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Top Pentagon Leader Ordered Destruction of bin Laden Death Photos

By Judicial Watch
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(Washington, DC) – Judicial Watch announced today that on January 31, 2014, it received documents from the Department of Defense (Pentagon) revealing that within hours of its filing a May 13, 2011, Freedom of Information Act (FOIA) lawsuit seeking photos of the deceased Osama bin Laden, U.S. Special Operations Commander, Admiral William McRaven ordered his subordinates to "destroy" any photos they may have had "immediately." Judicial Watch had filed a FOIA request for the photos 11 days earlier.

The McRaven email, addressed to "Gentlemen," instructs:

One particular item that I want to emphasize is photos; particularly UBLs remains. At this point – all photos should have been turned over to the CIA; if you still have them destroy them immediately or get them to the [redacted].

According to the Pentagon documents, McRaven sent his email on "Friday, May 13, 2011 5:09 PM." The documents do not detail what documents, if any, were destroyed in response to the McRaven directive. The Judicial Watch FOIA lawsuit seeking the documents was filed in the United States Court for the District of Columbia only hours earlier. Judicial Watch also announced the filing at a morning press conference.

On May 2, Judicial Watch had filed a FOIA request with the Defense Department seeking "all photographs and/or video recordings of Usama (Osama) Bin Laden taken during and/or after the U.S. military operation in Pakistan on or about May 1, 2011." Federal law contains broad prohibitions against the "concealment, removal, or mutilation generally" of government records.

The records containing the McRaven "destroy them immediately" email were produced as a result of a June 7, 2013, FOIA request and a subsequent lawsuit against the Defense Department for records relating to reports of the 2011 McRaven purge directive. McRaven's order was first mentioned at the end of a 2011 draft reportby the Pentagon's inspector general (IG) examining whether the Obama administration gave special access to Hollywood executives planning the film "Zero Dark Thirty." According the draft report, "ADM McRaven also directed that the names and photographs associated with the raid not be released. This effort included purging the combatant command's system of all records related to the operation and providing these records to another Government Agency." The reference to the document purge did not appear in the final IG report.

The move by McRaven to purge the photos appears to have come, at least in part, in response to aggressive efforts by Judicial Watch to obtain images of the deceased bin Laden

that President Obama, in a rewrite of federal open records law, had refused to disclose. In addition to its May 2, 2011, FOIA request with the Pentagon Judicial Watch filed an identical request on May 3, 2011, with the CIA. When neither the Defense Department nor the CIA complied with the FOIA requests, Judicial Watch, in June 2011, filed FOIA lawsuits against both agencies. In the course of the litigation, the Pentagon claimed that it had "no records responsive to plaintiff's request."

On April 26, 2012, District Court Judge James Boasberg accepted the Obama DOD and CIA arguments, ruling that the images could remain secret while conceding: "Indeed, it makes sense that the more significant an event is to our nation – and the end of bin Laden's reign of terror certainly ranks high – the more need the public has for full disclosure." On May 21, 2013, the United States Court of Appeals for the District of Columbia affirmed the District Court decision while conceding that the documents may not have been properly classified. The Supreme Court of the United States subsequently denied Judicial Watch's petition for a writ of *certiorari*seeking a review of the issue.

"The McRaven 'destroy them immediately' email is a smoking gun, revealing both contempt for the rule of law and the American's people right to know," said Judicial Watch President Tom Fitton. "The Obama administration has tried to cover this scandal up – and our lawsuit exposed it. We demand further investigation of the effort to destroy documents about the bin Laden raid."

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