

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MARK A. ALLEN,)
)
 Plaintiff,)
)
 v.) Civil Action No. 81-2543
)
 DEPARTMENT OF DEFENSE, et al.,)
)
 Defendants.)

DECLARATION OF LOUIS J. DUBE

LOUIS J. DUBE hereby declares and says:

1. I am the Information Review Officer (IRO) for the Directorate of Operations (DO), of the United States Central Intelligence Agency (CIA). I was appointed to this position in March 1981, and have held operational and executive positions in the DO since 1952. As Information Review Officer, I am responsible for the review of DO documents which are the subject of Freedom of Information (FOIA) and/or Privacy Act requests and ensuing litigation. The statements made herein are based upon my personal knowledge, upon information made available to me in my official capacity, upon advice and counsel of the CIA Office of General Counsel, and upon determinations made in accordance therewith.

2. I am generally familiar with the course of this litigation and with the DO documents which are included in the segregated collection of House Select Committee on Assassinations (HSCA) materials. I am specifically aware of this Court's Order, dated 24 August 1984, granting the Plaintiff's request for a waiver of copying costs with respect to CIA's processing of the documents included in the HSCA collection.

3. In order to provide this Court with facts concerning the CIA's processing, present and future, of the HSCA collection, I am submitting this declaration.

4. I believe it important initially to inform the Court of the sheer magnitude of the HSCA collection, which the CIA must now process in response to Plaintiff's FOIA request and this litigation. The enormous number of documents involved, along with other factors that will affect the time required to complete processing, will necessarily result in the CIA requiring a substantial amount of time to complete processing of all responsive documents.

THE HSCA COLLECTION

5. The entire segregated HSCA collection consists of sixty-four (64) boxes of records. Sixty-three (63) of these boxes contain documents in hard copy form. The other one (1) box

contains seventy-three (73) rolls of microfilm.^{1/} In trying to estimate how many documents are contained in these boxes, we used a standard Agency figure that each box (one cubic foot of material) contains approximately 960 documents with an average length of 2.5 pages each. Therefore, each box contains roughly 2,400 pages of documents. Using this figure as a guidepost, I estimate that the 63 boxes of hard copy documents contain approximately 60,480 documents totalling approximately 151,200 pages.

6. As stated previously, one box of the HSCA collection contains 73 reels of microfilm. Each of these reels consists of 2,400 frames, with each frame representing one page of a document. Therefore, if the microfilm is converted to hard copy documents for processing purposes, it will result in an additional 70,080 documents consisting of approximately 175,200 pages. When the hard copy documents are added to the microfilmed records, the total figure becomes approximately 130,560 documents comprising around 326,400 pages of documents. This total, along with the

1/ Most of the material in the HSCA collection was microfilmed for storage purposes, and the original documents were returned to the records systems from which they were retrieved. Microfilming is a standard practice at the Agency to conserve archival storage space. As will be discussed later, the costs associated with converting this microfilm to paper copies would be substantial.

roughly 2,800 pages of Office of General Counsel (OGC) documents identified in the Edwards affidavit of 10 January 1983, represents the approximate total of pages which are theoretically responsive to Plaintiff's FOIA request and are involved in this litigation.

7. I am aware of the Court's Order of 4 March 1983, holding that all HSCA originated records are not "agency records" and, thus, need not be processed or reviewed in response to Plaintiff's FOIA request. Thus far, personnel within my Office have identified 10 boxes, comprising approximately 24,000 pages of documents, as consisting almost entirely of HSCA originated and assimilated information. Assuming that five (5) more boxes (12,000 pages) will ultimately be identified as exclusively HSCA originated, an approximate total of 37,000 pages will likely not be reviewed or processed, based upon this Court's Order of 4 March 1983. Subtracting this figure from the total set forth in paragraph 6 above, results in almost 289,000 pages of documents which must be identified, processed, and reviewed in response to Plaintiff's request.

8. The identification, conversion to readable form, review, and processing for release of such a staggering number of documents will be a task of gigantic dimensions--both in the length of time required and in the costs involved. To understand more fully why this is so necessitates consideration of a further breakdown of the collection itself and of how the Agency presently proposes to process these documents.

THE DO PORTION OF THE HSCA COLLECTION

9. Thirty-four (34) of the 63 boxes of hard copy materials contain either DO documents originated or retrieved in response to

the HSCA investigation, or HSCA documents analyzing DO responses. Twenty-four (24) of these boxes contain exclusively DO materials or materials affecting DO interests. Ten of the DO boxes contain HSCA originated materials based upon Agency materials. The remaining twenty-nine (29) boxes of the overall total of 63 boxes of hard copy documents contain documents relating to other components within the CIA, specifically the Office of Inspector General (IG), the Office of General Counsel (OGC), the Directorate for Science and Technology (DS&T), the Office of Security (OS) and the Office of Legislative Liaison (OLL).^{2/} As can be seen, the primary focus of the HSCA investigation, vis-a-vis the CIA, was to request information from the DO. The DO was the principal CIA component which was tasked to respond substantially to the numerous HSCA inquiries. In fact, of the 174 requests levied upon the Agency by the HSCA, 130 were sent to the DO for response. These 130 requests, many of which were for multiple items, encompassed a total of 1,058 discrete requests on specific individuals, subjects, groups, etc.

2/ I can safely assume that many of the documents in these other components' boxes will directly concern or repeat DO-originated information, thereby requiring careful DO review during the processing period. I would also assume that HSCA material also exists in these boxes. Finally, the one box of microfilm consists entirely of DO-originated information.

10. The processing of the roughly 289,000 pages of documents now responsive to Plaintiff's request cannot be performed by untrained personnel who mechanically read the documents. Because of the enormous complexity of the Kennedy assassination investigations, and because of the sensitivities which still exist in the DO documents, processing and review can only be accomplished by persons thoroughly familiar with both the HSCA investigation itself and the DO interests at issue. Any other procedure would pose serious risks of inconsistent withholding decisions, or, more critically, the inadvertent release of information still properly classified or revealing of intelligence sources and methods. Simply stated, the processing of this case is far too complex to be entrusted to a task force, no matter how dedicated or hard-working such personnel would be.

THE AVAILABILITY OF REVIEW PERSONNEL

11. Within the DO today, there is only one person who is thoroughly familiar with both the details of the HSCA investigation and with the perimeters of the Agency's substantive responses to HSCA inquiries.^{3/} This individual, who was heavily involved in the Agency's responses to the HSCA, is a retired

^{3/} This is not to say, of course, that the CIA cannot dedicate new personnel to learning about the investigation and the Agency's responses. Indeed, my Office has assigned a second individual full time to assist in the processing. However, the acquisition of sufficient knowledge of the various investigations into the Kennedy assassination is no easy task--a fact to which I am sure the Plaintiff will attest.

not publicly known? Del. he is in public - Hart

Agency officer with many years operational experience. We have hired this individual on contract to work full time on this litigation and to process similar FOIA requests seeking documents on the assassination of President Kennedy. I can say without reservation that this person is the only individual I know of who has the requisite knowledge, background familiarity with the HSCA investigation, and DO experience to perform such a vast and highly complex undertaking as the review of the documents involved in this litigation. Indeed, I would fully expect that the other components responsible for HSCA related material (i.e., the IG, OGC, DS&T, OLL and OS) would not make--perhaps could not make--any withholding or release decisions prior to this individual's personal review of the documents at issue.

PROCESSING EFFORTS UNDERTAKEN TO DATE

12. With this context in mind, I will now attempt to inform the Court of the efforts undertaken thus far to process the documents responsive to this litigation.

13. In September 1983, and upon advice of the CIA's Office of General Counsel, the DO commenced identification and processing of the DO documents responsive to this litigation. We entered into the segregated collection of HSCA materials after having informed the Congress of this Court's 4 March 1983 Order. The individual identified in paragraph 11, supra, is now on contract to the Agency on a full-time basis to work exclusively on processing the documents responsive to this litigation. During the period September 1983 to 1 October 1984, DO personnel have identified,

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duplicated, and placed worksheets on 16,350 CIA originated documents totalling 40,875 pages.^{4/} Accomplishing this relatively simple task has required seventeen (17) Agency employees expending 6,011 hours of time. As stated previously, this is simply the time expended thus far in pulling documents from a particular box, identifying them as CIA originated, duplicating them and attaching a worksheet for the reviewer. Despite this effort, there remains approximately 13,641 documents of hard copy information in the DO boxes alone which must be identified, duplicated, and marked.

14. The individual identified in paragraph 11 has reviewed 2,709 documents thus far, at the rate of around 500 documents per month. Of these 2,709 documents, the individual is preliminarily recommending that over one-half should be denied in full, a handful should be released in full, and the remainder released in part. At this rate of review, it will take this individual three more years simply to complete the review of the 16,350 documents identified. For this individual to process and review the rest of the HSCA collection, even with several assistants, would take many more years of full-time work.

^{4/} Duplicating the original documents is necessary to create working copies. The worksheets attached to each document allow the reviewer to specify his reasons, based upon the FOIA exemptions, for withholding or releasing information within the document.

15. I must also emphasize that the nature of this individual's review process is extraordinarily complex and time-consuming. For virtually all the documents, he must determine whether the information contained therein has appeared in the public domain. To ascertain this fact, he must necessarily consult the voluminous reports of the HSCA and Warren Commission, as well as documents released in response to other FOIA requests. Unless he performs this research, the Agency faces the substantial risks of either withholding information in the public domain or releasing information of a currently sensitive nature. Furthermore, if this individual preliminarily decides that certain information should be denied or released, he must consult with the operational officers knowledgeable of that subject today. Information considered sensitive by this individual may in fact be adjudged by a desk as no longer requiring protection. Conversely, information which appears innocuous may be recognized as still sensitive under today's conditions.

16. After this individual has reviewed batches of documents, I, as DO/IRO, have the final responsibility for release or withholding. Therefore, I must personally review all of his recommendations with respect to each and every document.

COSTS

17. I am aware that this Court ordered the CIA to waive copying costs. However, I believe it important to state that the costs of processing this litigation will be truly staggering. The conversion of microfilm to hard copy will cost \$12,024.00. I would roughly calculate the costs of duplicating and photocopying

both
in dispute

alone as being in the \$30,000-50,000 range. When personnel costs, such as the salaries of employees dedicated to this case, are added in, I would expect that the total costs of processing this request would exceed \$2 million. These estimated costs reflect the enormity of the problem which the CIA faces in trying to respond to this litigation.

18. In conclusion, I do not mean to imply that the CIA cannot process the Plaintiff's request in its entirety. Of course, the CIA can and will process the request at whatever cost if our legal positions are not upheld. However, I can say that we will require a very substantial period of time to process this request in a professional manner and in consonance with the requirements of the FOIA.

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

Dated: 11 October 1984


LOUIS J. DUBE

CERTIFICATE OF SERVICE

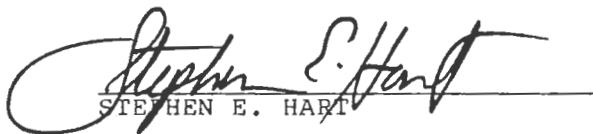
I hereby certify that on this 18th day of October, 1984, I have served the foregoing Notice of Filing and Declaration of Louis J. Dube by mailing copies, first-class mail, postage prepaid, to:

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NOTICE OF FILING

Notice is hereby given of the filing of the attached Declaration of Louis J. Dube, Information Review Officer, Directorate of Operations, United States Central Intelligence Agency (CIA), signed October 11, 1984. Mr. Dube's Declaration is filed to supply the Court and plaintiff with current information concerning the documents in the CIA's possession at issue in this case.

Respectfully submitted,

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