

3/22/82

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. As noted in my declaration of March 2, 1982 (attached to the defendants' Motion Concerning the Adjudication of Certain Exemption Claims), 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. Government's counsel asked that I read plaintiff's opposition to defendants' above-referenced motion, including the attached affidavits of Harold Weisberg and James H. Lesar. Having read those papers, I make the following statements.
4. The statements in plaintiff's papers concerning the FBI's search and processing of the documents in this case are inaccurate. As pointed out in paragraph 3 of my earlier declaration, the FBI searched and processed all the DL and NO files that were responsive to plaintiff's FOIA request. In this regard, searches were made, inter alia, for documents on James P. Hosty, Jr., "Warren Commission critics" and Jim Garrison, and releaseable material was furnished to plaintiff.

Exhibit B

Indices searches were made in the Dallas Field Office to locate material on Mr. Hosty. No main files or miscellaneous files on Mr. Hosty were located; however, there was a general personnel matters file (67-425) containing material on Mr. Hosty relative to the JFK assassination which was processed and, where appropriate, released to plaintiff.

The New Orleans Field Office conducted indices searches for material on Mr. Garrison. Two files (included in the NO miscellaneous references) were located and processed for release. Two other documents relative to the JFK assassination which contained Mr. Garrison's name (i.e., see references) were also located and processed. Because Mr. Garrison is a well know public figure in New Orleans, his name was found in numerous other documents, none of which pertained to the Kennedy assassination; accordingly, those documents were not processed.

Finally, no files were located on "critics" or "Warren Commission critics" in either the Dallas or New Orleans Field Offices.

5. Contrary to his assertions, plaintiff has been furnished with all releasable films and tapes relative to the JFK assassination contained in the Dallas and New Orleans Field Offices.

6. In his opposition papers, plaintiff contends that the 94,965 "previously processed" pages should be included in the proposed sample Vaughn Index. As noted in paragraph 4 of my earlier declaration, the "previously processed" documents consist of material in FBIHQ files on the JFK assassination. Those documents were processed prior to this litigation pursuant to a separate FOIA request by plaintiff for FBIHQ records on the Kennedy assassination. Accordingly, when plaintiff later requested DL and NO documents on the JFK assassination, the FBI reviewed all such documents and excluded records duplicative of those that had been processed in the FBIHQ request. To have

processed those records again would have required a tremendous amount of time yet would have served no useful purpose. The plaintiff administratively appealed the FBI's processing of both the FBIHQ^{*} and the DL/NO records on the Kennedy assassination to the Justice Department's Office of Privacy and Information Appeals (OPIA). With the plaintiff's knowledge, OPIA acted first upon his appeal of the DL/NO processing. The appeal of the FBIHQ processing is still pending.

In light of these facts, the FBI has always considered the "previously processed" documents to be within the scope of the plaintiff's FOIA request for FBIHQ documents, and not within the scope of the instant litigation over DL/NO records. Accordingly, those documents should not be included in the proposed sample Vaughn Index.

7. Plaintiff also suggests in his opposition papers that he should be allowed to select documents to be included in the sample Vaughn Index. Such a procedure is feasible only if plaintiff is required to list the serial number of each document and the corresponding number of pages involved. Because plaintiff has been furnished with all the FBI's worksheets, he has the capability for doing this.

Should the Court grant plaintiff's suggestion, the FBI requests that it impose a page limitation on plaintiff's selection, for some documents are considerably longer than others. The FBI also requests that it be given an opportunity to estimate to the Court the amount of additional time it will take to "Vaughn" the documents selected by plaintiff.

^{*}/ Although the FBIHQ appeal has been in the form of numerous complaint letters from plaintiff, the Justice Department has treated these complaints as one blanket appeal of the processing of the FBIHQ documents.

I have read the foregoing statement consisting of 4 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 22 day of March, 1982.

John N. Phillips

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