

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,)
)
 Plaintiff,)
)
 v.) CIVIL ACTION NO.
) 78-322 & 78-420
 FEDERAL BUREAU OF)
 INVESTIGATION,) (Consolidated)
)
 Defendants.)
)

DECLARATION OF JOHN N. PHILLIPS

I, John N. Phillips, make the following declaration:

1. I am a Special Agent of the Federal Bureau of Investigation (FBI), assigned in a supervisory capacity to the Freedom of Information-Privacy Acts Section, Records Management Division, FBI Headquarters (FBIHQ), Washington, D.C.

2. Due to the nature of my official duties, I am familiar with the procedures followed in processing Freedom of Information Act (FOIA) requests received at FBIHQ, including plaintiff's request for records on the assassination of President John F. Kennedy (JFK Assassination) contained in the Dallas (DL) and New Orleans (NO) Field Offices of the FBI.

3. The following files and Special Indices representing all the files responsive to plaintiff's FOIA request were searched and processed:

- (1) Dallas (DL) file 89-43
- (2) DL file 100-10461
- (3) DL file 44-1639
- (4) DL file 105-1435
- (5) DL file 67-425
- (6) DL file 105-632
- (7) DL file 66-1313A
- (8) DL file 9-1984

- (9) DL file on technical surveillance of Marina Oswald
- (10) DL file on technical surveillance of Marina Oswald (logs)
- (11) DL file on technical surveillance of Marina Oswald (transcripts)
- (12) DL file on microphone surveillance of Marina Oswald
- (13) DL file on microphone surveillance of Marina Oswald (logs)
- (14) DL file on microphone surveillance of Marina Oswald (transcripts)
- (15) DL file 62-3588
- (16) DL file on allegations of William Walter
- (17) DL miscellaneous references
- (18) DL search slips
- (19) New Orleans (NO) file 89-69
- (20) NO file 100-16601
- (21) NO file 44-2064
- (22) NO file 62-3702
- (23) NO miscellaneous references
- (24) NO search slips
- (25) DL 3x5 Special Index
- (26) DL 5x8 Special Index

4. The FBI's processing of plaintiff's FOIA request involved the review of 35,775 documents, consisting of 148,196 pages. Of this total, 23,969 documents, consisting of 94,964 pages, were not processed inasmuch as they were duplicative of other documents processed for plaintiff's FOIA request for DL and NO records on the JFK Assassination, or had been furnished to FBIHQ and processed pursuant to plaintiff's separate FOIA request for FBIHQ documents on the JFK Assassination. A total

of 11,806 documents, consisting of 53,232 pages, were thus processed in response to plaintiff's DL and NO FOIA request. Of these, 9,146 documents were released without any deletions, whereas 2,660 documents contained deletions. The plaintiff was furnished with 51,475 pages, whereas 1,757 pages were denied in their entirety.

5. Two Special Indices were also processed in response to plaintiff's FOIA request. The first Index consisted of 1,514, 5in. x 8in., index cards none of which were withheld in their entirety. The second Index consisted of 51,989, 3in. x 5in., index cards of which 48,754 were released and 3,235 were denied in their entirety. The index cards were prepared by the Dallas Field Office specifically as an administrative aide for investigators of the JFK Assassination.

6. The 5x8 Special Index consisted of index cards containing the file and serial numbers (references) of the documents contained in the four main files that the Dallas Field Office maintained on the events surrounding the JFK Assassination: 89-43; 44-1639; 100-10461; 62-3588. This Index was created to administratively track documents on the JFK Assassination. Accordingly, a short description of each document was placed on an index card. More than one document was usually described on a card. These 5x8 index cards were, in turn, filed by date. When processed pursuant to plaintiff's FOIA request, it was necessary to determine whether the information on an index card was withheld or released when the underlying document(s), on which the index card was based, was (were) processed. If information on the card was excised in the underlying document(s), then the information on the card was also excised.

7. The 3x5 Special Index consisted of index cards filed in alphabetical order. These cards referenced various subject matters, including names and the file and serial number of the document containing the information indexed. The 3x5 Special Index provided cross reference access to the four main files on the JFK Assassination which were maintained in the Dallas Field

Office. Only names and information considered relevant and necessary for future retrieval were indexed. The decision of what to index was made by the Investigative Agent and Supervising Agent. A notation (indexing mark), consisting of two intersecting lines, was placed next to each piece of information in a document that was indexed, denoting that an index card had been prepared. If the same information was to be indexed in a later document, the file and serial number of this later document was also added to the index card already in existence. To process the 3x5 Special Index, it was necessary to check whether the information in the underlying document(s), for which the index card was prepared, was released or withheld, so that the index card could be processed in the same manner. In some instances a 3x5 index card referenced two or more documents, and it was determined that information on the card was released in at least one of the underlying documents listed on the card but withheld in at least one of the other underlying documents listed on the card. In those instances, it was necessary to withhold from release the entire original index card and to prepare a new index card containing the name and reference(s) that were releasable on the original index card. This was done because a release of the original index card, even in its excised form, would have made it possible to undermine the purpose of excising material pursuant to proper exemption(s). The preparation of a new index card was thus the best way to protect information that had been excised. If new cards had not been prepared in instances of multiple references on one card, it would have been necessary to withhold from release the entire 3x5 Special Index so that exempted material could be protected. Single reference index cards, in which the name on the card had to be excised, were withheld from release, as well as multiple reference cards in which all the information on the card was excised. The single reference cards were so treated since the large number of 3x5 Special Index cards combined with the alphabetical arrangement of the Index, made it easy to identify last names on the cards prepared for the underlying documents in which the indexed information was denied.

8. To submit an affidavit indexing and itemizing justifications for all of the 11,806 documents involved would take approximately 20,000 man-hours to prepare. Submission of such an affidavit for a random sample of every one-hundredth document containing excisions would take approximately 500 man hours. In addition, it would take approximately 6,000 man-hours to provide the Court with a "Vaughn Index" for all the 1,514, 5in. x 8in., index cards. However, if such an index was prepared for only those cards that correlate with every one hundredth document containing excisions (i.e. - about 90 cards), it would take approximately 400 man-hours.


9. In order to submit a "Vaughn Index" for the 51,989, 3in. x 5in., index cards, it would take about 50,000 man-hours to prepare. The underlying documents for which each card was prepared* would also have to be justified and that would take approximately 50,000 more man-hours. Moreover, to submit an adequate "Vaughn Index" for these index cards would require attaching copies of the cards that contain excisions; however, such a submission would itself disclose excised information (see paragraph 7, supra). Therefore, an in camera submission of the index cards would appear to be the most appropriate type of review. It is estimated that it would take approximately 50,000 man-hours to prepare all of the index cards plus the underlying documents for an in camera review. If only those cards that correlate with every excised one-hundredth document were submitted for in camera review (i.e. - about 400 cards), it is estimated that it would take approximately 400 man-hours to prepare that sample.*/

*/ The time estimates detailed in paragraphs 8 and 9 are based upon the FBI's experience in preparing "Vaughn Indexing" in other litigations. Included in these estimates are duplication time, word processing time, preparation of the affidavit indexing and itemizing the justifications, proofreading, retyping, assembly of documents and consultation with other components of the Justice Department, as well as other government agencies. Thus, the FBI estimates that it will take an average of 4 hours to "Vaughn" a document that contains deletions, whereas a document without deletions will require about 1 hour. Because more than one document is usually referenced on a 5x8 index card, the FBI thinks that it will take approximately 4 hours to itemize and justify each 5x8 card. The FBI estimates that it will take about 1 hour to "Vaughn" each 3x5 card, and about 1.7 hours to itemize and justify the correlated 30,000 (approximately) Dallas documents. Finally, the FBI thinks that it will require about 1 hour to prepare each 3x5 index card plus the underlying documents for an in camera submission.

10. In sum, if the Court desires a "Vaughn" justification and itemization of every document and index card, it would require a total effort of over 126,000 man hours. If the Court permits a justification and itemization of every one-hundredth document randomly chosen, it would take approximately 1,300 man hours, or 2 FBI employees working full time for almost 120 days.

I have read the foregoing statement consisting of 6 pages and fully understand its contents. I declare under penalty of perjury that the statement is true and correct to the best of my knowledge and belief.

Dated, this 2 day of March, 1982.



JOHN N. PHILLIPS
Special Agent
Federal Bureau of Investigation
Washington, D.C.