

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MARK A. ALLEN,)	
)	
Plaintiff,)	
)	
v.)	Civil Action Number
)	81-1206
FEDERAL BUREAU OF INVESTIGATION,)	
et al.)	
)	
Defendants.)	

DECLARATION

I, David R. Lieberman, hereby declare as follows:

(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 (FOIPA) Section, Records Management Division (RMD), at FBI Headquarters (FBIHQ), Washington, D. C.

(2) Due to the nature of my official duties, I am familiar with the procedures followed in processing requests received at FBIHQ pursuant to Title 5, United States Code, (U.S.C.), Section 552, commonly known as the Freedom of Information Act (FOIA), and Title 5, U.S.C., Section 552a, commonly known as the Privacy Act of 1974.

(3) I am personally familiar with the procedures followed in responding to the FOIPA requests made by Mark A. Allen (plaintiff). All information contained herein is based upon my personal review of documents pertaining to this litigation and information furnished to me in my official capacity.

(4) The purpose of this declaration is to provide the Court with a description of the material withheld from the plaintiff by the FBI, and to justify those withholdings under the FOIA and Privacy Act.

(5) In accordance with the Stipulation dated December 9, 1985, entered into by both the plaintiff's attorney and defendants' attorney, the materials for which justifications are provided are limited to approximately 1000 pages of records chosen by the plaintiff which have been processed by the FBI in connection with his requests. The records are attached hereto and incorporated into this declaration.

(6) There are approximately 300,000 pages of material pertaining to the plaintiff's requests. To date, approximately 185,000 pages have been reviewed and approximately 45,000 have been released either in part or total.

(7) The material pertaining to the plaintiff's requests is divided into the following six categories:

A. FBI records sent to the House Select Committee on Assassinations (HSCA).

B. FBI records made available to the HSCA for perusal at FBIHQ or at FBI field offices.

C. Internal FBI memoranda pertaining to the HSCA.

D. FBI communications with other agencies pertaining to the HSCA.

E. Communications sent from the HSCA to the FBI. See, paragraph 13F, infra.

F. Communications sent from the FBI to the HSCA.

(8) The majority of material pertaining to the plaintiff's requests is found in categories A and B, supra. The same applies to the materials for which justifications are being provided. This material deals with numerous FBI investigations compiled for law enforcement purposes.

(9) The numerous FBI investigations compiled for law enforcement purposes fall within the categories of Organized Crime (OC), Foreign Counterintelligence (FCI), Internal Security (IS), and other Criminal. See, affidavit of SA John N. Phillips dated January 12, 1982, pages 5 and 6 for the approximate number of cases and page totals within each of these categories.

(10) The following types of investigations are representative of those included in the Vaughned materials. These are typical, but are not all inclusive, for investigations represented in the materials remaining to be processed and in those that have been processed and released. The types of investigations and the authority to conduct these investigations are as follows:

- A. Neutrality Matters
Title 18, U.S.C., Sections 956, 958-962
Title 22, U.S.C., Sections 1934 and 401
- B. Interstate Transportation of Stolen Motor Vehicle or Aircraft
Title 18, U.S.C., Sections 511, 512, 2311, 2312, 2313, and 2320
- C. Bank Fraud and Embezzlement
Title 18, U.S.C., Sections 212, 213, 215, 234, 655-657, 1004-1006, 1008, 1009, and 1014
- D. Government Property-Theft, Robbery, Embezzlement, Illegal Possession
Title 18, U.S.C., Sections 641, 1024, 1660, 2112, and 2114
- E. Perjury
Title 18, U.S.C., Sections 1621, 1622, and 1623
- F. Espionage
Title 18, U.S.C., 792, 793, 794, 795, 796, 797, and 798
- G. Interstate Transportation of Stolen Property
Title 18, U.S.C., Sections 2311, 2314, 2315, and 2318
- H. Assaulting or Killing a Federal Officer
Title 18, U.S.C., Sections 111, 1111, 1112, 1114, and 2231
- I. Bank Robbery, Bank Burglary, Bank Larceny
Title 18, U.S.C., Section 2113 (a) - (e)
- J. Labor Management Relations Act, 1947
Title 29, U.S.C., Sections 161(2), 161(6), 162, 176-178, and 186 (a)(b)(c)
- K. Interstate Transportation in Aid of Racketeering
Title 18, U.S.C., Section 1952
- L. Hobbs Act - Financial Institutions
Hobbs Act - Commercial Institutions
Title 18, U.S.C., Section 1951

- M. Interception of Communications
Title 18, U.S.C., Sections 2510, 2512, and 2513
- N. Treason
Title 18, U.S.C., Sections 2381 and 2382
- O. Extortion
Title 18, U.S.C., Sections 873, 875, 876, and 877
- P. Unlawful Flight to Avoid Prosecution, Custody, Confinement, and Giving Testimony
Title 18, U.S.C., Sections 1073 and 1074
- Q. Theft from Interstate Shipment
Title 18, U.S.C., Sections 659, 660, and 2117
- R. Destruction of Aircraft or Motor Vehicles
Title 18, U.S.C., Sections 31-35
- S. Anti-Racketeering Investigations
These types of files are repositories for the collection of criminal intelligence data usually gathered during an OC investigation. There is no substantive criminal violation associated with this type of investigation. When a substantive violation is discovered, however, a separate case is opened and the subject's activities are further investigated in an effort to establish the particular violation. Such violations, for instance, could include matters concerning Theft from Interstate Shipment and Extortion. See, O and Q, supra.
- T. Internal Security
The legal authority for this type of investigation is derived from seven sources: 1) Presidential directives, 2) Executive Orders relating to the loyalty-security program, 3) regulations setting forth FBI responsibilities, 4) the general statutory authorization for the FBI, 5) statutes establishing internal security programs, 6) criminal statutes relating to the national security, and 7) ratification of FBI activities by the President and

Congress. Possible violations of Federal law for this type of investigation include, but are not limited to, the Internal Security Act of 1950, Title 50, U.S.C., Section 738 and the Foreign Agents Registration Act, Title 22, U.S.C., Section 611.

(11) The HSCA requested access to the investigations as discussed in paragraphs 9 and 10, supra, in order to determine whether or not certain individuals and organizations had been involved in the assassination of President John F. Kennedy (JFK assassination).

(12) The FBI investigations of these individuals and organizations are separate and distinct inquiries from the JFK assassination investigation. A large number of these investigations were initiated years before or after the JFK assassination.

(13) The material responsive to the plaintiff's requests are being processed within the following parameters:

A. Files pertaining to organizations are being processed for all releasable material.

B. Files compiled for law enforcement purposes within the meaning of exemption (7) of the FOIA in which the individual subject has been determined to be deceased are being processed for all releasable material.

C. Files pertaining to investigations not publicly known which were compiled for law enforcement purposes within the meaning of exemption (7) of the FOIA in which the individual subject is still living, or from a review of the files cannot be determined to be deceased, are being withheld entirely pursuant to exemptions (b)(6) and (b)(7)(C).

D. The HSCA, within its published report concerning the JFK assassination, House report number 95-1828, 95th Congress, 2nd Session, 1979, identified certain individuals

as being subjects of FBI investigations. Files pertaining to these individuals are being processed for both public source material and data released by the HSCA.

E. The FBI furnished information to the HSCA from its files which is exempt from disclosure pursuant to the FOIA and/or Privacy Act, source information for example. Often, the HSCA released this type of information in its report. The FBI reviewed the HSCA report to identify such information. This same information was then located within the FBI files and to the extent it was made available by the HSCA, the information was released to the plaintiff.

F. Communications received by the FBI from the HSCA are not being reviewed for releasable material pursuant to the Opinion and Order of this Court dated November 24, 1982, in which it was declared that this category of information is barred from disclosure.

G. Other Federal Government agency information not reviewed by the HSCA was considered outside the scope of the plaintiff's requests and therefore, not processed for releasable material.

(14) It has been agreed between counsel in this matter that any materials for which an exemption (b) (7) (C) claim is rejected at any level of review be returned to the FBI for classification review. Further, it was agreed that if any of this material is classified pursuant to the applicable Executive Order by the FBI Classification Unit, a (b) (1) claim can then be asserted for the material. See, stipulation dated October 27, 1983, paragraph 5.

(15) Should the Court reject any assertion of the (b) (7) (C) exemption within the materials processed for the plaintiff, the FBI desires to reserve the option of providing these materials to its Classification Unit for review to determine whether or not a (b) (1) claim is applicable.

(16) In four instances the plaintiff requested that information pertaining to deleted "rap sheet" data be justified. Within the pertinent documents, information from FBI Identification Records has been withheld. Exemptions (b)(3), (b)(6), and (b)(7)(C) were asserted to protect this information. On April 10, 1987, the United States Court of Appeals for the District of Columbia in The Reporters Committee for Freedom of the Press, et al; v. United States Department of Justice, et al. decided that Title 28, U.S.C., Section 534 was not an Exemption 3 withholding statute. Further, it was decided that exemption (b)(7)(C) would not be applicable to arrest, indictment, conviction and imprisonment records that would be publicly available.

(17) The United States Department of Justice (DOJ) is considering whether or not to appeal certain aspects of this decision. Therefore, it is respectfully requested that documents containing the deleted "rap sheet" information not be justified for the plaintiff at this time, and that any decision by the Court pertaining to the releasability of this information be held in abeyance until any appeals are taken. When issues surrounding this decision are resolved and policy determinations implemented by DOJ, the FBI will provide to the Court an appropriate declaration pertaining to the documents at issue.

I. IDENTIFICATION OF THE RECORDS

(18) All material responsive to the plaintiff's requests have been maintained together in a limited access area within FBIHQ since the HSCA completed its work.

II. COMMUNICATIONS PERTAINING TO PLAINTIFF'S
FOIA AND PRIVACY ACT REQUESTS

(19) Set forth below are communications pertaining to the plaintiff's requests to FBIHQ. True copies of each item are attached hereto as Exhibits A through Q:

A. By letter dated December 12, 1980, the plaintiff requested "all correspondence or any records of any communications between the U.S. House Select Committee on Assassinations and the Federal Bureau of Investigation relating to the House Select Committee's investigation into the assassination of President John F. Kennedy." The plaintiff also requested a waiver of all search and copying fees.

B. By letter dated January 30, 1981, the plaintiff's request was acknowledged, and he was advised of possible Congressional control over the requested documents. The plaintiff was advised that his fee waiver request was being held in abeyance.

C. By letter dated March 13, 1981, the plaintiff was advised that the FBI was prohibited by the U.S. House of Representatives from releasing material responsive to his request pursuant to Title 5, U.S.C., Section 551 (1) (A) (1976).

D. By letter dated March 19, 1981, the plaintiff appealed to the Office of Information and Privacy Appeals (OIPA), DOJ, the "determination of March 13, 1981 that the material requested . . . is not part of your agency's records."

E. By letter dated April 1, 1981, the plaintiff was advised by OIPA, DOJ, that his administrative appeal had been received.

F. By letter dated April 6, 1981, the plaintiff requested "all records relating to the investigation of the U.S. House Select Committee on Assassinations into the

murder of President John F. Kennedy not covered by my FOIA request of December 12, 1980." The plaintiff also requested a waiver of all search and copying fees.

G. By letter dated April 13, 1981, to the plaintiff, the FBI reiterated the position that the requested material would be exempt pursuant to Title 5, U.S.C., Section 551 (1) (A) (1976).

H. By letter dated April 15, 1981, the plaintiff appealed to the Associate Attorney General, DOJ, the FBI's denial of records pertaining to his request of April 6, 1981.

I. By letter dated April 28, 1981, the plaintiff was advised by OIPA, DOJ, that his administrative appeal had been received.

J. By letter dated May 18, 1981, the FBI acknowledged the plaintiff's recent FOIA and Privacy Act request, and assigned a number to his request.

K. By letter dated December 31, 1981, the plaintiff was advised that his request for a waiver of fees had been denied.

L. By letter dated January 26, 1982, the plaintiff's attorney stated the FBI had conceded that "four of six categories of records identified in Allen's interrogatories are in fact agency records." A cashier's check in the amount of \$100 was provided to the FBI as payment for the first 1000 pages of releasable materials. This letter indicated that the question of whether or not the plaintiff would be entitled to a fee waiver was before the Court. (In answer to the plaintiff's first set of interrogatories, the FBI on December 7, 1981, identified for the plaintiff four categories of records as being agency records for purposes of the FOIA.)

M. By letter dated February 18, 1983, the cashier's check in the amount of \$100 was returned to the plaintiff's attorney due to the granting of a fee waiver by the Honorable Judge June L. Green.

N. Forty-four letters to the plaintiff's attorney reflecting the release of material pertaining to the plaintiff's requests. The first letter is dated February 18, 1983, and the last April 3, 1987.

O. Six letters from the plaintiff's attorney to the Office of Information and Privacy (OIP), DOJ, appealing

the excisions and withholdings taken by the FBI in regard to material processed for the plaintiff. The first letter is dated March 17, 1983, and the last June 1, 1984.

P. Five letters from OIP, DOJ, to the plaintiff's attorney advising of the receipt of his administrative appeals. The first letter is dated March 25, 1983, and the last June 18, 1984.

Q. By letter dated January 23, 1985, OIP, DOJ, provided the plaintiff's attorney with a detailed review of his administrative appeals.

III. EXPLANATION OF FORMAT UTILIZED FOR JUSTIFICATION OF DELETED MATERIAL

(20) The below described format has been utilized to itemize, index, and justify the deleted material. The format utilized herein details the specific exemption asserted for a particular deletion, gives a precise description of the deleted material, and provides a justification for the exemption asserted.

(21) Documents pertaining to this litigation were individually reviewed, and it was determined that the excised information was denied pursuant to eight subsections of the FOIA: (b) (1), (b) (2), (b) (3), (b) (5), (b) (6), (b) (7) (C), (b) (7) (D), and (b) (7) (E). These eight categories which are enumerated below contain a recitation of the statutory exemption asserted, a precise description of the subject matter of the particular deletion, and the rationale for its application. Emphasis has been placed on describing specifically the contents of the withheld information whenever possible.

(22) Copies of the documents at issue are attached hereto as Exhibit R. In the margins next to the deleted material are coded categories of exemptions which detail the nature of the information withheld pursuant to the provisions of the FOIA. To further describe the information being withheld with any more specificity would identify the very material sought to be protected. Every effort was made to provide the plaintiff with all reasonably segregable portions of the material requested. Further, attached hereto is Exhibits S which provides the Court with a listing of page numbers where material for each coded category of exemptions can be found.

(23) Some of the information at issue originated with the Central Intelligence Agency (CIA) and Immigration and Naturalization Service (INS). Deletions were made in accordance with requests by these agencies. Again, the applicable FOIA exemption is cited adjacent to the deletion. The itemization and justification for the withholding of this information will be furnished to the Court in affidavits and/or declarations from representatives of these agencies.

(24) The following is a discussion of the utilization of the coded format described in paragraph B, infra. The coded format is being used to speed the Court's review of the explanations for the protected material.

A. MECHANICS OF UTILIZING THE CODED FORMAT

(25) To determine the pertinent justification for deleted material on each processed document: (1) refer to the document in question; (2) note the coded number adjacent to the deleted material; and (3) refer to the corresponding coded category listed below. For example, if (b)(7)(C)-7 appears on a document, the (b)(7)(C) designation refers to the general discussion in the main category of the exemption asserted relative to an "Unwarranted Invasion of Privacy." The numerical designation particularizes and describes the specific material being deleted, which in this example pertains to names and identifying information of FBI Special Agents and clerical personnel.

B. SUMMARY OF JUSTIFICATION CATEGORIES

<u>Category (b)(1)</u>	<u>Classified Information</u>
(b)(1)-1	Other Federal Government agency information which is currently and properly classified pursuant to Executive Order (EO) 12356.
(b)(1)-2	FBI information which is currently and properly classified pursuant to EO 12356.
<u>Category (b)(2)</u>	<u>Internal Practices</u>
(b)(2)-1	Permanent symbol numbers assigned to symbol numbered sources.
(b)(2)-2	FBI file numbers assigned to symbol numbered sources.

(b) (2) -3	Temporary source symbol numbers for FBI sources reporting information in a particular FBI document.
(b) (2) -4	Dissemination markings.
(b) (2) -5	Information pertaining to manpower and technical capabilities of the FBI's Technical Services Division.
(b) (2) -6	Internal personnel matter.
<u>Category (b) (3)</u>	<u>Information Specifically Exempted from Disclosure by Statute</u>
(b) (3) -1	Information withheld at the request of another Federal Government agency.
(b) (3) -2	Rule 6(e) of the Federal Rules of Criminal Procedure. Names of individuals subpoenaed to testify before the Grand Jury. Names of individuals who did testify and any testimony provided by them.
<u>Category (b) (5)</u>	<u>Privileged Information</u>
(b) (5) -1	Opinion of DOJ concerning a legal issue.
<u>Category (b) (6)</u>	<u>Clearly Unwarranted Invasion of Personal Privacy</u>
(b) (6) -1	Names and/or information concerning individuals mentioned within FBI files.
(b) (6) -2	Names and/or information pertaining to FBI employees involved in disciplinary matters.
(b) (6) -3	Names and identifying information of FBI Special Agents and clerical personnel.

(b) (6) -4	Information pertaining to a Special Agent.
<u>Category (b) (7) (C)</u>	<u>Unwarranted Invasion of Personal Privacy</u>
(b) (7) (C) -1	Names and identifying information regarding individuals mentioned within FBI files.
(b) (7) (C) -2	Names and identifying information regarding individuals interviewed by the FBI.
(b) (7) (C) -3	Names of, identifying information for, and information furnished by confidential sources designated as potential security informants and potential criminal informants.
(b) (7) (C) -4	Names of state, local, and other non-Federal law enforcement officers.
(b) (7) (C) -5	Names and positions of employees of state and local government agencies.
(b) (7) (C) -6	Names and positions of employees of financial, credit, and commercial institutions.
(b) (7) (C) -7	Names and identifying information of FBI Special Agents and clerical personnel.
(b) (7) (C) -8	Names and identifying information of other Federal Government agency employees.
(b) (7) (C) -9	Names and/or information concerning the subjects of FBI investigations.

Category (b) (7) (D)

(b) (7) (D)-1

(b) (7) (D)-2

(b) (7) (D)-3

(b) (7) (D)-4

(b) (7) (D)-5

(b) (7) (D)-6

(b) (7) (D)-7

(b) (7) (D)-8

Category (b) (7) (E)

(b) (7) (E)-1

Confidential Source Material

Names, identifying information, and information provided by individuals interviewed by the FBI.

Names of, identifying information for, and information furnished by confidential sources designated as potential security informants and potential criminal informants, which, if released, would identify them.

Permanent symbol source numbers of and information provided to the FBI by symbol numbered sources.

Identities of, and information provided by non-Federal Government law enforcement agencies.

Identities of, and information provided by either state or local government agencies.

Identities of, and information provided by financial, credit, and commercial institutions.

File numbers assigned to symbol numbered sources.

Temporary source symbol numbers for FBI sources.

Investigative Techniques and Procedures

Details of a pretext telephone call. Details of a microphone surveillance.

IV. EXPLANATION OF THE FOIA EXEMPTIONS
USED TO WITHHOLD MATERIALS

(26) This section contains a discussion of the substantive categories and subcategories of withheld information. Information has been withheld pursuant to the following exemptions allowed by the FOIA:

CLASSIFIED INFORMATION

(27) Title 5, U.S.C., Section 552 (b) (1) exempts from mandatory disclosure information which is currently and properly classified pursuant to EO 12356 in the interest of the national defense or foreign policy.

(A) Other Federal Government agency information which is currently and properly classified pursuant to EO 12356. (b) (1)-1

(28) Affidavits and/or declarations pertaining to the classified portions of the documents as applied to other Federal Government agency information will be filed with this Court by representatives of the CIA and INS.

(B) FBI information which is currently and properly classified pursuant to EO 12356. (b) (1)-2

(29) A declaration pertaining to the classified portions of the documents as applied to FBI information will be filed with this Court by another representative of the FBI.

INTERNAL PRACTICES

(30) Title 5, U.S.C., Section 552 (b) (2) exempts from mandatory disclosure information "related solely to the

internal personnel rules and practices of an agency."

(A) Permanent symbol numbers assigned to symbol numbered sources. (b)(2)-1

(31) Permanent symbol numbers are assigned to symbol numbered sources who report information to the FBI. A symbol number is comprised of a two letter abbreviation which identifies the particular FBI field office where the symbol numbered source is operating, followed by a sequentially assigned number. Release of permanent source symbol numbers would serve to indicate both the scope and location of FBI source coverage within a particular geographic area. The symbol numbers are used to conceal the identity of FBI symbol numbered sources, both individuals who are furnishing information on a routine basis and technical sources. The use of symbol numbers facilitates the flow of information internally within the FBI which is received from these sources.

(32) The release of a symbol number cannot be viewed in isolation. If a particular symbol number is released to the public at various times and in various documents, the symbol numbered source could be identified. Each context in which the symbol number is disclosed reveals the connection of the symbol numbered source to dates, times, places, and names, from which the identity of the symbol numbered source could be determined. This is particularly true in instances where a symbol numbered source is reporting on the activities of a particular group or organization. Release of this information

to individuals knowledgeable with the facts and circumstances or with access to the records of a group, organization, or individual could reveal the identity of the symbol numbered source. The plaintiff may or may not possess the background information necessary to identify a symbol numbered source by an analysis of the context in which the symbol numbered source appears. However, release to the plaintiff must be considered a release to the general public. The (b) (7) (D) exemption was often asserted in connection with the (b) (2) exemption to withhold symbol numbers for these sources.

(B) FBI file numbers assigned to symbol numbered sources. (b) (2)-2

(33) Files are maintained by the FBI for both information furnished by and administrative information concerning symbol numbered sources. As with the source symbol numbers, the file numbers are used internally within the FBI to facilitate the flow and retrieval of correspondence received from a symbol numbered source. The file numbers consist of a three-digit prefix which is assigned according to the nature of the information being provided by the source. For example, the prefix 134 designates a security symbol numbered source and 137 designates a criminal symbol numbered source. The second part of the file number consists of a sequentially assigned number unique to the particular symbol numbered source. Release of the prefix number alone would help to identify the symbol numbered source by indicating the type of information

provided. Although a symbol numbered source may provide information primarily on one group, organization, or individual, the same symbol numbered source may also provide information on other groups or individuals. The context in which a prefix number appears can help individuals familiar with the facts and circumstances to identify the symbol numbered source.

(34) Because a file number assigned to a symbol numbered source is unique to that source, release to the public at various times and in various contexts may ultimately lead to identification of the symbol numbered source. This is true because each new context in which a symbol numbered source's file number is disclosed reveals additional information, such as dates, times, places and names of persons which can be added together and analyzed by an individual who is familiar with the facts and circumstances. This can lead to the identification of the symbol numbered source. Symbol numbered source file numbers have been deleted pursuant to exemption (b) (2) which was also asserted in conjunction with exemption (b) (7) (D).

(C) Temporary source symbol numbers for FBI sources reporting information in a particular FBI document. (b) (2)-3

(35) Temporary source symbol numbers (T-symbols) are assigned to FBI sources as a routine administrative practice. They have been deleted pursuant to the (b) (2)

exemption. The FBI frequently uses T-symbols in documents which are disseminated outside of the FBI. T-symbols are used in place of permanent symbol numbers or actual identities of FBI sources. Information developed during an FBI investigation may in this fashion be furnished to appropriate agencies without compromising the identities of those sources who furnished information to the FBI. Release of these T-symbols would indicate both the number of sources utilized and the amount of information furnished by each. Combined with the dates, places, and other information contained within the documents, the T-symbols could be used to identify sources, particularly if individuals familiar with the facts were to examine related documents. The exemption (b) (7) (D) has also been asserted in conjunction with the (b) (2) exemption to delete T-symbols.

(D) Dissemination Markings. (b) (2)-4

(36) The (b) (2) exemption was asserted to delete dissemination markings. These markings are used internally for routing and/or record-keeping purposes. They indicate which Federal Government agencies receive copies of a particular document. They have no effect on the substance of the documents themselves. Further, to release these markings would indicate other Federal Government agencies with investigative interests in certain individuals or organizations.

(E) Information pertaining to manpower and technical capabilities of the FBI's Technical Services Division. (b) (2)-5

(37) The (b) (2) exemption was asserted to delete material relating both to internal technical capabilities and personnel allotment of the Audio Analysis Unit (AAU) of the FBI's Technical Services Division (TSD). The material being withheld concerns the caseload for the AAU and the resulting disruption to efforts to manage the caseload should the AAU undertake a forensic research project as recommended by the HSCA.

(38) It is the responsibility of FBI managers within all divisions of FBIHQ and all field offices to make decisions allocating limited human and technical resources in a manner which most effectively satisfies organizational goals and responsibilities. Such decisions are made routinely and frequently, often on a daily basis. It is the responsibility of these managers to specifically consider what impact a new assignment or task will have on existing caseloads and how best to handle competing interests. The decisions resulting from the balancing of competing interests relate to internal operating procedures and are made routinely. This document is located at pages 182, 183, 184 of Exhibit R.

(F) Internal personnel matter. (b) (2)-6

(39) The (b) (2) exemption was cited to withhold in its entirety an FBI memorandum concerning the proposed creation

of a new GS-7 paralegal position within FBIHQ. This new position was to be created because of the need to service a newly established unit within FBIHQ. Staffing needs relate clearly to internal practices and procedures. Filling job vacancies and decisions to create new positions relate to routine activities of FBI managers. There would not be a genuine public interest in the fact the FBI wanted to create this paralegal position. This document is located at page 408 of Exhibit R.

INFORMATION SPECIFICALLY EXEMPTED
FROM DISCLOSURE BY STATUTE

(40) Title 5, U.S.C., Section 552 (b) (3) exempts from disclosure information specifically protected by statute.

(A) Information withheld at the request of another Federal Government agency. (b) (3)-1

(41) By either affidavit or declaration to be filed with this Court, a representative of the CIA will explain the use of the exemption (b) (3) as applied to that agency's information.

(B) Information withheld pursuant to Rule 6(e) of the Federal Rules of Criminal Procedure. (b) (3)-2

(42) The exemption (b) (3) was used in conjunction with Rule 6(e) of the Federal Rules of Criminal Procedure to withhold material. This rule explicitly bars the disclosure of matters before the Grand Jury. The purpose of the rule is to preserve the secrecy of the Grand Jury proceedings. The

names of individuals who were subpoenaed to testify before the Grand Jury, individuals who testified before the Grand Jury and their testimony have been withheld. To release this information would violate the secrecy of the Grand Jury proceedings and reveal the scope and direction of same.

PRIVILEGED INFORMATION

(43) Title 5, U.S.C., Section 552 (b) (5) exempts from disclosure "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency."

(A) Opinion of DOJ concerning a legal issue.
(b) (5)-1

(44) The exemption (b) (5) was asserted in one instance to protect the opinion of DOJ concerning complications of resolving a legal issue. Except for approximately two lines dealing with this opinion, the entire two page document has been released to the plaintiff. This document indicates the FBI desired that a formal policy be instituted to cover requests for FBI files by Congress. The issue was how much material could Congress require the Executive Branch to produce. Congress alleged that it had the constitutional right to gain access to all or nearly all Executive Branch material without deletions. The Executive Branch asserted a privilege against that claim. The deleted material reflects the DOJ opinion regarding the resolution of this issue.

(45) The final paragraph of this document indicates that a unit within FBIHQ was to research the history and scope of the stated issue and provide a memorandum for the Director recommending a further course of action. It is clear this document was predecisional and that a formal policy regarding the release of material to Congress was not then in existence. Further, the material being withheld is a part of the deliberative process in that it expresses an opinion on an unresolved legal issue. This document is located at page 386 of Exhibit R.

CLEARLY UNWARRANTED INVASION OF PERSONAL PRIVACY

(46) Title 5, U.S.C., Section 552 (b) (6) exempts from disclosure information contained within personnel, medical and similar files, the release of which would constitute a clearly unwarranted invasion of personal privacy. For each deletion claimed, the privacy interests were balanced against the public interest in disclosure of information. The exemption has been asserted only when the privacy interest greatly outweighed the public interest in releasing the information.

(A) Names and/or information concerning individuals mentioned within FBI documents. (b) (6)-1

(47) The (b) (6) exemption was asserted to withhold the following: one, derogatory information; two, information from FBI background investigations concerning HSCA employees; three, names and/or file numbers pertaining to individuals who

were subjects of FBI investigations which have not been publicly acknowledged by either the FBI or HSCA; and four, individuals who were merely mentioned within FBI files. The material being withheld is contained within "tickler," HSCA correspondence, and administrative files.

(48) To release the derogatory information could subject the person to whom it applies to embarrassment, ridicule, and humiliation by family members, friends, and professional colleagues. There can be no articulable public interest served by the disclosure of this information. The same applies to individuals who were subjects of FBI investigations which have not been publicly acknowledged or for individuals who were merely mentioned within FBI files. The fact that an individual was the subject of an FBI investigation could create a negative connotation of that person. The person could certainly be stigmatized. This is particularly true where no previous public acknowledgement has been indicated. Further, the mere mention of a name within an FBI file could, if made public, result in a negative connotation of a person. A person in this situation could also be stigmatized.

(49) Background investigations were conducted by the FBI for HSCA employees. The names of the employees have been released. Background data such as vital statistics, marital information, employment data, credit and criminal

checks has been withheld. The release of this material could subject these people to unnecessary public attention, harassment, criticism, embarrassment and/or inquiry. A balancing of these interests compels the conclusion that the release of this information could constitute a clearly unwarranted invasion of personal privacy.

(50) The type of information being withheld also includes interviews of references, professional associates, social acquaintances, and neighbors of the HSCA employees, and interviews of individuals acquainted with close relatives of the employees. To release the identities of these individuals and the information provided could result in unnecessary public attention, harassment or criticism, and any future cooperation with law enforcement agencies would undoubtedly be inhibited. The disclosure of this type of information will not produce a more meaningful release of substantive material to the plaintiff. In some instances the (b) (7) (C) exemption was asserted in conjunction with the (b) (6) exemption.

(B) Names and/or information pertaining to FBI employees involved in disciplinary matters. (b) (6)-2

(51) In two documents, the (b) (6) exemption was asserted to withhold the names of Special Agents who were subjects of administrative sanctions taken by FBIHQ. The specific sanctions taken against these Special Agents, however, have been released in both instances to the plaintiff. The

HSCA released these documents, to include information concerning the administrative sanctions, in its published report. However, the HSCA did not release the names of the Special Agents. To this extent, the FBI has located and released to the plaintiff the same documents and information. Had the HSCA not published these documents in the manner it did, the FBI would have processed them in the same way as the documents discussed in paragraph 53, infra.

(52) To release the names of the Special Agents under these circumstances would not produce a more meaningful release of substantive material to the plaintiff. The release of the names would cause embarrassment and humiliation to the Special Agents whether or not they are still employed by the FBI. Further, by withholding this information, these Special Agents are protected from unnecessary, unofficial questioning.

(53) In two other documents processed for the plaintiff, the names of the Special Agents and the reasons for administrative sanctions taken against them were released. The specific actions taken against the Special Agents were not released. To release the actions taken against these Special Agents, which are personal to these individuals, would cause them embarrassment and humiliation. The names of the Special Agents were released to the plaintiff in this instance only because their names have been previously released in connection with processed documents pertaining to the JFK assassination investigation.

(54) There is no identifiable or compelling public interest served by placing either the individual names or information regarding specific administrative sanctions taken against Special Agents before the public. Any release to one party pursuant to the FOIA must be considered a release to the public since the use of the information can no longer be controlled.

(C) Names and identifying information of
FBI Special Agents and clerical personnel.
(b) (6)-3

(55) The (b) (6) exemption was asserted to protect the names and initials of FBI clerical personnel who aided in the conduct of investigations. These people, for example, conducted indices searches for records identifiable with certain individuals, and serialized and filed material into files. This exemption was also cited to withhold in its entirety a letter written by a physician to the FBI discussing a Special Agent's medical condition. Materials being withheld are contained within personnel, "tickler," and administrative files.

(56) There is no identifiable public interest served by releasing the names and initials of FBI clerical personnel. To release this type of information could result in harassment and intimidation. These individuals are in a position to have access to information regarding official law enforcement

investigations and therefore, could become targets of harassing inquiries for unauthorized access to the information if their identities were released.

(57) To release the physician's letter pertaining to a medical condition of a Special Agent would be an infringement of that person's privacy rights. This information is so personal and sensitive that no person would want such information publicized. Further, to release the Special Agent's name could subject him to harassment and intimidation. Exemption (b) (7) (C) was asserted in some instances in conjunction with the exemption (b) (6).

(E) Information pertaining to a Special Agent. (b) (6)-4

(58) This exemption was used on one document to withhold material pertaining to a Special Agent. This Special Agent's name was inadvertently released in the caption of this document. The releasable portion of this document indicates the Special Agent, once assigned to the Dallas Field Office, could have information pertinent to an internal inquiry being conducted by the FBI. The material being protected contains neither interview results nor information indicating any knowledge helpful to the inquiry which concerned Lee Harvey Oswald's visit to the Dallas Field Office prior to the assassination.

(59) The material deals primarily with a procedural issue raised by the Special Agent concerning the conduct of

the interview. The material, if released, could give rise to an unfair, negative inference directed towards the Special Agent and therefore, cause much embarrassment. This document is located at page 471 of Exhibit R.

UNWARRANTED INVASION OF PERSONAL PRIVACY

(60) Title 5, U.S.C., Section 552 (b) (7) (C) exempts from disclose:

Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information could reasonably be expected to constitute an unwarranted invasion of personal privacy.

In asserting this exemption, each piece of information was scrutinized to determine the nature and strength of any individual's privacy interest. In withholding the information, the individual's privacy interest was balanced against the public's interest in disclosure. Where the privacy interest outweighed the public interest, the information was withheld. All other information was released.

(A) Names and identifying information regarding individuals mentioned within FBI investigative files. (b) (7) (C)-1

(61) During the course of FBI investigations, information is often developed and recorded concerning individuals other than the person who is the subject or focal point of an investigation. An example of such a person would be an individual known to be an associate or acquaintance of the subject of the investigation. Such an associate may be of

investigative interest to the FBI as a possible suspect in a criminal matter, a potential witness to criminal activity, or as a source of information regarding the whereabouts or activities of the subject of the investigation. Frequently, a considerable amount of background information is compiled regarding such associates and individuals other than the subject of the investigation. Also, Special Agents conducting an investigation often receive the names of individuals who might be associated, in some fashion, with the investigation. Most of these individuals are innocent third parties who are merely mentioned in FBI files. For the most part, these names provide the Special Agent only with lead information and do not result in evidence or testimony at a later judicial proceeding. Because it is possible that a third party's name could coincidentally appear in FBI documents without any personal contact with the FBI, the need for protection of that individual's personal privacy is even greater than that necessary for persons associated with FBI investigations in other, more direct contexts. Release of those names in response to an FOIA request could cause unsolicited and unnecessary attention to be focused upon the individuals mentioned, and an undeserved stigma could be placed on them by reason of the coincidental mention of their names in association with an FBI investigation.

(B) Names and identifying information regarding individuals interviewed by the FBI.
(b) (7) (C)-2

(62) The exemption (b) (7) (C) has been asserted to protect the identities of and information identifying individuals who furnished information to the FBI through interviews conducted under expressed or implied assurances of confidentiality. These individuals are not "informants" in the true sense of the word, but ordinary citizens who have furnished information concerning possible violations of Federal law. The continued access to persons willing to honestly relate pertinent facts bearing upon a particular investigation or come forward with information concerning a matter which should be investigated by the FBI clearly outweighs any benefit the plaintiff might derive from being furnished the identities of these individuals. The revelation of the identities of these individuals and of their cooperation with the FBI and/or the Federal Government could inhibit their future cooperation and, as such disclosures became known to the public, could dissuade other individuals from providing information. The public benefit in releasing the identities of these individuals is clearly outweighed by their right to personal privacy, since release could subject them to embarrassment, humiliation, unwanted public attention, criticism and physical or economic reprisal.

(63) Further, these people often provide information about themselves at the request of the interviewing Special Agent. This is done to allow the Special Agent to assess a person's credibility. The release of this information would certainly be an intrusion into the interviewee's privacy. The exemption (b) (7) (D) has been asserted in conjunction with this exemption. See, paragraphs 76 and 77, infra.

(C) Names of, identifying information for, and information furnished by confidential sources designated as potential security informants and potential criminal informants. (b) (7) (C) -3

(64) The (b) (7) (C) exemption was asserted to withhold the names and identifying information for individuals designated within the documents at issue as a potential security informant (PSI) or potential criminal informant (PCI) and the information provided by them. These individuals provided information to the FBI under either express or implied assurances of confidentiality. The designators PSI and PCI have been released to the plaintiff. To disclose the names of or identifying information concerning these confidential sources could subject them to embarrassment, humiliation, or physical harm. This exemption was often cited in conjunction with the (b) (7) (D) exemption. See, paragraphs 78 and 79, infra.

(D) Names of state, local, and other
Non-Federal law enforcement officers.
(b) (7) (C) -4

(65) The identities of cooperating non-Federal law enforcement officers have been deleted pursuant to exemption (b) (7) (C). These officers are identified in the FBI records in their official capacities as individuals who provided information concerning FBI investigations, or who were the recipients for their agencies of information disseminated by the FBI. To identify them might subject them, as individuals, to unofficial inquiries not anticipated by their contact with the FBI, thus resulting in an unwarranted invasion of their personal privacy. This exemption was often cited in conjunction with the (b) (7) (D) exemption. See, paragraph 84, infra.

(E) Names and positions of employees of
state and local government agencies.
(b) (7) (C) -5

(66) Exemption (b) (7) (C) was also asserted to withhold the identities of employees of state and local government agencies. These individuals who are not law enforcement officers, provided information to the FBI which assisted the FBI in its investigations or were the recipients for their agencies of information provided by the FBI. To provide their identities might subject them, as individuals, to unofficial inquiries or harassment not anticipated by their contact with the FBI, thus resulting in an unwarranted invasion

of their personal privacy. The exemption (b) (7) (D) was asserted in conjunction with this exemption. See, paragraph 85, infra.

(F) Names and positions of employees of financial, credit, and commercial institutions. (b) (7) (C) -6

(67) Exemption (b) (7) (C) was asserted to protect the identities of employees or officials of financial, credit, and commercial institutions who furnished information to the FBI. These individuals were supplying information readily available to them in the ordinary course of business. Their cooperation was based on their trust that the FBI would not publicly expose their identities and thereby subject them to possible legal action, public attention, harassment or criticism. The disclosure of the identities of these individuals would breach the relationship and impede the future investigative efforts of the FBI by diminishing the willingness of these individuals to cooperate. The identities of these individuals have been protected under exemption (b) (7) (D) as well. See, paragraph 86, infra.

(G) Names and identifying information of FBI Special Agents and clerical personnel. (b) (7) (C) -7

(68) Exemption (b) (7) (C) was asserted to protect the identities of Special Agents responsible for conducting and/or supervising the investigative activities reported in these documents. The names of Special Agents which appear in

the documents at issue were withheld since their assignment to investigations was not by choice, and publicity, adverse or otherwise, regarding any particular investigation may seriously prejudice their effectiveness in conducting other investigations. The privacy consideration is also to protect the Special Agents, as individuals, from unnecessary, unofficial questioning as to the conduct of an investigation. Special Agents conduct official inquiries into violations of various criminal statutes and in national security cases. They come into contact with all strata of society. They conduct searches and make arrests, both of which constitute reasonable, but nonetheless serious intrusions into people's lives. Many of these people carry grudges which last for years and seek any excuse to harass the responsible agent. The publicity associated with release of a Special Agent's name in connection with a particular law enforcement investigation could rekindle animosity toward that agent.

(69) There is no public interest to be served by placing the individual names of Special Agents before the public. Any release pursuant to the FOIA must be considered a release to the public.

(70) The identities of FBI clerical personnel were also withheld by the assertion of the (b) (7) (C) exemption. They are sometimes assigned to handle tasks relating to official investigations. These individuals are in a position

to have access to information regarding official law enforcement investigations and, therefore, they could become targets of harassing inquiries for unauthorized access to the information if their identities were released. Again, there is no public interest to be served by placing the names of these individuals before the public.

(H) Names and identifying information of other Federal Government agency employees.
(b) (7) (C) -8

(71) The names and the identifying data of employees of other Federal Government agencies were also withheld by assertion of the (b) (7) (C) exemption. These employees are identified in FBI records in their official capacities as individuals who provided information concerning FBI investigations. These individuals are indirectly related to the FBI investigations in that their employment will require them to cooperate with FBI personnel. These individuals are in a position to have access to recorded information regarding official investigations and therefore, could become targets of harassing inquiries not anticipated by their official contact with the FBI. An unwarranted invasion of their personal privacy could result if their identities were released.

(I) Names and/or information concerning the subjects of FBI investigations. (b) (7) (C) -9

(72) Exemption (b) (7) (C) has been asserted to delete the identities of and/or information pertaining to subjects of FBI investigations. Deletions have been made of information

indicating that an investigatory file was to be opened on an individual along with the individual's name. File numbers which indicate that an individual was mentioned within a particular document in a file maintained on another individual or organization have also been deleted since this would reveal that a person was of investigative interest to the FBI. This information usually appears in the copy count of a document or as a notation placed on the document by a Special Agent and normally includes the file number prefix indicating the nature of the investigation.

(73) Information has been deleted from documents which, either directly or indirectly, would indicate that a third party was the subject of an investigation by the FBI. The names of third parties have also been deleted where they appeared as the captioned subjects in certain documents, since this would clearly show that the individual was the subject of an FBI investigation.

(74) To release information that would indicate an investigatory interest in an individual would be an unwarranted invasion of personal privacy in that it could subject the individual to embarrassment, humiliation, or unwanted public attention and could possibly affect present or future employment and stature within a community. As stated in paragraph 13 D., supra, to the extent the HSCA identified individuals as being subjects of FBI investigations, respective

files were processed for public source material and data released by the HSCA. Again, any additional release of information from these files could only lead an individual to suffer further ridicule and embarrassment.

CONFIDENTIAL SOURCE MATERIAL

(75) Title 5, U.S.C., Section 552 (b) (7) (D) provides for the withholding of:

Records or information compiled for law enforcement purposes but only to the extent that the production of such law enforcement records or information could reasonably be expected to disclose the identity of a confidential source, . . . and . . . information furnished by a confidential source.

Numerous confidential sources report to the FBI on a regular basis and are "informants" in the common meaning of the term. They provide information under express assurances of confidentiality. Further, during the course of an investigation, other individuals are interviewed under express assurances of confidentiality or under circumstances from which confidentiality could be inferred. These people could be considered informants or confidential sources in the sense that they furnished information only with the understanding that the information would not be divulged outside the FBI. The (b) (7) (D) exemption was asserted to protect the identities of and information provided by the following categories of confidential sources:

(A) Names, identifying information, and information provided by individuals interviewed by the FBI. (b) (7) (D)-1

(76) The privacy of a person interviewed has been traditionally protected by the FBI on the basis that the information was received confidentially. Under the FOIA these considerations are stated in two separate exemptions, (b) (7) (C) and (b) (7) (D). However, they are not mutually exclusive and in many instances complement each other. When Special Agents of the FBI conduct interviews, they seek information concerning individuals or matters within the investigative jurisdiction of the FBI. Persons interviewed often assume, quite logically, that the information they furnish is for the assistance of the FBI only in the fulfillment of its mandated, lawful responsibilities, and that their identities and the fact of their cooperation with the FBI will not be publicly exposed. Persons providing information, including witnesses to a crime who may expect to be called upon at a later time to testify in public at a judicial proceeding, should be secure in the knowledge that, absent the necessity of such public testimony with its attendant judicial restraints and protections, their assistance rendered the FBI will be held in confidence. The fear of exposure and reprisal, whether economic or physical, all too often inhibits the cooperation of otherwise conscientious citizens. In order to surmount this serious obstacle, interviewees must be assured, either expressly or

implicitly, that information received will be held in strict confidence. These considerations have been met by the traditional willingness and ability of the FBI to assure persons interviewed that their identities would be thoroughly protected. Many people believe this agency establishes, respects and protects the bonds of mutual trust unlike any other law enforcement entity in the world. To permit those often fragile bonds to be broken would cast a shadow on the future investigative ability of the FBI, and cause severe operational ramifications beyond the scope of this matter.

(77) This privacy consideration is also recognized under the statute (b) (7) (D) which exempts from disclosure information received from confidential sources and reinforces their right to privacy. Significantly, protection by exemption from disclosure is afforded by statute to all the information furnished by the confidential source, as well as the actual identity of the source. This recognizes the reality that the identity of a source may be determined from an analysis of the information furnished by the source. This is particularly true when the analysis is made by a knowledgeable person familiar with certain facts and circumstances. To disclose the identity of a person interviewed under such circumstances would be more than an unwarranted invasion of personal privacy; it would breach the strict confidentiality under which he or she was interviewed.

(B) Names of, identifying information for, and information furnished by confidential sources designated as potential security informants and potential criminal informants which, if released, would identify them.

(b) (7) (D)-2

(78) The exemption (b) (7) (D) was asserted to protect the identities of and the information furnished by confidential sources designated within the pertinent documents as either PSIs or PCIs. Such designators indicate to FBI personnel that these confidential sources are being contacted on a continuous basis and are under consideration as "informants." Once it is determined that such a source has the ability to furnish reliable and helpful information on matters within the investigative jurisdiction of the FBI, he or she may become a permanent symbol numbered source.

(79) Any confidential source who is designated as a PSI or PCI furnishes information to the FBI under an express or implied assurance of confidentiality. To disclose the identities of people who furnish information under such circumstances would breach the agreements of confidentiality under which the information was furnished. It is only with the understanding of complete confidentiality that the aid of such people can be enlisted and only through this confidence that such individuals can be persuaded to continue providing valuable assistance in the future.

(C) Permanent symbol source numbers of, and information provided to the FBI by symbol numbered sources. (b) (7) (D)-3

(80) The (b) (7) (D) exemption was used to withhold the symbol source numbers assigned to and information received from symbol numbered sources of the FBI. These are sources from whom information was regularly received under an express assurance of confidentiality. This information was received with the understanding that it would be held in the strictest confidence. These sources are "informants" within the common meaning of that term and not merely conscientious or cooperative citizens. Illustrative of this express assurance of confidentiality is the manner in which the FBI treats such information within the FBI. The identity of these sources is so sensitive that they are most often not referred to by name in the FBI document which records the information they furnished. The identities of these sources are known to very few FBI employees and are available on a need to know basis only. Special precautions are needed because of the sensitive nature of the information being received and the potential harm that may befall these persons if their identities are revealed. The manner in which the FBI actually obtains information from these sources is also demonstrative of the express assurance of confidentiality under which it was received. The information is received at locations and under conditions which attempt to guarantee the contact will not be

noticed. It is only with the understanding of complete confidentiality that the aid of such people can be enlisted and only through this confidence that such individuals can be persuaded to continue providing valuable assistance in the future.

(81) One method utilized to protect the identities of these confidential sources, who give information under an express assurance of confidentiality, involves the use of source symbol numbers. These are reserved for confidential sources who provide sensitive information to the FBI on a regular basis. These confidential sources are generally in a position to provide valuable information to the FBI in more than one case and are generally contacted by the FBI on a regular and periodic basis. When a Special Agent initially contacts a source of this type, he gives the source an express promise of confidentiality. The source is assured that his relationship with the FBI will not be revealed to the public and that the information received will not be attributed to the source when used or disseminated by the FBI. Without such an assurance, it would be extremely difficult, if not impossible, for the FBI to develop and maintain confidential sources. In order to provide increased security, the FBI assigns permanent symbol numbers to such confidential sources. The symbol numbers, consisting of a combination of letters and numbers, are unique to each source. They are used in written

documents to refer to the source rather than the use of the source's name or identity. When an FBI employee reads a document containing a source symbol number, the employee is aware, based on past experience and knowledge of the FBI's policies and guidelines, that the confidential source so mentioned has agreed to provide information to the FBI in return for an expressed assurance that his identity will not be disclosed directly or indirectly.

(82) The release to the public of a confidential source's permanent symbol number could possibly reveal the source's identity. Several items are relevant in support of this position. First, the letters and numbers which make up a confidential source's permanent symbol number have independent significance and meaning as they are unique to the source. Thus, disclosure of the permanent symbol number alone would serve to reveal certain important information about the source which might lead to the discovery of his identity. And, secondly, the disclosure of a permanent symbol number should not be viewed as an isolated instance. If the source's permanent symbol number is released in one instance, it may also then be released in others. If the same permanent symbol number of a source is thus released to the public at various times and in various document contexts, this may ultimately lead to the identification of the confidential source. This is true because each new context in which the source's symbol

number is disclosed reveals additional items of information such as dates, times, places and names of persons which can be added together and analyzed by an individual who is familiar with the facts and circumstances discussed in the documents and thus lead to the identification of the confidential source. These deletions are essential to guard against the accumulation of information known to be from the same source which might result in the detection and exposure of individuals furnishing information to the FBI in confidence.

(83) Any disclosure which might reveal the confidential source's identity not only can cause great harm to the individual source, but it can also cause considerable harm to the FBI and other investigative agencies. The disclosure of a source's identity could forever neutralize that source as a future source of information. In addition, when the identity of one source is disclosed, it has an adverse effect on the activities and cooperation of other sources. When established confidential sources begin to doubt the FBI's ability to protect confidential relationships, it is necessary for FBI Special Agents to spend more of their time dealing with confidential sources in order to maintain trusting and productive relationships. Also, if the confidential relationships are eroded, it becomes much more difficult than it already is to develop new sources and the entire investigative process becomes more costly and less efficient.

Information is the cornerstone of an investigative agency such as the FBI. If the FBI cannot guarantee confidentiality to its sources of information, those sources will dry up, and without information the FBI cannot accomplish its mission.

(D) Identities of, and informaton provided by non-Federal Government law enforcement agencies. (b) (7) (D)-4

(84) Confidential source material protected by the assertion of (b) (7) (D) includes information supplied by non-Federal law enforcement agencies. The FBI is firmly convinced that any adverse effect on the existing system of exchange of information between cooperating law enforcement agencies would lead to disastrous, far-reaching consequences regarding other law enforcement endeavors both actual and contemplated. The FBI has been made aware that unless the confidentiality under which information exchanges occur is protected, the willingness of participating agencies to exchange information will be reconsidered. The exchange of information has been based on a traditional understanding of confidentiality which is reinforced on a daily basis through contacts Special Agents have with law enforcement agencies. The free flow of information between cooperating law enforcement agencies continuously plays an integral part in the solution of criminal investigations on a daily basis. If the identities of these agencies or the information they furnished were made public pursuant to the FOIA, cooperation with these agencies

would be greatly diminished, and information vital to the FBI's law enforcement function would no longer be available to the FBI and the ability of the FBI to fulfill its investigative responsibilities would be eroded.

(E) Identities of, and information provided by either state or local government agencies. (b) (7) (D) -5

(85) Confidential source material being protected by the assertion of the (b) (7) (D) exemption is that obtained from various state and local government agencies. These agencies furnished information to the FBI from the official records of the agencies under an express or implied promise of confidentiality. If the identities of these agencies or information furnished from their official records is made public pursuant to the FOIA, then their cooperation will be greatly diminished, and information vital to the law enforcement function of the FBI will no longer be available. Documents are located at pages 46, 48, 596, and 609 of Exhibit R.

(F) Identities of, and information provided by financial, credit and commercial institutions. (b) (7) (D) -6

(86) Confidential source material being protected by the assertion of exemption (b) (7) (D) is that which was obtained from various credit, commercial and financial institutions. These agencies include credit bureaus, banks, hotels and other commercial institutions. These institutions

furnished information from their records under either an implied or expressed assurance of confidentiality. These sources furnished to the FBI information readily available to them in the ordinary course of business with the understanding that it would be held in the strictest confidence. The most important tool an investigative agency possesses is the ability to elicit cooperation through interviews. This cooperation is attributed to the belief in the integrity of the FBI and the assurance that their cooperation will not be publicly exposed and thereby subject these institutions or their employees to possible legal action or loss of business. To reveal the identities of these sources or information furnished by these sources which would identify them would breach the relationship and impede the future investigative efforts of the FBI by diminishing the willingness of such sources to aid the FBI.

(G) File numbers assigned to symbol numbered sources. (b) (7) (D)-7

(87) Exemption (b) (7) (D) was asserted in conjunction with the (b) (2) exemption in order to withhold the file numbers assigned to the files maintained on confidential sources of the FBI who furnished information on a regular basis. Release of the source file numbers coupled with additional information from the pertinent records, such as dates, places, and names of individuals could ultimately lead to the identification of the confidential sources. See, paragraphs 33 and 34, supra.

(H) Temporary source symbol numbers. (b) (7) (D)-8

(88) Exemption (b) (7) (D) has been asserted in conjunction with the (b) (2) exemption to withhold temporary source symbol numbers. Through an analysis of these numbers and the information furnished by these sources, a knowledgeable person who is familiar with the facts and circumstances of the investigation may be able to identify one or more of the confidential sources represented by the temporary source symbol numbers. See, paragraph 35, supra.

INVESTIGATIVE TECHNIQUES AND PROCEDURES

(89) Title 5, U.S.C., Section 552 (b) (7) (E)

provides for the withholding of:

Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information would disclose techniques and procedures for law enforcement investigations.

(90) The exemption (b) (7) (E) was cited to withhold details surrounding two microphone installations. The precise location(s) and number of microphone(s) have been withheld. Further, material pertaining to the operational capabilities of the microphone(s) have been withheld as well as FBI monitoring information. To release this type of information will educate criminals regarding how to protect themselves against this type of surveillance. A more specific description of the techniques and procedures used in these microphone surveillances would disclose the very details being protected and negate the effectiveness of exemption (b) (7) (E).

(91) The exemption (b) (7) (E) was used to withhold details surrounding the use of a pretext telephone call made by a Special Agent. A pretext refers to a Special Agent who conceals his identity in order to obtain information. In this instance a pretext telephone call was made. Material withheld includes the name of the target of the pretext telephone call and information identifying him. Documents are located at pages 301, 467, 468, and 602 of Exhibit R.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 2nd day of June, 1987.

David R. Lieberman
David R. Lieberman
Special Agent
Federal Bureau of Investigation
Washington, D. C.