

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

UNITED STATES OF AMERICA)
)
 v.) **Criminal No. 09-276 (JR)**
)
STEWART DAVID NOZETTE,)
)
 Defendant.)
_____)

**GOVERNMENT’S MEMORANDUM OUTLINING CHANGES
FROM ORIGINAL INDICTMENT TO SUPERSEDING INDICTMENT**

The United States, by and through its undersigned attorneys, respectfully submits this Memorandum to outline for the Court and the defendant the changes that were made from the original indictment, which was returned on October 21, 2009, to the superseding indictment, which was returned on March 17, 2010.

1. The original indictment charged defendant with two counts: (1) one count of attempting to communicate, deliver, and transmit to a foreign government, to wit the Government of the State of Israel, and representatives, officers, and agents thereof, directly and indirectly, documents and information relating to the national defense of the United States, specifically, information classified as SECRET/SCI, in violation of Title 18 U.S.C. § 794; and (2) one count of attempting to communicate, deliver, and transmit to a foreign government, to wit the Government of the State of Israel, and representatives, officers, and agents thereof, directly and indirectly, documents and information relating to the national defense of the United States, specifically, information classified as TOP SECRET/SCI and SECRET/SCI, in violation of Title 18 U.S.C. § 794.

2. Count One in the original indictment was based on the passing of a single piece of classified information.
3. The superseding indictment includes a new charge – labeled as Count Two – to include an allegation arising out of the passing of an additional piece of information, involving a separate victim agency, classified as SECRET, in violation of Title 18 U.S.C. § 794.
4. The additional count is based on the same operative facts as Count One in the original indictment. In other words, defendant passed that information at the same time and in the same manner in both instances.
5. Count Two in the original indictment is now labeled as Count Three. It otherwise remains the same.
6. The unclassified discovery that has been provided previously applies to the new charge. Likewise, the addition of the new charge does not change the content of the planned classified discovery in any way.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the foregoing was electronically served upon John C. Kiyonaga, Esq., counsel for defendant, on this 17th day of March, 2010.

/s/

ANTHONY ASUNCION

Assistant United States Attorney