynch's attorneys will be filing FRCP 11 signed pleadings in opposition to the plaintiff's Summary Judgment Motion. CIA General Counsel Krass knows that AG Lynch knows that the 1989 Pavelic "this-is-not-a-team-effort" FRCP 11 standard would apply to any USG FRCP 11 signed pleading opposing plaintiff's Summary Judgment Motion.

CIA General Counsel Krass knows that AG Lynch knows that CIA General Counsel Krass has a due diligence duty to utilize the PIDB-CIA-NARA algorithms to learn whether those documents prove that CIA General Counsels Muller (2002-2004), (Acting) Rizzo (2004-2009), and Preston (2009-2013), knew HHS General Counsel del Real (1981-1985)-IMC Chief of Staff del Real (1985-1986) had been CIA Director Casey's illegal CIA domestic agent when he participated in the HHS-FBI-CIA E.O. 12333 "special activity" at International Medical Center that they knew in 1985 was an indisputable violation of the Boland Amendment. See the Robert v National Archives, 1 Fed. Appx. 85 (2d Cir. 2001), "FBI Agent Allison" documents that were subject to the plaintiff's NARA Office of Government Information Services (OGIS) request for the "FBI Agent Allison" documents that are now in the NARA Special Access Room. See 1-23-12 OGIS NARA WP §§ H-OO. http://snowflake5391.net/1_23_12_OGIS_NARA_WP.pdf.

Therefore, the plaintiff has respectfully suggested to CIA General Counsel Krass that if she performs her due diligence duty and utilizes the PIDB-CIA-NARA pilot project algorithms which have had "dramatically accurate identification" success, then she will know that the plaintiff's almost incredible allegations are true. She will also know whether USG attorneys had deceived not only Judge Seybert in Robert I v DOJ and Robert II v CIA and DOJ, but also Judge Wexler in Robert v Holz, Judge Wexler and the Second Circuit panel of Circuit Judges Feinberg, Katzmann, and Sotomayor in Robert v National Archives, and Judge Garaufis, the Second Circuit, and the Supreme Court in Robert VII v DOJ and Robert VIII v DOJ, HHS, and SSA. If so, then there should be a quiet settlement because the Pavelic standard applies to future USG FRCP 11 signed pleadings.

O. The June 29, 2015 FISC Judge Mosman In re FBI decision that determined that the Second Circuit had incorrectly decided ACLU v Clapper, renewed the FISC's reliance on the 1979 Smith v Maryland standard after Congress enacted the USA Freedom Act to end the storage of metadata, and the May 24, 1984 Top Secret "OLC Olson FISA Memo"

On June 29, 2015, FISC Judge Michael W. Mosman decided In re Application of the Federal Bureau of Investigation For An Order Requiring the Production of Tangible Things and In re Motion in Opposition To Government's Request to Resume Bulk Data Collection Under Patriot Act Section 215. https://www.documentcloud.org/documents/2124483-br-15-75-misc-15-01-opinion-and-order.html. This FISC decision approved FBI Director Comey's application to continue to conduct the NSA TSP after Section 215 of the USA Patriot Act had sunset and pursuant to the June 2, 2015 USA Freedom Act with its 180 day transition period. FISC Judge Mosman determined that the Second Circuit had on May 7, 2015 incorrectly decided ACLU v Clapper and renewed the FISC's reliance on the 1979 Smith v Maryland standard after Congress had enacted the USA Freedom Act to end the storage of metadata. See §§ H, J above.

This June 29, 2015 In re FBI FISC decision adds Article II pressure on AG Lynch to declassify the May 24, 1984 Top Secret "OLC Olson FISA Memo" that Senator Feinstein has requested that AG Lynch provide the Senate Judiciary Committee. After AG Lynch reads this Top Secret OLC FISA Memo, AG Lynch will know that this 1984 OLC FISA Memo reveals that neither the Article I Congress or the Article III FISC knows of the Article II "FISA secret law." AG Lynch will learn why all of the 1984-2015 AGs and FBI Directors intentionally did not inform the Congress or the FISC of this 1984 Top Secret "FISA secret law." See § J, K above.

AG Lynch will know from reviewing FBI Director Comey's post-USA Freedom Act FISA application, that FBI Director Comey and FBI General Counsel James Baker did not inform Article III FISC Judge Mosman that the DOJ policy continues to be the "FISA secret law" as explained in AAG of the OLC Olson's Top Secret May 24, 1984 Top Secret Memo sent to AG Smith. "Re Constitutionality of Certain National Security Agency Electronic Surveillance Activities Not Covered Under the Foreign Intelligence Surveillance Act of 1979." As a result, FISC Judge Mosman and the FISCR continue to not know that the 1984-2015 AGs have determined that the exclusivity provision of the FISA is an "unconstitutional" encroachment on the President's unlimited Article II Commander in Chief "inherent authority" to conduct warrantless surveillance of U. S. citizens. All FISC and FISC-R Judges should know this fact.

AG Lynch will also learn why Presidents Reagan, Bush, Clinton, Bush, and Obama did not comply with their § 413 (a) of the National Security Act Congressional Notification "shall" duties to keep the Intelligence Committees "fully and currently informed" of the intelligence activities. AG Lynch will learn that the Intelligence Committees during AG Lynch's own Constitutional watch, did not know that the 1982-2015 CIA Directors have conducted back door warrantless domestic searches of the E.O. 12333 Top Secret "FISA exempt" NSA TSP "haystacks" of U.S. citizens' comingled stored content data. As a result, AG Lynch will know that the July, 2015 Intelligence Committees and the 535 Members of Congress do not know that the post-USA Freedom Act "FISA secret law" continues to be as determined by AAG of the OLC Olson in his May 24, 1984 Top Secret OLC FISA Memo. "Traditional Fourth Amendment analysis holds that once evidence is constitutionally seized, its dissemination or subsequent use raises no additional Fourth Amendment question." Id. Emphasis added. See 10-3-13 Robert Review Group Comments § D and 6-16-15 Robert PCLOB EO 12333 Comments §§ 12, 13.

The Robert II v CIA and DOJ plaintiff asserts that this June 29, 2015 In re FBI FISC decision increases the possibility of a quiet settlement. AG Lynch now has to decide whether to request that SG Verrelli file an ACLU v Clapper petition for a writ of certiorari because of the inconsistent Second Circuit and FISC decisions. AG Lynch's decision whether to file a petition for a writ of certiorari is no longer based on the D.C. Circuit's soon to rendered Klayman v Obama decision. Unless AG Lynch files a Second Circuit ACLU v Clapper rehearing petition or SG Verrelli requests additional time, the USG's ACLU v Clapper Petition for a writ of certiorari is to be filed by August 7, 2015. See 10-3-14 Robert II v CIA and DOJ WP § A.

Thus, AG Lynch has to answer the following question in August, 2015 with the knowledge of the June 25, 2014 Riley v California decision applying the Fourth Amendment to a U.S. citizen's cell phone's stored content data and Congress enacting the June 2, 2015 USA Freedom Act that prohibits USG storage of metadata based on a bi-partisan distrust of the NSA:

> Should the post-USA Freedom Act Article II "FISA secret law" continue to be based on AAG of the OLC Olson's May 24, 1984 Top Secret interpretation of Smith v Maryland, 442 U.S. 735 (1979) whereby the Fourth Amendment does not apply to the content data that U.S citizens have provided telephone companies and internet service providers?

This is the "elephant-in-the-room" question that AG Lynch has to decide because DNI James Clapper, CIA Director John Brennan, FBI Director James Comey, DOD Ashton Carter, DHS Secretary Jeh Johnson, and President Obama's Assistant to the President for Homeland Security and Counterterrorism Lisa Monaco, all know that the foreign and U.S. citizens' content data that has been stored in the 1982-2015 E.O. 12333 Top Secret "FISA exempt" NSA TSP servers, remains comingled because it cannot be technically separated. AG Lynch will know this an indisputable fact from reading the January 15, 2015 DNI approved Bulk Collection of Signals Intelligence:Technical Options Report with its recommendations to the President. See § C above.

In order for AG Lynch to answer the question prior to advising SG Verrelli whether to file an ACLU v Clapper Petition for a writ of certiorari, she has a duty to read the unanimous June 25, 2014 Riley v California decision along with the May 24, 1984 Top Secret "OLC Olson FISA Memo," the September 5, 2014 re-reclassified March 18, 2011 reclassified Top Secret "OLC Goldsmith FISA Memo," and the July, 2014 Top Secret "OLC Riley v California Memo" of Acting AAG of the OLC Thompson. If AG Lynch instructs SG Verrelli to file a Petition for a writ of certiorari, then she will be informing him that the DOJ policy during the USA Freedom of Act 180 day transition period continues to be based on the 1979 Smith v Maryland holding the Fourth Amendment does not apply to the metadata and the content data that U.S. citizens provided telephone companies and internet service providers with no expectation of privacy.

FISC Judge Mosman's June 29, 2015 decision was made in reliance upon FBI Director Comey's representation, on behalf of AG Lynch, that the DOJ policy continued to be that the FISC is bound by the 1979 Smith v Maryland holding that the Fourth Amendment does not apply to content data U.S. citizens knowingly provided to telephone companies and internet service providers. FISC Judge Mosman did not know that FBI Director Comey had intentionally not informed the FISC of the existence of the Article II "FISA secret law" that is explained in the May 25, 1984 Top Secret "OLC Olson FISA Memo, the September 5, 2014 re-reclassified March 18, 2011 reclassified May 6, 2004 Top Secret "OLC Goldsmith FISA Memo," and the July 2014 "OLC Riley v California Memo." See 10-3-14 Robert II v CIA and DOJ WP §§ A, P, R, Z.

FISC Judge Mosman noted in his decision that the FISC was not bound by the Second Circuit ACLU v Clapper decision. "However, Second Circuit rulings are not binding on the FISC, and this Court, respectfully disagrees with that Court's analysis, especially in view of the intervening enactment of the USA FREEDOM Act." Id. slip op. 14-15. Emphasis added.

FISC Judge Mosman determined that Congress intended that the NSA TSP continues unabated because Congress had an "extensive public debate" when it enacted the USA Freedom Act with "full knowledge" of the "legal underpinnings" of the NSA TSP:

> For the reasons explained at pages 10-12 supra, the Court has concluded that, in the USA FREEDOM Act, Congress- with full knowledge and after extensive public debate of this program and its legal underpinnings- permitted the continuation of this program until November 29, 2015, albeit no longer. Congressional approval of the implementation of this program until that dates, and therefore of the conception of relevance which it depends, has been clearly manifested. Id. slip op. 18-19. Emphasis added.

FISC Judge Mosman resoundingly held that Smith v Maryland, 442 U.S. 735 (1979) holding continued to apply to the non-content metadata:

> Because the Court concludes that Smith is controlling and that the government's acquisition of non-content call detail records involves no Fourth Amendment search, the Court does not address Movant's contention that government's actions involve a search that is unreasonable under the Fourth Amendment. Id. slip op. 25. Emphasis added.

FISC Judge Mosman held that the "minimization" standards were properly applied:

> Having considered the arguments presented in the amicus curiae briefs, the Court finds that the government's application satisfies the requirements of section 501 (a) and (b) of FISA and that the minimization procedures meet the definition of "minimization procedures" under the section 501 (b). Id. 25. Emphasis added.

However, CIA General Counsel Krass, the 2013-2014 Acting AAG of the OLC, knows as a "known-known" fact that the 535 Members of Congress who voted on the USA Freedom Act did not know of the Article II Top Secret "FISA secret law" that is explained in the AAG of the OLC Olson's May 24, 1984 Top Secret OLC FISA Memo sent to AG Smith. "Re Constitutionality of Certain National Security Agency Electronic Surveillance Activities Not Covered Under the Foreign Intelligence Surveillance Act of 1979." She knows that AG Lynch has not yet sent to Senator Feinstein AAG of the OLC Olson's 1984 E.O. 12333 "seminal" OLC FISA Memo as per the request made at AG Nominee Lynch's confirmation hearing. As a result, CIA General Counsel Krass knows that no Member of Congress knows the 1984-2015 AAGs of the OLC have all determined that the exclusivity provision of the FISA is "unconstitutional." She also knows as a "known-known" fact that none of the 535 Members of Congress know that the 1982-2015 CIA Directors have conducted warrantless domestic searches of the E.O. 12333 Top Secret NSA TSP "haystacks" of U.S. citizens' comingled stored content data.

CIA General Counsel Krass, the 2013-2014 Acting AAG of the OLC, also knows as a "known known" fact whether after the June 25, 2014 unanimous Riley v California decision of Chief Justice Robert, Acting AAG of the OLC Thompson issued the July, 2014 "OLC Riley v California Memo" and adopted AAG of the OLC Olson's interpretation of Smith v Maryland. "Traditional Fourth Amendment analysis holds that once evidence is constitutionally seized, its dissemination or subsequent use raises no additional Fourth Amendment question." Id. See 10-3-13 Robert Review Group Comments § D, and 6-16-15 Robert PCLOB Comment §§ 1-5.

CIA General Counsel Krass, the 1999-2000 Deputy Legal Advisor to President Clinton's National Security Council, knows the legal significance of DNI Clapper's June 12, 2015 decision to post on the internet the CIA declassified pre-9/11 documents. She knows that this is a public admission that the post-9/11 NSA PSP was based on the pre-9/11 1982-2001 E.O. 12333 Top Secret **"FISA exempt**" NSA TSP. She knows whether she consulted with DOD General Counsel Stephen Preston (2013-), the 2009-2013 CIA General Counsel, re the redactions that were made in the CIA declassified and reclassified documents. See § J above.

CIA General Counsel Krass, the 2009-2010 Special Counsel to the President for National Security Affairs and Deputy Legal Adviser at the National Security Council, knows that the PCLOB is preparing a Report for President Obama re the E.O. 12333 counterintelligence activities. She also knows that investigative reporters will be filing their own FOIA requests for the PIDB-CIA-NARA e-mails re the May 24, 1984 Top Secret "OLC Olson FISA Memo."

CIA General Counsel Krass knows that AG Lynch has an April 1, 2009 NYS Rules of Professional Conduct Rule 3.3(a)(3) duty to cure misrepresentations of fact and law made to tribunals that would include the FISC. "If a lawyer, the lawyer's client, or a witness called by the lawyer has offered material evidence and the lawyer comes to know of the falsity, the lawyer shall take responsible remedial measures, including if necessary disclosure to the tribunal." Id. Emphasis added. She knows that AG Lynch will have to make the decision whether she has a duty to inform the FISC and the FISCR of the fact that AAG of the OLC Olson had determined on May 24, 1984 that the exclusivity provision of the FISA was unconstitutional. If so, then AG Lynch will decide for herself whether she has a duty to inform the FISC and FISCR of the September 5, 2014 re-reclassified March 18, 2011 reclassified May 6, 2004 Top Secret "OLC Goldsmith FISA Memo," and the July, 14, 2014 Top Secret "OLC Riley v California Memo."

The plaintiff is discussing the *mens rea* of CIA General Counsel Krass because she is providing CIA Director Brennan legal advice during the 180 day USA Freedom Act transition period. She knows that the "Past is Prologue" facts re the 1982-2015 E.O. 12333 Top Secret **"FISA exempt**" NSA TSP may become public knowledge in the 2016 election year. She knows she has the duty to advise CIA Director Brennan the likely legal consequences that will occur if AG Lynch decides to inform Senator Feinstein (and Senate Judiciary Committee Chuck Grassley and Senate Intelligence Committee Chairman Richard Burr) that she will not provide the Senate with a copy of the 1984 E.O. 12333 "seminal" OLC opinion of AAG of the OLC Olson.

Thus, the June 29, 2015 FISC In re FBI decision provides AG Lynch with an opportunity to decide for herself whether the 1982-2015 AGs have implemented a Marbury v Madison "nonacquiescence" policy. She can decide whether the Article II Top Secret "FISA secret law" has resulted in the Article II AGs deciding what the FISA law "is" and not Article III Judges. See 12-3-13 OLC FOIA request §§ O-Z, http://snowflake5391.net/12_3_13_FISA_MEMOS.pdf, 6-16-15 Robert PCLOB Comment §§ 15-24, §§ E, K above, and § P below.

P. The July 10, 2015 report of the American Psychological Association's professional ethics breaches during the DOD enhanced interrogation program as an analogy to the USG attorneys' legal ethics breaches during the 1985-2015 Robert FOIA litigation

On July 10, 2015, NY Times investigative reporter James Risen in his published report "Outside Psychologists Shielded U.S. Torture Program, Report Finds," informed the public of the July, 2015 released Report to the Special Committee of the Board of Directors of the American Psychological Association: Independent Review Relating to APA Ethics Guidelines, National Security Interrogations, and Torture. The Report determined there had been ethical violations by psychologists who participated in the E.O. 12333 CIA enhanced interrogation program. http://www.nytimes.com/interactive/2015/07/09/us/document-report.html. The plaintiff cites to this APA Ethics Guidelines Report as an analogy to the ethical duties of USG attorneys who have had an affirmative duty to cure misrepresentations of fact and law that have been made to Article III Judges in FRCP 11 signed documents throughout the 1985-2015 Robert FOIA litigation. See 7-27-10 Robert VIII WP §§ E-Q, 6-16-15 PCLOB Comments §§ 10, 18, 20, 21.

Risen reported that the 542 page A.P.A Ethics Report was prepared by Sidley, Austin LLP. He summarized the posted Report that the A.P.A. colluded with DOD officials:

> A 542-page report concludes that prominent psychologists worked closely with the C.I.A. to blunt dissent inside the agency over an interrogation program that is now known to have included torture. It also finds that officials at the American Psychological Association colluded with the Pentagon to make sure the association's ethics policies did not hinder the ability of psychologists to be involved in the interrogation program. Id. Emphasis added.

Risen reported that Report concluded that the A.P.A. officials aligned their ethical standards to the ethical standards that the DOD needed to implement the interrogation program:

> "The evidence supports the conclusion that A.P.A. officials colluded with D.O.D. officials to, at the least, adopt and maintain A.P.A. ethics policies that were not more restrictive than the guidelines that key D.O.D. officials wanted," the report says, adding, "A.P.A. chose its ethics policy based on its goals of helping D.O.D., managing its P.R., and maximizing the growth of the profession." Id. emphasis added.

The plaintiff has asserted throughout the 1985-2015 Robert FOIA litigation that USG attorneys are bound by ethical standards that have been approved by the Attorney General which were to be followed in all FOIA cases involving the protecting the sources and methods of the intelligence community. AG Meese established an ethics standard for use in FOIA actions in which DOJ attorneys defend an agency's use the "Glomar Response" defense to protect the intelligence community's sources and methods. DOJ attorneys are to file *in camera ex parte* Declarations with the Article III Judges and explain why it is necessary to use the "Glomar Response" defense. "Where an exclusion was not in fact employed, the *in camera* declaration will simply state that fact, together with an explanation to the judge of why the very act of its submission and consideration by the court was necessary to mask whether that is or is not the case." Id. 20. Emphasis added. Attorney General's Memorandum on the 1986 Amendments to the Freedom of Information Act. http://www.usdoj.gov/04foia/86agmemo.htm.

AG Meese's Memorandum continues to be the 2015 DOJ policy. The plaintiff asserts that AG Lynch now has to deal with the problem of USG FRCP 11 signed *in camera ex parte* Declarations that contained misrepresentations of fact and law made to Article III Judges who did not know that the DOJ attorneys had made the Article III Judges the "handmaiden" of the AGs. "Under no circumstances should the Judiciary become the handmaiden of the Executive." Doe, et. al. v Mukasey, Mueller, and Caproni, 549 F 3d 861, 870 (2d Cir. 2008).

As of April 1, 2009, a NYS licensed attorney has had a duty to comply with the then-new NYS Professional Responsibility Guidelines. Pursuant to Rule 3.3(a)(3), the NYs licensed USG attorneys have a "shall" duty to correct misrepresentations of fact and law made to Judges:

> If a lawyer, the lawyer's client, or a witness called by the lawyer has offered material evidence and the lawyer comes to know of the falsity, the lawyer shall take responsible remedial measures, including if necessary disclosure to the tribunal. Emphasis added.

The *mens rea* standard of the NYS Rule 3.3(a)(3) is timely in this case because of the application of the 25 year automatic disclosure rule and the PIDB-CIA-NARA pilot project that has been successfully applied to President Reagan's Administration's e-mails. AG Lynch has access to those e-mails to determine if any attorneys intended to deceive Article III Judges. If so, then the "fraud" exception applies to any attorney-client privilege defense. "A client who consults an attorney for advice that will serve him in the commission of a fraud will have no help from the law. He must let the truth be told." Clark v United States, 289 U.S. 1, 15 (1933).

AG Lynch was a 2009 Member of the New York State Commission on Public Integrity. Therefore, she is sensitive to ethical standards that apply to DOJ attorneys who learn that misrepresentations as to facts and law were made to Article III Judges. AG Lynch will have her own 2015 NYS Rule 3.3(a)(3) "shall" duties if her chain of command attorneys provide her with accurate facts re the 1982-2015 implementation of E.O. 12333 Top Secret illegal CIA domestic "special activities." She will learn these "special activities" were based on the Article II theory that Article I laws would be "unconstitutional" if they encroached upon the President's Article II "inherent authority" to take whatever action is necessary to protect the nation from enemies.

The plaintiff's renewed quiet settlement offer is made out of courtesy and respect for AG Lynch. If her DOJ chain of command attorneys do not "defraud" AG Lynch in order to provide her with a "plausible deniability" defense to the serial violations of federal laws, then in the summer of 2015 AG Lynch will learn whether USG attorneys have filed FRCP 11 signed documents that contained misrepresentation of facts and law throughout the 1985-2015 Robert FOIA litigation. AG Lynch will learn whether an EDNY U.S. Attorney stovepipe had bypassed the 1982-2015 EDNY U.S. Attorneys because the "main Washington" DOJ attorneys knew that plaintiff's almost incredible allegations re illegal CIA domestic "special activities were true.

The plaintiff believes that AG Lynch will honor her June 17, 2015 Installation pledge to make the DOJ "… the place of justice is a hallowed place." If there were ethical lapses of DOJ attorneys during her Constitutional watch, then she will know there will inevitably be a future scathing Report re DOJ attorneys' ethics that is akin to the Sidley Austin A.P.A. Report. Hence, the plaintiff believes that AG Lynch will agree to a quiet settlement in the summer of 2015.

Q. The July 14, 2015 ACLU v Clapper Second Circuit appellant's Motion for a preliminary injunction re implementation of the metadata program and AG Lynch's NYS ethics Rule 3.3 duty to inform the Second Circuit of DOJ's prior misrepresentations of fact and law made to the Second Circuit in 1984 in U.S. v Duggan and in 2013 in Amnesty v Clapper

On July 14, 2015, the ACLU v Clapper Second Circuit appellants filed a Motion for a preliminary injunction re the implementation of the metadata program during the USA Freedom Act 180 day transition period. AG Lynch's responding FRCP 11 signed pleading will present AG Lynch with the April 1, 2009 NYS Professional Responsibility Guidelines Rule 3.3(a)(3) duty of a NYS attorney to inform the Second Circuit of any prior misrepresentations of fact and law made to the Second Circuit not only in ACLU v Clapper, but also in United States v Duggan, 743 F.2d 59 (2nd Cir. 1984) and in Amnesty v Clapper, 638 F. 3d 118 (2d Cir. 2011), rehearing en banc den., 667 F. 3d 163 (2d Cir. 2011), Amnesty v Clapper, 133 S. Ct. 1138 (2013). The Second Circuit should know if it was deceived. See 6-16-15 PCLOB §§ 17, 20, 22.

On June 9, 2015, as noted in the appellants' July 14, 2015 ACLU v Clapper Motion, the Second Circuit had ordered the parties to file supplemental briefs by July 24, 2015 to inform the Court if the action was moot because of the enactment of the USA Freedom Act:

> ….supplemental briefs, not to exceed twenty pages in length, regarding the effect of the USA FREEDOM ACT in the above-captioned case, and in particular whether any or all of the claims asserted by the plaintiffs-appellants have been rendered moot as a result of that legislation. Id. 2, n.1. Emphasis added. https://www.aclu.org/sites/default/files/field_document/2015.07.14_-_aclu_v_clapper_-_aclu_motion_for_pi.pdf

The ACLU v Clapper appellants' explained why they seek the preliminary injunction:

> The congressional debate is now over, and after exhaustive consideration of the issue, Congress had declined to expand the government's surveillance authority. Yet today the government is continuing—after a brief suspension—to collect Americans' call records in bulk on the purported authority of precisely the same statutory language this Court has already concluded does not permit it. Id. 1. Emphasis added.

The Robert II v CIA and DOJ plaintiff asserts that this exhaustive congressional debate was conducted without any of the 535 Members of Congress knowing that the 1982-2015 CIA Directors had conducted back door warrantless domestic searches of the 1982-2015 E.O. 12333 Top Secret "**FISA exempt**" NSA TSP "haystacks" of U.S. citizens' comingled stored content data. He asserts that none of the 535 Members of Congress knew of the Top Secret Article II "FISA secret law" that is explained in the May 24, 1984 Top Secret "OLC Olson FISA Memo."

The plaintiff asserts that Second Circuit should not decide the ACLU v Clapper Motion without knowing the "elephant-in-the-room" fact of the existence of the E.O. 12333 Article II Top Secret "FISA secret law." The Second Circuit should know that the 1984-2015 AGs have determined that the exclusionary provision of the FISA of 1978 has been an unconstitutional "encroachment" on the President's unlimited Article II Commander in Chief inherent authority to conduct warrantless surveillance of U.S. citizens. See 6-16-15 PCLOB Comment §§ 15, 17.

The ACLU v Clapper appellants cited to AG Lynch's June 19, 2015 litigation position in Smith v Obama. AG Lynch's DOJ attorneys informed the Ninth Circuit that Congress knew what it was doing when it with "considered Judgment" enacted the USA Freedom Act with its 180 day transitional period for the continued USG storage of U.S. citizens' metadata:

> The USA FREEDOM ACT reflects Congress's determination to authorize Section 215 bulk Telephony-metadata collection to continue during a brief transitional winding-down period before the new framework of targeted telephony-metadata production takes effect. Congress thus judged that the sort of abrupt, immediate interference with the program that plaintiff seeks would be contrary to the public interest, confirming that equitable relief is inappropriate quite apart from the government's standing and merits arguments. The USA FREEDOM Act reflects the considered judgment of the political branches that the government's paramount interest in having this temporary transition program to combat the continuing terrorist threat strongly outweighs plaintiff's minimal privacy interests, particularly because plaintiff has not demonstrated that the government obtained, much less analyzed, any telephony metadata about her calls under the program at issue. Her. See Govt Brt. 298-36." Id. 5-6. Emphasis added.
> https://s3.amazonaws.com/s3.documentcloud.org/documents/2165475/smith-govt-supp-brief.pdf.

The plaintiff asserts that after AG Lynch reads the May 24, 1984 Top Secret "OLC Olson FISA Memo," then she will know the "elephant-in-the-room" fact that there has never been "considered judgment of the political branches of the government." There never could have been "considered Judgment' of the metadata storage issue without all 535 Members of Congress also knowing the CIA fact that all of the 1982-2015 CIA Directors have conducted back door warrantless searches of the 1982-2015 E.O. 12333 Top Secret "**FISA exempt**" NSA TSP "haystacks" of U.S. citizens' comingled stored content data that is now being stored in the Utah Data Center servers. See 8-15-12 Robert II v CIA and DOJ Status Affidavit § H and § C above.

AG Lynch will come face to face with the Congress' "considered judgment" issue when she decides whether to honor Senator Feinstein's request for a copy of the May 24, 1984 Top Secret "OLC Olson FISA Memo." AG Lynch will understand for the first time why the Congress has never been informed that the 1982-2015 CIA Directors have conducted back door warrantless domestic searches of the 1982-2015 E.O. 12333 Top Secret "**FISA exempt**" NSA TSP "haystacks" of U.S. citizens' comingled stored content data. AG Lynch will apprehend for the first time that there have been 1982-2015 serial impeachable violations of § 413 (a) of the National Security Act Congressional Notification "shall" duty because Presidents Reagan, Bush, Clinton, Bush, and Obama never informed the Congress of the Top Secret Article II "FISA secret law" that is explained in the May 24, 1984 Top Secret "OLC Olson FISA Memo."

AG Lynch will understand that there will never be "considered judgment" of Congress until President Obama fulfills his § 413 (b) of the National Security Act "shall" duty and files a "corrective action" plan to cure the illegal CIA-NSA intelligence activity. As a result, the plaintiff asserts that AG Lynch has a duty to inform the Second Circuit that there has never been "considered judgment" of the "FISA secret law." See 6-16-15 Robert PCLOB Comment § 13.

The plaintiff further asserts that AG Lynch will be violating her own ethics Rule 3.3 duty if she does not inform the Second Circuit of the Top Secret Article II "FISA secret law" that is explained in the May 24, 1984 "OLC Olson FISA Memo." As of April 1, 2009, a NYS licensed attorney has had a "shall" duty to comply with the then new sets of NYS Professional Responsibility Guidelines. Pursuant to Rule 3.3 (a)(3) AG Lynch, the former-EDNY U.S. Attorney, has a duty to correct misrepresentations made to the Second Circuit by DOJ attorneys:

> Rule 3.3 Conduct Before a Tribunal
>
> (a) A lawyer shall not knowingly;
> (1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;
> (2) fail to disclose to the tribunal controlling legal authority known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or
> (3) offer or use evidence that the lawyer knows to be false. If a lawyer, the lawyer's client, or a witness called by the lawyer has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false.
>
> (b) A lawyer who represents a client before a tribunal and who knows that a person intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. Id. Emphasis added.
>
> (c) The duties stated in paragraphs (a) and (b) apply even if compliance requires disclosure of information otherwise protected by Rule 1.6.
>
> (d) In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision, whether or not the facts are adverse.
>
> (e) In presenting a matter to a tribunal, a lawyer shall disclose, unless privileged or irrelevant, the identities of the clients the lawyer represents and of the persons who employed the lawyer. Id. Emphasis added.
> http://www.nycourts.gov/rules/jointappellate/NY-Rules-Prof-Conduct-1200.pdf

The Robert II v CIA and DOJ plaintiff asserts that Rule 3.3 (a)(3) applies to NYS licensed USG attorneys who know that USG attorneys have intentionally not informed the Second Circuit of the Article II "FISA secret law" as explained in the May 24, 1984 Top Secret "OLC Olson FISA Memo." The plaintiff asserts that it was a "falsity" for any USG attorney not to inform the Second Circuit of the "elephant in the room" fact that the AGs were implementing the Top Secret "FISA secret law" that is explained in the May 24, 1984 Top Secret "OLC Olson FISA Memo." He asserts that in ACLU v Clapper AG Lynch has a Rule 3.3 (a)(3) duty to "…shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal."

The Robert II v CIA and DOJ plaintiff asserts that AG Lynch also has a Rule 3.3 (a)(3) duty to inform the Second Circuit that misrepresentations of fact and law were made by AG Smith in 1984 in United States v Duggan, 743 F.2d 59 (2nd Cir. 1984) and by AG Holder in 2013 in Amnesty v Clapper, 638 F. 3d 118 (2d Cir. 2011), rehearing en banc den., 667 F. 3d 163 (2d Cir. 2011), Amnesty v Clapper, 133 S. Ct. 1138 (2013). The plaintiff asserts that AGs Smith and Holder intended to deceive the Second Circuit re the fact that the May 24, 1984 Top Secret "OLC Olson FISA Memo" was the "legal" basis for the CIA Directors to conduct back door warrantless domestic searches of the 1982 E.O. 12333 Top Secret "**FISA exempt**" NSA TSP "haystacks" of U.S. citizens' comingled stored content data in serial violation of the exclusionary provision of the FISA of 1978. See 6-16-15 Robert PCLOB Comment §§ 17, 18, 19, 20, 22.

AG Lynch now knows that Chief Justice Roberts' June 25, 2015 King v Burwell statutory interpretation decision makes clear the Chevron Doctrine first prong standard: when interpreting a statute, the Court looks at one provision of a statute by reading that provision within the context of the intent of Congress for the entire statute. She now knows this standard applies to the exclusionary provision of the FISA. When AG Lynch applies the King v Burwell standard to the May 24, 1984 Top Secret "OLC Olson FISA Memo" she will know that AAG of the OLC Olson had made a Chevron "nonacquiescence" policy decision after the Supreme Court issued its June 25, 1984 Chevron v National Resources Defense Counsel, 104 S.Ct. 2778 (1984) decision. AG Smith decided not to inform the Second Circuit in United States v Duggan that AAG of the OLC Olson did not apply the Chevron first prong test when he decided that exclusionary provision of the FISA was an "unconstitutional" encroachment on the President's unlimited Article II Commander in Chief authority to conduct warrantless domestic surveillance of U.S. citizens to protect the nation from enemies. See 6-16-15 PCLOB Comment §§ 16, 17.

The plaintiff asserts that AG Lynch now has a NYS ethics Rule 3.3 (d) duty to inform the Second Circuit in an *in camera ex parte* Declaration of the fact that AAG of the OLC Olson's Chevron "nonacquiescence" policy that was implemented in U.S. v Duggan, cannot survive the application of King v Burwell statutory interpretation being applied to the exclusionary provision of the FISA. "(d) In an ex parte proceeding a lawyer shall inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision, whether or not the facts are adverse." Id. Emphasis added. The plaintiff asserts that the Second Circuit cannot make an "informed decision" as to the appellants' ACLU v Clapper Motion for a preliminary injunction without knowing that the 1982-2015 AGs had all determined that the exclusionary provision of the FISA of 1978 is an "unconstitutional" encroachment of the President's unlimited Article II Commander in Chief inherent authority to conduct warrantless domestic surveillance of U.S. citizens in order to protect the nation from enemies. AG Lynch now must make that decision. See 6-16-15 Robert PCLOB Comment §§ 16-21 and § M above.

Likewise, the plaintiff asserts that AG Lynch now has a NYS ethics Rule 3.3 (d) duty to inform the Second Circuit in an *in camera ex parte* Declaration of the fact that AG Holder had made misrepresentations of fact and law in Amnesty v Clapper, 638 F. 3d 118 (2d Cir. 2011), rehearing en banc den., 667 F. 3d 163 (2d Cir. 2011), Amnesty v Clapper, 133 S. Ct. 1138 (2013), because he did not inform the Second Circuit of the May 24, 1984 Top Secret "OLC Olson FISA Memo." As a result, the Second Circuit Record reviewed by the Supreme Court when it rendered its February 26, 2013 Amnesty v Clapper decision, did not include the May 24, 1984 Top Secret "OLC Olson FISA Memo." See 6-16-15 Robert PCLOB Comment § 22.

The plaintiff asserts that when AG Lynch learns the "known-known" fact that AAGs of the OLC Olson (1981-1984), Goldsmith (2003-2004), and (Acting) Thompson (2014-), had determined that the exclusionary provision of the FISA is an "unconstitutional" statute, she will determine that these Top Secret OLC Memos all contain misrepresentations of the law. If so, then AG Lynch has a Rule 3.3(a)(3) duty to inform the Second Circuit of these incorrect 1984, 2004, and 2014 Top Secret Article II "FISA secret law" OLC FISA opinions.

The plaintiff asserts that if AG Lynch determines that the 1984, 2004, and 2014 Top Secret OLC FISA opinions were all incorrect, then she also has a Rule 3.3 (d) duty to inform the FISC and FISC-R. This is especially the case given the facts and law that FBI Director Comey and FBI General Counsel Baker presented FISC Judge Moseman in In re Application of the Federal Bureau of Investigation For An Order Requiring the Production of Tangible Things and In re Motion in Opposition To Government's Request to Resume Bulk Data Collection Under Patriot Act Section 215. Judge Moseman relied upon the accuracy of the FBI Director Comey's FRCP 11 signed applications re the FBI's post-Riley v California policy and practice that continues to be based on the 1979 Smith v Maryland, 442 U.S. 735 (1979), holding that the Fourth Amendment does not apply to data that a U.S. citizens had voluntarily provided to a telephone company. See 6-16-15 Robert PCLOB Comment §§ 17-20 and § O above.

If AG Lynch determines that based on King v Burwell, the exclusionary provision of the FISA is not an "unconstitutional" encroachment of the President's Article II Commander in Chief authority, then she has to decide whether the Riley v California holding that the Fourth Amendment applies to the a U.S. citizen's cell phone stored content data, also applies to the 1982-2015 E.O. 12333 Top Secret "**FISA exempt**" NSA TSP "haystacks" of U.S. citizens' comingled stored content data. If so, then she has to decide whether AAG of the OLC Olson's May 24, 1984 interpretation of the 1979 Smith v Maryland holding was "overruled" by Riley v California. "Traditional Fourth Amendment analysis holds that once evidence is constitutionally seized, its dissemination or subsequent use raises no additional Fourth Amendment question. Id. Emphasis added. See 6-16-15 Robert PCLOB Comment §§ 1 ,2 and § S below.

The plaintiff asserts that the NYS ethics Rule 3.3 provides AG Lynch with zero ethical slack. It is a black and white issue of whether misrepresentations of fact and law have been made to the Second Circuit in U.S. v Duggan, Amnesty v Clapper, and ACLU v Clapper. If the Article II Top Secret "FISA secret law" was incorrect on May 24, 1984 when AAG of the OLC Olson made his decision that the exclusionary provision of the FISA was "unconstitutional," then serial misrepresentations of fact and law were made to the Second Circuit in these cases and to the Supreme Court in Amnesty v Clapper. If so, then AG Lynch has 2015 NYS Rule § 3.3 duties.

The plaintiff further asserts that after AG Lynch reads the May 24, 1984 Top Secret "OLC Olson FISA Memo," the September 5, 2014 re-reclassified March 18, 2011 reclassified May 6, 2004 Top Secret "OLC Goldsmith FISA Memo," and the July, 2014 Top Secret "OLC Riley v California Memo, she must determine whether these OLC opinions were incorrect. If so, then she has a due diligence duty to determine who ordered OLC FOIA Officer Colborn to issue his September 30, 2014 OLC decision "Glomar Response" defense to deny plaintiff's September 15, 2015 FOIA request for the "OLC Riley v California Memo." AG Lynch can learn this fact by simply reading OIP Director Pustay's FOIA case file notes and e-mails re her June 4, 2015 decision to affirm the OLC's use of the "Glomar Response" defense. OLC AP-2015-00955.

If AG Lynch learns that Acting Associate AG Delery was the DOJ official who ordered the use of the "Glomar Response" to deny the September 15, 2015 FOIA request for the July, 2014 Top Secret "OLC Riley v California Memo," then this is an important fact for the Second Circuit to know. On September 2, 2014 at the ACLU v Clapper oral argument, then-AAG of the Civil Division Stuart Delery knew of the July, 2014 Top Secret "OLC Riley v California Memo" and affirmatively decided not to inform the Second Circuit. If so, then both AG Lynch and Acting Associate AG Delery have a Rule 3.3 duty to inform the Second Circuit whether the Top Secret Article II "FISA secret law" continues as explained in the July, 2014 Top Secret "OLC Riley v California Memo. " See 10-3-13 Robert II v CIA and DOJ WP § 2.

If AG Lynch learns that Acting Associate AG Delery knows who made the September 5, 2014 decision to declassify and re-reclassify the March 18, 2011 reclassified May 6, 2004 Top Secret "OLC Goldsmith FISA Memo," then he knows whether FBI General Counsel Baker knew of the "defrauding" of President Obama when he filed the post-USA Freedom Act FBI FISC applications seeking FISC Judge Mosman's June 29, 2015 In re FBI Orders. If so, then this is an important "Past is Prologue" fact because FBI General Counsel Baker knew on March 1, 2004 as OIPR Counsel Baker, who ordered him to ratify the CIA FOIA Officer's use of FOIA Exemption 1 and the "Glomar Response" defense to withhold the 1980s "FISC Robert" documents. That is an important FBI General Counsel Baker *mens rea* time line fact because he read the 1980s "FISC Robert" documents on March 1, 2004 prior to the March 10, 2004 confrontation between WH Counsel Gonzales and AG Ashcroft, DAG Comey, and FBI Director Mueller in AG Ashcroft's hospital room. This was prior to when AAG of the OLC Goldsmith issued his May 6, 2004 OLC FISA Memo that cited to the May 24, 1984 Top Secret "OLC Olson FISA Memo." See 7-27-10 Robert VIII WP §§ J-O and 6-16-15 Robert PCLOB Comment § 3.

The plaintiff asserts that these are all "smoking gun" facts because 2004-2011 DOJ attorneys had intentionally withheld material facts from Judge Garaufis, the Second Circuit and the Supreme Court throughout Robert VII v DOJ, 2005 U.S. Dist. LEXIS 39616, 193 Fed. Appx. 8 (2d Cir. 2006), cert. den. 127 S.Ct. 1133 (2007) and Robert VIII v DOJ, HHS, and SSA, 439 Fed. Appx 32 (2d Cir. 2011), cert. den. 132 S. Ct. 1549 (2012). These DOJ attorneys intended to deceive the Article III Judges in violation of the NYS Judiciary Law § 487 penal standard to prevent the deception of Judges. See 6-16-15 Robert PCLOB Comment §§ 14, 17- 24.

The plaintiff asserts that the appellants July 14, 2015 ACLU v Clapper Motion provides AG Lynch with an opportunity to comply with her Rule 3.3 duties to remedy DOJ incorrect misrepresentations of fact and law to the Second Circuit not only in ACLU v Clapper, but also in U.S. v Duggan, Clapper v Amnesty, Robert VII v DOJ, and Robert VIII v DOJ, HHS, and SSA. If AG Lynch does not fulfill her Rule 3.3 duties, then the plaintiff will know that an AG stovepipe bypasses AG Lynch so that her DOJ chain of command attorneys can continue to "defraud" both AG Lynch and President Obama. See 6-16-15 Robert PCLOB Comment § 11.

The plaintiff will inform the Court of AG Lynch's August, 2015 ACLU v Clapper response to those appellants' Second Circuit Motion. The plaintiff believes that if in ACLU v Clapper AG Lynch complies with her Rule 3.3 ethics duties to inform the Second Circuit of the DOJ attorneys' misrepresentations of fact and law, then this should result in AG Lynch agreeing to the plaintiff's Robert II CIA an DOJ quiet settlement offer in the summer of 2015. If there is no quiet settlement, then plaintiff's Motion for Summary Judgment should proceed.

R. The July 16, 2015 SDNY Judge McMahon ACLU v DOJ FOIA Drone decision that implemented the Second Circuit FOIA process of *in camera ex parte* review of documents that were not subject to the E.O. 13526 § 3.3 Automatic Declassification 25 year standard

On July 16, 2015, SDNY Judge Colleen McMahon issued her 160 page SDNY ACLU v DOJ FOIA decision which was pursuant to the Second Circuit's New York Times Co. v U.S. Dep't of Justice, 756 3d 199 (2d Cir. 2014) remand re FOIA requested Top Secret OLC and CIA documents that revealed the USG's OLC and CIA drone standards used to target U.S. citizens. https://www.aclu.org/sites/default/files/field_document/full_tk_foia_opinion_7.16.2015_0.pdf. The plaintiff cites to this decision because it implemented the Second Circuit standard that requires *in camera ex parte* reviews of FOIA requested classified CIA documents. If the Robert II v CIA and DOJ co-defendants comply with this Court's Rule F (2) procedures and file FRCP 11 signed Declarations explaining why the FOIA requested 1985 CIA classified North Notebook documents continue in August, 2015 not to be released, then the plaintiff's Summary Judgment Motion will proceed. This Court will apply the same procedures that Judge Mc Mahon applied in ACLU v DOJ and read *in camera ex parte* the 1985 "North Notebook" documents.

Pursuant to the Second Circuit's NY Times DOJ standard, SDNY Judge McMahon sifted through hundreds of FOIA requested classified documents. For each document, Judge McMahon made a separate Article III decision. After Judge McMahon had read *in camera* the classified OLC and CIA documents, she upheld almost all of the DOJ's and CIA's decisions to withhold the documents. She ordered that the co-defendants declassify only a few documents and noted there could be appeals of those decisions. None of the ACLU v DOJ FOIA requested documents were subject to the E.O. 13256 § 3.3 Automatic Declassification, 25 year standard.

The Robert II v CIA and DOJ plaintiff had anticipated in 2011 that after 25 years had passed from 1985 (1985-2010), the co-defendants would defend the withholding of the four one-one-page CIA classified "North Notebook" documents based on one of the E.O. 13256 § 3.3, Automatic Declassification, exceptions. He had anticipated that he would be coordinating a Robert II v CIA and DOJ Motion for a Summary Judgment with the results from his September 13, 2011 *de novo* FOIA requests seeking a mosaic of documents which he filed after the Second Circuit's September 6, 2011 decision in Robert VIII v DOJ, HHS, and SSA, 439 Fed. Appx 32 (2d Cir. 2011), cert. den. 132 S. Ct. 1549 (2012). See 11-30-11 Robert VIII Petition for a writ of certiorari §§ A-H, http://snowflake5391.net/Robert8vDOJpetition1.pdf, 12-14-11 Robert II v CIA and DOJ Status Affidavit and 8-15-12 Robert II v CIA and DOJ Status Affidavit.

However, the OLC, CIA, FBI, NSA, DNI, OMB, HHS, and SSA FOIA Officers either refused to process or denied almost all of the plaintiff's September 13, 2011 FOIA requests for the mosaic of documents that the plaintiff believed were connect-the-dots documents to the 1985 "North Notebook" documents. Therefore, after the 2013 Snowden leaks, he decided to proceed with his Robert II v CIA and DOJ Summary Judgment Motion for the four one-page redacted "North Notebook" documents. He anticipated that the process of requesting a pre-Summary Judgment Motion conference would lead to the long sought quiet settlement. He believed that CIA General Counsel Stephen Preston (2009-2013) and then CIA General Counsel Krass, the 2013-Acting AAG of the OLC, would recommend that their clients agree to a quiet settlement in order not to risk the possibility that this Court would grant the plaintiff's Summary Judgment Motion that would be based on the application of the 25 year standard (1985+25-2010).

CIA General Counsel Krass knows from reading the July 16, 2015 SDNY ACLU v DOJ decision, that the co-defendants can assert the E.O. 13256 3.3 Automatic Declassification exceptions and have a reasonable chance to successfully oppose the plaintiff's Summary Judgment Motion. However, CIA General Counsel Krass also knows that this would require that the co-defendants comply with Local Rule 2 (F) and file the four one-page CIA classified "North Notebook" documents for the Court's *in camera ex parte* review.

The plaintiff has requested the scheduling of the requested pre-Motion conference because he believes that when CIA General Counsel Krass informs her new client, co-defendant AG Lynch, that the plaintiff's Summary Judgment Motion is proceeding, AG Lynch will instruct CIA General Counsel Krass to negotiate a quiet settlement prior to any Robert II v CIA and DOJ scheduled pre-Summary Judgment Motion conference. The plaintiff's optimism is based on the fact that AG Lynch will for the first time have clearance to read not only the four one-page "North Notebook" documents, but also the May 24, 1984 Top Secret "OLC Olson FISA Memo" that Senator Feinstein has requested. See 6-16-15 Robert PCLOB Comment §§ 1, 2, 14.

The plaintiff believes that DAG Sally Yates, Acting Associate AG Stuart Delery, Acting AAG of the Civil Division Joyce Branda, Acting AAG of the OLC Karl Thompson, and Acting AAG of the Office of Legal Policy (OLP) Elana Tyrangiel, will provide AG Lynch with accurate background facts as to E.O. 12333 Top Secret illegal CIA domestic "special activity" that was conducted at IMC. AG Lynch will learn whether HHS General Counsel del Real was CIA Director Casey's illegal CIA domestic agent when he made his 1982-1985 Jackson v Schweiker "nonacquiescence" policy decisions. If so, then AG Lynch will learn that plaintiff's allegations are true. If so, then because of the PIDB-CIA-NARA pilot project's successful use of algorithms for President Reagan' Administration's e-mails, AG Lynch may decide that now is not the time for there to be an Article III review of the 1985 E.O. 12333 "North Notebook" documents.

The plaintiff believes that CIA General Counsel Krass will inform her client co-defendant CIA Director John Brennan that if the plaintiff's Summary Judgment Motion proceeds, then CIA Director Brennan will have to assert one of the E.O. 13256 § 3.3 Automatic Declassification, exceptions. If so, then CIA General Counsel Krass will have to file an *in camera ex parte* FRCP 11 signed Declaration that explains why the one of the § 3.3 exceptions applies. CIA General Counsel Krass knows that the Robert II v CIA and DOJ plaintiff will inform the PCLOB and the PIDB that an *in camera ex parte* Robert II v CIA and DOJ Declaration has been filed in Robert II v CIA and DOJ. The plaintiff will request that the PCLOB and PIDB review all *in camera ex parte* Declarations filed in Robert I v CIA and Robert II v CIA and DOJ to determine whether one of the most diabolical CIA E.O. 12333 CIA domestic sources and methods has been to make Article III Judges the "handmaidens of the Executive." "Under no circumstances should the Judiciary become the handmaiden of the Executive." Doe, et. al. v Mukasey, Mueller, and Caproni, 549 F 3d 861, 870 (2d Cir. 2008). Emphasis added. See §§ B-K, N above.

The plaintiff believes AG Lynch will understand why the plaintiff has framed his Summary Judgment Motion as revealing a Constitutional crisis that is based on the "defrauding" of Presidents Reagan and Obama and a 2015 Marbury v Madison "nonacquiescence" policy of Article II attorneys deciding what the law "is." If so, then AG Lynch will agree to a quiet settlement offer. If so, then that quiet settlement could occur prior to a scheduled pre-Summary Judgment Motion conference. See 6-16-15 Robert PCLOB Comment §§ 11 and 15-24.

S. The July 24, 2015 quiet settlement offer made to CIA General Counsel Krass and Acting EDNY U.S. Attorney Currie for presentation to their clients, co-defendants CIA Director Brennan and AG Lynch, prior to the pre-Summary Judgment Motion conference

On July 24, 2015, the plaintiff formally presented his renewed quiet settlement offer to CIA General Counsel Caroline Krass and Acting EDNY U.S. Attorney Kelly Currie to present to their clients, co-defendants CIA Director Brennan and AG Lynch, prior to the pre-Summary Judgment Motion conference. They know that they will have to provide the Court with a reason why the co-defendants have violated this Court's Local Rule F (2) by not filing the required Counter Statement to the July 28, 2014 "Plaintiff's Local Rule 56.1 Statement of Material Facts of Motion For Summary Judgment" or the required three page letter response to the plaintiff's October 7, 2014 letter requesting a pre-Summary Judgment Motion Conference.

They both know that the PIDB-CIA-National Archives pilot project that automatically declassifies President Reagan's Administration's e-mails, has increased the likelihood of success of the plaintiff's Summary Judgment Motion that President Obama's December 29, 2009 E.O. 13526, § 3.3 Automatic Declassification, 25 year rule applies to the four one page redacted 1985 CIA classified documents (1985+25=2010). CIA General Counsel Krass knows that there are PIDB algorithms that easily cull out documents that reveal the CIA sources and methods at IMC. She knows AG Lynch will have a duty to review those CIA e-mails to determine if they corroborate the plaintiff's allegations re the "North Notebook" documents. See §§ B, N above.

CIA General Counsel Krass also knows that the PIDB-CIA-NARA algorithms will allow AG Lynch to "walk back the cat" re the "North Notebook" documents. AG Lynch will learn whether, as the plaintiff has alleged, HHS General Counsel del Real (1981-1985)-IMC Chief of Staff del Real (1985-1986) had been CIA Director Casey's illegal CIA domestic agent. If so, then AG Lynch will learn that the 1980s illegal CIA domestic sources and methods included:

1) HHS General Counsel del Real's 1982-1985 Jackson v Schweiker "nonacquiescence" policy decisions that in 2015 affect the millions of 1994-2015 Ford v Shalala class members who do not reside in the Seventh Circuit states;

2) HHS General Counsel del Real's targeting Robert for the E.O. 12333 Top Secret "**FISA exempt**" NSA TSP to secure the content of his phone calls with his clients challenging HHS General Counsel del Real's "nonacquiescence" policies, for use in the joint HHS-DOJ-FBI "Fraud Against the Government" investigation of Robert, a/k/a Snowflake 5391 to the DOJ, to secure Robert's incarceration and disbarment;

3) The Barrett v. United States, 798 F. 2d 565 (2d Cir. 1986), "nonacquiescence" policy whereby USG officials and attorneys withhold material facts from Article III Judges to protect CIA domestic sources and methods. "Finally, acceptance of the view urged by the federal appellants would result in a blanket grant of absolute immunity to government lawyers acting to prevent exposure of the government in liability." Id. 573. This included withholding material facts from Judge Wexler in the 1985-1988 Robert v Holz FOIA litigation that sought HHS documents upon which HHS General Counsel del Real had based his "Fraud Against the Government" investigation of Robert. That 1986 Barrett "nonacquiescence" policy continues in July, 2015.

4) Making Article III Judges the "handmaiden of the Executive" through the intentional deception of Article III Judges including the FISC and Judge Garaufis, the Second Circuit, and the Supreme Court in Robert VII v DOJ and Robert VIII v. DOJ, HHS, and SSA. "Under no circumstances should the Judiciary become the handmaiden of the Executive." Doe, et. al. v Mukasey, Mueller, and Caproni, 549 F 3d 861, 87 (2d Cir. 2008). See 6-16-15 Robert PCLOB Comment §§ 6-10, 15-24.

5) Implementing an E.O. 12333 *de facto* Marbury v Madison "nonacquiescence" policy whereby the AAGs of the OLC decide what the Article I law "is" rather than the Article III Judges. As a result, the AAGs of the OLC create an Article II Top Secret "secret law" that has as its primary purpose the protection of the Intelligence Community's sources and methods. See 6-16-15 PCLOB Robert Comment § 15.

CIA General Counsel Krass and Acting EDNY U.S. Attorney Currie know that the joint PIDB-CIA-NARA pilot project for the automatic declassification of the President Reagan's Administration's e-mails, will generate connect-the-dots documents with the Robert II v CIA and DOJ four 1985 CIA classified "North Notebook" documents. They know AG Lynch will learn from reading the CIA e-mails whether AG Meese knew that CIA Director Casey was conducting an E.O. 12333 Top Secret illegal CIA domestic "special activity" at IMC to provide medical treatment and supplies to the Contras in facial violation of the Boland Amendment. They know that AG Lynch can also learn from the President Reagan's Administration's e-mails whether AG Meese, and FBI Director Judge Webster had intended to "defraud" President Reagan in order to provide President Reagan with a "plausible deniability" defense to the violation of the 1984 Boland Amendment. 6-16-15 PCLOB Robert Comment §§ 11, 14.

CIA General Counsel Krass and Acting EDNY U.S. Attorney Currie also know that the plaintiff filed his June 16, 2015 PCLOB Comment in response to the PCLOB invitation to file Comments re E.O. 12333 counterintelligence activities. They know that if there is not a quiet settlement by the end of the summer of 2015, then the plaintiff will file Volume II and provide additional facts to the PCLOB which has informed the public that they are now conducting investigations of E.O. 12333 CIA and NSA intelligence activities. The plaintiff's Volume II will identify the documents in the 1985-2015 Robert FOIA litigation that contain "smoking gun" evidence that the 1982-2015 AGs and FBI Directors have all known that the 1982-2015 CIA Directors have conducted back door warrantless domestic searches of the E.O. 12333 Top Secret "**FISA exempt**" NSA TSP "haystacks" of U.S. citizens' comingled stored content data in serial impeachable violation of § 413 (a) of the National Security Act Congressional Notification "shall" duty and the exclusivity provision of the FISA. If so, then the PCLOB, the PIDB, AG Lynch, and President Obama should know this fact. 6-16-15 PCLOB Comment §§ 1-5, 12, 13

This PCLOB Volume II Comment will document the status of the plaintiff's December 3, 2013 FOIA request for the May 24, 1984 Top Secret "OLC Olson FISA Memo" and the March 18, 2011 reclassified Top Secret "OLC Goldsmith FISA Memo, " and his September 15, 2014 FOIA request for the July, 2014 Top Secret "Riley v California OLC Memo." The plaintiff will inform the PCLOB of the status of his follow up complaints to DOJ IG Michael Horowitz regarding the decision of OIP Director Pustay not to process the plaintiff's 2013 FOIA request for former-PCLOB Member Olson's 1984 OLC FISA Memo that Senator Feinstein requested on January 28, 2015. See 6-16-15 PCLOB Robert Comment § 14, 18, 19 and §§ D, K above.

This PCLOB Volume II Comment will update the status of the plaintiff's follow up requests to his July 27, 2010 FBI FOIA request No. 1151829-000 for the eight sets of FBI documents that reveal whether FBI General Counsel Baker knows that all of the 1982-2015 FBI Directors have known that the 1982-2015 CIA Directors knew that HHS General Counsel del Real-IMC Chief of Staff del Real was an illegal CIA domestic agent. This will include a status report on the plaintiffs' follow up complaints to DOJ IG Michael Horowitz regarding the decisions of FBI Chief FOIA Officer David Hardy not to process the *de novo* FBI FOIA September 13, 2011, February 7, 2014, and December 19, 2014 requests. See 2-22-12 OGIS FBI WP, http://snowflake5391.net/2_22_12_OGIS_FBI_WP.pdf, 6-25-14 complaint filed with IG Horowitz re FBI Chief FOIA Officer Hardy, http://snowflake5391.net/ig_hororwitz.pdf, 10-3-14 Robert II v CIA and DOJ WP § N, 6-16-15 PCLOB Robert Comment § 14, and §§ H, J above.

This PCLOB Volume II Comment will lay out the details of the plaintiff's Robert VIII v DOJ, HHS, and SSA Motion that will be filed with Judge Garaufis seeking Judge Garaufis pre-clearance Order to file a new Robert FOIA complaint. That complaint will seek a "mosaic of documents" that will prove whether USG attorneys had made Article III Judges Garaufis, the Second Circuit, and the Supreme Court the "handmaiden of the Executive" in Robert VII v DOJ and Robert VIII v DOJ, HHS, and SSA. The plaintiff will explain why the "mosaic of documents" include the 1984, 2004 and 2014 OLC FISA Memos and the July 27, 2010 FBI F|OIA request No. 1151829-000 eight sets of FBI documents. The plaintiff will inform the PCLOB of the status of his complaints filed with DOJ IG Horowitz against OIP Director Pustay and FBI Chief FOIA Officer Hardy, and whether AG Lynch has provided Senator Feinstein with a copy of the 1984 OLC Olson Memo. See 10-3-14 Robert II v CIA and DOJ WP §§ BB, CC.

The plaintiff will mail serve his PCLOB Volumes I and II on DOJ IG Michael Horowitz in support his *de novo* complaint against OIP Director Melanie Pustay and FBI Chief FOIA Officer David Hardy that they are intentionally "defrauding" President Obama. He will cite DOJ IG Horowitz to the OIP and FBI FOIA case file notes and e-mails which reveal the names of other DOJ employees and attorneys who are in concert "defrauding" not only President Obama but also AG Lynch. He will assert that if DOJ IG Horowitz reviews those DOJ OIP and FBI FOIA case file notes and e-mails along with the DOJ and CIA IG case file notes and e-mails that were the basis of the April 25, 2015 DNI declassified July 10, 2009 IC IGs Report on the NSA PSP and the June 12, 2015 DNI posting of CIA IG's declassified pre-9/11 documents, then he will learn the names of the daisy-chain of 1982-2015 USG officials and attorneys who have in concert implemented the 1982-2015 E.O. 12333 Top Secret "**FISA exempt**" NSA TSP. They knew the NSA TSP was in serial impeachable violation of § 413 (a) of the National Security Act, the exclusivity provision of the FISA, the Posse Comitatus Act limitations on military domestic law enforcement, and the Social Security Act. DOJ IG Horowitz will learn the names of the 1982-2015 daisy-chain of *faux* "Commanders in Chiefs" who made the decisions to violate the federal laws and Article II of the Constitution without the knowledge of Presidents Reagan Bush, Clinton, Bush, and Obama. See 6-16-15 PCLOB Robert Comment §§ 7-14 and §§ H, J above.

Out of courtesy and respect for CIA General Counsel Krass, the plaintiff has placed her on Notice that if she implements the Barrett "nonacquiescence policy" when she files the FRCP 11 signed pleadings in opposition to the plaintiff's Summary Judgment Motion, then the plaintiff will file a complaint against her with the CIA IG. This will provide CIA General Counsel Krass with a defense to deter her client from ordering her to deceive Judge Seybert in 2015.

The plaintiff has placed CIA General Counsel Krass and Acting EDNY U.S. Attorney Currie on July 24, 2015 Notice that pursuant to NYS Judiciary Law § 487, Misconduct by attorneys, that it was a 2004 crime for any government attorney to deceive Magistrate Judge Lindsay in any *in camera and ex parte* communications in Robert II v CIA and DOJ and in any *in camera and ex parte* communications with the NYS Appellate Division Second Department Judges seeking Robert's disbarment. "1. Is guilty of any deceit or collusion, or consents to any deceit or collusion, with intent to deceive the court or any party;" Emphasis Added.

The plaintiff has placed CIA General Counsel Krass and Acting EDNY U.S. Attorney Currie on July 24, 2015 Notice that pursuant to the April 1, 2009 NYS Rules of Professional Conduct Rule 3.3(a)(3), NYS licensed attorneys have an affirmative duty to cure misrepresentations of fact and law made to tribunals. "If a lawyer, the lawyer's client, or a witness called by the lawyer has offered material evidence and the lawyer comes to know of the falsity, the lawyer shall take responsible remedial measures, including if necessary disclosure to the tribunal." Emphasis added. See 7-27-10 Robert VIII v DOJ, HHS and SSA WP §§ E-Q, T-Z, GG-XX, ZZ, AAA. http://snowflake5391.net/7_27_10_RobertVIII.pdf.

The plaintiff has placed CIA General Counsel Krass and Acting EDNY U.S. Attorney Currie on July 24, 2015 Notice that 2015 USG attorneys have "The Bivens Problem" if after the May 31, 2015 sunset of the Patriot Act and the June 2, 2015 enactment of the USA Freedom Act, they know that CIA Director Brennan continues back door warrantless domestic searches of the 1982-2015 E.O. 12333 Top Secret "**FISA exempt**" NSA TSP "haystacks" of U.S. citizens' comingled stored content data and do not inform AG Lynch and DOJ IG Michael Horowitz pursuant to the DOJ and CIA "whistleblower" procedures. See PCLOB Comment § 18.

The plaintiff has placed CIA General Counsel Krass and Acting EDNY U.S. Attorney Currie on July 24, 2015 Notice that Justice Scalia's "this-is-not-a-team-effort" standard applies to any FRCP 11 pleadings previously filed with Judge Seybert in Robert II v CIA and DOJ and Judge Garaufis and Second Circuit in Robert VII v DOJ. "The message there by conveyed to the attorney, that this is not a "team effort" but in the last analysis yours alone, precisely to the point of Rule 11." Pavelic & Le Fore v Marvel Entertainment Group, 110 S. Ct. 456, 459 (1989). This Pavelick standard applies to any future FRCP 11 signed pleadings. See PCLOB Comment § 20.

The plaintiff has placed CIA General Counsel Krass and Acting EDNY U.S. Attorney Currie on July 24, 2015 Notice that the Chambers v Nasco "fraud upon the court" standard applies to any 2015 FRCP 11 signed pleadings filed in Robert II v CIA and DOJ and Robert VIII v DOJ, HHS, and SSA. "It is a wrong against the institutions set up to protect and safeguard the public." Chambers v. Nasco, 111 S. Ct. 2123, 2132 (1991). See PCLOB Comment § 21.

As a result, the plaintiff believes that CIA General Counsel Krass and Acting EDNY U.S. Attorney Currie know that the plaintiff's maximum leverage for a Robert II v CIA and DOJ quiet settlement will be the summer of 2015. The plaintiff is respectfully requesting that the Court consider requesting that Magistrate Judge Tomlinson schedule the plaintiff's requested pre-Motion for a Summary Judgment Conference. This will trigger the litigation decisions of CIA General Counsel Krass and Acting EDNY U.S. Attorney to present the plaintiff's quiet settlement offer to their clients to prudently end this FOIA litigation in the summer of 2015. The plaintiff believes that AG Lynch will agree to a prudent quiet settlement. See §§ D, K above.

T. Summary

The plaintiff files this WP as supplement to his October 3, 2014 WP. He believes that the drum beat of facts that have occurred since President Obama's November 8, 2014 nomination of EDNY U.S. Attorney Loretta Lynch (1999-2001 and 2010-) to be the AG Holder's successor, sets the stage for AG Lynch to consider the plaintiff's quiet settlement offer to end this FOIA action in the summer of 2015. Therefore, he respectfully suggests that if Magistrate Judge Kathleen Tomlinson scheduled the pre-Summary Judgment Motion conference, then this would result in CIA General Counsel Caroline Krass and Acting EDNY U.S. Attorney Kelly T. Currie providing their clients with reasons why there should be a quiet settlement that ends this action in the summer of 2015 without burdening the Court with having to decide a Summary Judgment Motion.

CIA General Counsel Krass and Acting EDNY U.S. Attorney Currie know that the PCLOB's pending investigation of 1982-2015 E.O12333 CIA and NSA domestic counterintelligence projects and the PIDB-CIA-NARA pilot project automatically declassifying President Reagan's Administration's classified CIA e-mails, will directly affect the Robert II v CIA and DOJ Motion for a Summary Judgment for the four 1985 CIA classified "North Notebook" documents. They also know why the 2014 attorneys in the Office of CIA General Counsel Krass and the Office of EDNY U. S. Attorney Lynch had violated this Court's Local Rule Individual Motion Practice Rule F (2).

CIA General Counsel Krass and Acting EDNY U.S. Attorney Currie know that when AG Lynch reads former-PCLOB Member Theodore Olson's May 24, 1984 Top Secret FISA Memo sent to AG Smith, "Re Constitutionality of Certain National Security Agency Electronic Surveillance Activities Not Covered Under the Foreign Intelligence Surveillance Act of 1979," that AG Lynch has a duty to inform President Obama of this document in order to end the "defrauding" of President Obama. If so, then this should also result in AG Lynch ending the serial violation of Judge Sifton's September 29, 1999 Ford v Shalala nationwide class order because the due process violations visited upon the millions of 1994-2015 Ford v Shalala nationwide class members have continued during the Constitutional watches of President Obama and EDNY U.S. Attorney Lynch.

If CIA General Counsel Krass and Acting EDNY U.S. Attorney Currie inform the plaintiff that their clients co-defendants CIA Director Brennan and AG Lynch, have rejected the quiet settlement offer, then the plaintiff's Summary Judgment Motion should proceed. The plaintiff believes that 2015 is the year that the Separation of Powers issues that have been lurking for the past fifteen years in Robert I v CIA, cv 00-4325 (Seybert, J), and Robert II v CIA and DOJ, cv 02-6788 (Seybert, J), should be publicly aired. In this way, 535 Members of Congress will learn whether the plaintiff's almost incredible allegation is true: 1982-2015 *faux* Commanders in Chiefs have been making serial decisions to violate § 413 (a) of the National Security Act, the exclusionary provision of the FISA of 1978, the Posse Comitatus Act of 1878 limitations on domestic military law enforcement, and the Social Security Act without the knowledge of Presidents Reagan, Bush, Clinton, Bush, and Obama, and now without the knowledge of AG Lynch (2015-).

Thank you for keeping the federal court house door open in order that 2015 Article III checks and balances can be applied to the 2015 E.O. 12333 Article II actions.