

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

PAUL HOCH,

PLAINTIFF

CIVIL ACTION NO. 82-0754

V.

CENTRAL INTELLIGENCE AGENCY,

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 (FOIPA) Section, Records Management Division (RMD), FBI Headquarters (FBIHQ), Washington, D.C. Due to the nature of my official duties, I am familiar with the procedures followed in processing Freedom of Information Act (FOIA) requests received by the FBI, including plaintiffs request for records of the Central Intelligence Agency (CIA) concerning the assassination of President John F. Kennedy (JFK assassination).

(2) By letters dated May 5, 1982, May 6, 1982, May 19, 1982, and June 1, 1982, the CIA referred 35 documents to the FBI for a determination of the releasability of FBI information. (A copy of these letters are attached hereto as Exhibit A).

(3) This declaration provides the itemization and justification for the deletions made by the FBI in the above referenced documents.

(4) A review of the above materials were determined by me to be investigative records compiled for law enforcement purposes. The investigations were conducted to determine if activities of the subject of the file were in violation of one or more of the following statutes:

Title 18, United States Code, Section 2383
(Rebellion or Insurrection)

Title 18, United States Code, Section 2384
(Seditious Conspiracy)

Title 18, United States Code, Section 2385
(Advocating the Overthrow of the Government)

(5) Entire documents and/or portions thereof have been withheld pursuant to various exemptions allowed under Title 5, United States Code, Section 552. These excisions were based on the following exemptions allowed by the FOIA:

(A) Classified Matters

Title 5, United States Code, Section 552 (b)(1) exempts from disclosure information specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy when information is in fact properly classified pursuant to Executive Order. With regard to this exemption, the Court is respectfully referred to a declaration prepared by SA Gary L. Haegele of the FBI Records Management

Division which contains a detailed justification for information withheld which is properly classified.

(B) Unwarranted Invasion of Personal Privacy

Title 5, United States Code, Section 552 (b) (7) (C) exempts from release certain information the disclosure of which would constitute unwarranted invasion of personal privacy. In each instance wherein this exemption has been applied as hereinafter set forth, I have balanced the public's right to know against the individual's right to personal privacy. The various types of information excised pursuant to this exemption are as follows:

1. The Name of Special Agents

The (b) (7) (C) exemption was asserted in the documents released to plaintiff in order to protect the identity and privacy of Special Agents of the FBI. The exemption allowed by (b) (7) (C) was also asserted to protect the identities of Agents responsible for the conduct and/or supervision of these investigations. The names of FBI Agents which appear in the materials at issue were withheld as their assignment to investigation is not by choice, and publicity (adverse or otherwise) regarding any particular investigation may seriously prejudice their effectiveness in the conduct of other cases to which they are assigned. The Privacy consideration is to protect the Agents, as individuals, from unnecessary unofficial questioning as to the conduct of the

investigation, and from subpoenas issued by private litigants in civil suits connected with the official inquiry. Agents of the FBI conduct official inquiries into violations of various criminal statutes and in national security cases and do not act in the capacity of private investigators for private litigants. The Department of Justice and the FBI have historically resisted attempts to involve FBI Agents as witnesses in private civil litigation resulting from official investigations conducted by the FBI. The interference with daily operations which result when Agents are drawn into civil matters, and the investigative manhours lost due to testimony, or attempts to thwart such testimony, would only increase if large scale releases of Agents' names were made. Furthermore, Agents of the FBI come into contact with individuals from all strata of society. They conduct arrests and searches, both of which constitute reasonable, but nonetheless serious, intrusions into the lives of people. 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 an Agent's name in connection with a particular investigation could rekindle an animosity toward the Agent.

There can be little public benefit in having the identities of FBI Agents made known to the world. On the contrary, considerable harm, both to the public and the individual Agent could result from disclosure of Agents' identities. Although

Agents are employed by a public agency, their individual duties and assignments are not public. Often Agents will work in a particular location on a particular type of investigative responsibility for several years. These duties may involve some of the most sensitive tasks in the Bureau, such as investigating organized crime and foreign counterintelligence. If the identities of Agents in these fields were to be made known, their effectiveness, and the Bureau's, could be diminished through attempted compromise or through countersurveillance or harrassment.

Also to be considered is the fact that an Agent may investigate applicant matters for a period of time followed by assignment to strictly criminal or national security matters. These latter assignments may even involve serving in an undercover capacity. To release to plaintiff the identities of all FBI Agents involved in the investigation, regardless of their place of assignment or degree of involvement, must be considered a release to the public at large. Such a wholesale release, without consideration to the current investigative assignments of the FBI Agents involved, could jeopardize the current investigative activity of these Agents, both in terms of its effect on agency efficiency and individual career goals and morale.

In the instant case, there is no apparent evidence that plaintiff constitutes a threat to law enforcement personnel. However, for the reasons cited above, it is important that Agents'

identities be protected even absent evidence of potential physical harm to their persons. Moreover, as has been indicated, there are reasons to believe that wholesale release of Agent's names would interfere with law enforcement proceedings. Accordingly, the names are protectable under exemption (b) (7) (C).

Pursuant to a request of the FBI, the CIA customarily excises the names of FBI agents without further consultation with the FBI.

2. Names of Individuals Other Than the Subject of Plaintiff's Request

Exemption (b) (7) (C) has also been asserted to withhold the names and identities of individuals of an investigative interest other than the subject and information pertaining to those individuals. These individuals are shown as subjects of the focal point of the investigation or are considered as possible or positive suspects in an unsolved criminal or security matter. Such individuals are of investigative interest to the FBI based upon an allegation of wrongdoing which has not been proven, or because of past activity on the part of the individual.

(C) Confidential Source Material

Title 5, United States Code, Section 552 (b) (7) (D) allows the deletion of material that would disclose the identity of a confidential source and confidential information furnished only by the confidential source. The single most important

investigative tool available to a law enforcement agency is the ability to elicit public and private cooperation through interviews. The cooperation is dependent upon the confidential relationship, which was the basis for the source providing us with the information. To reveal the identity of the source at this time would sever the bonds of mutual trust thus, seriously impeding further cooperation between sources of information and this agency in attempting to carry out the investigative responsibilities imposed upon us by law.

(1.) Sources Reporting Information on a Regular Basis

These sources are individuals who report information on a regular basis and are informants within the common meaning of that term and not merely conscientious or cooperative citizens. Illustrative of expressed assurance of confidentiality is the manner in which we treat such information within the FBI. The identity of these sources is so sensitive that they are usually not referred to by name in the FBI document which records the information they furnish. The identities of these individuals are known to only a few FBI employees and are available only on a "need to know" basis.

The experience of the FBI in the area of informants has led to the policy of treating those individuals in a special way because of the sensitive nature of their information and the possible harm that may befall them if their identities are

revealed. These special precautions include the use of code names, prearranged meetings at special meeting places, and, in short, any other precaution necessary to insure the security of that source. The manner in which the FBI obtains information from these sources is demonstrative of the express assurance of confidentiality under which it was received. It is only with the understanding of complete confidentiality that the aid of such people can be enlisted and it is only through this confidence that such individuals can be persuaded to continue to provide valuable assistance in the future.

Any disclosure which might reveal the confidential source's identity can cause great harm not only to the individual source, but also to the FBI and other investigative agencies. The disclosure of a source's identity would forever neutralize him as a future source of information. In addition, when the identity of one source is disclosed, it has a chilling effect on the activities and cooperation of other sources. When established confidential sources begin to doubt the FBI's ability to protect confidential relationships, FBI Special Agents must spend more of their time dealing with confidential sources. New sources become extremely difficult to develop and the entire investigative process becomes more costly and less productive. Information is the life blood of an investigatory agency such as the FBI. If the FBI cannot guarantee confidentiality to its sources of

information, those sources will vanish and, without this source of information, the FBI cannot accomplish its mission.

(6) Detailed Justification, Itemization and Indexing

All documents pertaining to plaintiffs request which were referred to the FBI by the CIA have been processed, and material not exempt from disclosure for the reasons set forth above, has been returned to the CIA for their response to the plaintiff. Only seven documents containing excisions made by the FBI are described in the itemization index. The remaining 28 documents referred to the FBI were returned to the CIA without excisions and therefore, are not described herein. The detailed justification, itemization and indexing of FBI information withheld, appears in chart form attached (see Exhibit B), with the following headings:

(A) Document Number

This number corresponds to the number on the document and to CIA's index at Tab A of the affidavit of Louis J. Dube dated July 22, 1982.

(B) Description of Document

The date and nature of the document are furnished.

(C) Pages

The actual number of pages of the document and the number of pages released by the FBI are furnished.

(D) Deletions

This section briefly describes the nature of the information deleted from the document. Any greater description of deleted material would in fact reveal the information which is properly withheld.

(E) Exemption

This section indicates the FOIA exemptions asserted for each deletion taken by the FBI.

(F) Cross Reference

This section sets forth a reference to the paragraph in this affidavit detailing the utilization, and justification.

I have read the foregoing statement consisting of 10 pages and fully understand its contents. In accordance with Title 28, U.S.C. Section 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated this 3 day of February, 1983.

John N. Phillips
John N. Phillips
Special Agent
Federal Bureau of Investigation
Washington, D. C.

CONFIDENTIAL

**CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505**

05 MAY 1982

TO : James K. Hall, Chief
Freedom of Information-Privacy Acts Branch
J. Edgar Hoover Building, Room 6296
10th & Pennsylvania Avenue, NW
Washington, DC 20535

ATTENTION: WILLY NEWTON, ROOM 6984

FROM : Information and Privacy Coordinator, Central Intelligence Agency *by Allie Falardeau*

SUBJECT: FOIA/PA Request of Paul L. Hoch (FOIA LITIGATION)

CIA FOIA/PA No. F-76-373 et seq. CA 82-0754

EXPEDITED PROCESSING REQUESTED

In connection with review of CIA files responsive to the above request, the following material was surfaced.

A. FOR YOUR DIRECT RESPONSE TO THE REQUESTER:

___ document(s) which originated with your agency and is/are being referred to you for direct response to the requester (enclosure ___). We will advise the requester of this referral.

a. Document(s) numbered _____. We have identified the CIA-originated information in the document(s), and have no objection to its release.

b. Document(s) numbered _____. We have been unable to identify any information as having originated with this Agency. If, as a result of your review of the source documents, information is identified which originated with this Agency, you are requested to coordinate this information with us prior to any release to the requester.

c. Document(s) numbered _____. Deletions have been made in each enclosed copy which consist of non-substantive internal markings, such as filing instructions. Since these markings will not appear on your file copy, no deletion or exemption for deletion should be necessary. If, however, you are unable to locate your file copy and must use the enclosed copy for your response, the requester should be advised that non-substantive deletions have been made by this Agency under FOIA exemption (b)(3)/ PA exemption (1).

d. Document(s) numbered _____. Substantive information has been deleted from this material as marked. The requester should be informed of this denial and of the FOIA/PA exemption(s) claimed. Please see additional information given under Comments.

Additional information about this/these document(s) is given under Comments.

FOR YOUR REVIEW AND RESPONSE BACK TO THIS AGENCY:

2 CIA document(s) containing information provided by your Agency (enclosure 2). Please review your information (bracketed in red), and return the document(s) to us, marking any deletions you deem appropriate, citing FOIA/PA exemption(s) claimed, and stating the current and proper level of any classified information. In your response, please cite the date of this memo, the name of the requester, and the CIA case number.

Additional information about this/these document(s) is given under Comments.

A copy of the requester's initial letter and any other significant correspondence are enclosed for your records (enclosure 1). If you have any questions, please contact Allie Falardeau, 351-2561 on 351-5806 Secure: 30496

COMMENTS:

(162 continuation)

CONFIDENTIAL

UNCLASSIFIED When Separated
From Enclosure

COMMENTS:

A recent court order has established the deadline of 1 June 1982 for production of documents to the court. In view of this, it is requested that you complete your review and response back to this Agency on an expedited basis.

If the substance of your response can be conveyed over the telephone, it is requested that you use this expedient prior to completion of your written response.

You will note that both of the enclosed documents originated with the Bureau. Since they have been an integral part of our FOIA processing of JFK-related documents for some time, we request that our response on these documents be back to this Agency and not directly to the requester. If you have any problem with this, please let us know.

FYI, several additional documents for your review and response back to this Agency are expected to be sent within the near future. Because of the time constraints, however, we ask that you complete your determinations on the enclosed documents without delay and process the remainder as they become available.

5/5

SECRET

CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

06 MAY 1982

TO : James K. Hall, Chief
Freedom of Information-Privacy Acts Branch
J. Edgar Hoover Building, Room 6296
10th & Pennsylvania Avenue, NW
Washington, DC 20535

ATTENTION: WILLY NEWTON, ROOM 6984

FROM : Information and Privacy Coordinator, Central Intelligence Agency by Allie Falardeau

SUBJECT: FOIA/PA Request of Paul L. Hoch (FOIA Litigation)

CIA FOIA/PA No. F-76-373 et seq. CA 82-0754

EXPEDITED PROCESSING REQUESTED

In connection with review of CIA files responsive to the above request, the following material was surfaced.

A. FOR YOUR DIRECT RESPONSE TO THE REQUESTER:

___ document(s) which originated with your agency and is/are being referred to you for direct response to the requester (enclosure ___). We will advise the requester of this referral.

a. Document(s) numbered _____. We have identified the CIA-originated information in the document(s), and have no objection to its release.

b. Document(s) numbered _____. We have been unable to identify any information as having originated with this Agency. If, as a result of your review of the source documents, information is identified which originated with this Agency, you are requested to coordinate this information with us prior to any release to the requester.

c. Document(s) numbered _____. Deletions have been made in each enclosed copy which consist of non-substantive internal markings, such as filing instructions. Since these markings will not appear on your file copy, no deletion or exemption for deletion should be necessary. If, however, you are unable to locate your file copy and must use the enclosed copy for your response, the requester should be advised that non-substantive deletions have been made by this Agency under FOIA exemption (b)(3)/ PA exemption (j)(1).

d. Document(s) numbered _____. Substantive information has been deleted from this material as marked. The requester should be informed of this denial and of the FOIA/PA exemption(s) claimed. Please see additional information given under Comments.

Additional information about this/these document(s) is given under Comments.

B. FOR YOUR REVIEW AND RESPONSE BACK TO THIS AGENCY:

25 CIA document(s) containing information provided by your Agency (enclosure 51). Please review your information (bracketed in red), and return the document(s) to us, marking any deletions you deem appropriate, citing FOIA/PA exemption(s) claimed, and stating the current and proper level of any classified information. In your response, please cite the date of this memo, the name of the requester, and the CIA case number.

Additional information about this/these document(s) is given under Comments.

A copy of the requester's initial letter and any other significant correspondence are enclosed for your records (enclosure 2). If you have any questions, please contact Allie Falardeau, 351-2561 on 35k-5415.

COMMENTS: (see continuation)

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SECRET

COMMENTS:

* Please see correspondence copies sent to you in our previous request for coordination on 3 FBI documents for CIA's direct response.

As you know, a recent court order established the deadline of 1 June 1982 for production of documents to the court. In view of this, it is requested that you complete your review and response back to this Agency on an expedited basis.

If the substance of your response can be conveyed by telephone, it is requested that you use this expedient prior to completion of your written response.

A worksheet has been attached to each document and may be used to record your determination and any comments you may wish to make.

SECRET

CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

19 MAY 1982

TO

James K. Hall, Chief
Freedom of Information-Privacy Acts Branch
J. Edgar Hoover Building, Room 6296
10th & Pennsylvania Avenue, NW
Washington, DC 20535

EXPEDITED PROCESSING REQUESTED

FROM : Information and Privacy Coordinator, Central Intelligence Agency by Quie Falardeau
SUBJECT: FOIA/PA Request of Paul L. Hoch (FOIA Litigation)
CIA FOIA/PA No. F-76-373 et seq. CA 82-0754

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A. FOR YOUR DIRECT RESPONSE TO THE REQUESTER:

- ___ document(s) which originated with your agency and is/are being referred to you for direct response to the requester (enclosure ___). We will advise the requester of this referral.
- a. Document(s) numbered _____. We have identified the CIA-originated information in the document(s), and have no objection to its release.
- b. Document(s) numbered _____. We have been unable to identify any information as having originated with this Agency. If, as a result of your review of the source documents, information is identified which originated with this Agency, you are requested to coordinate this information with us prior to any release to the requester.
- c. Document(s) numbered _____. Deletions have been made in each enclosed copy which consist of non-substantive internal markings, such as filing instructions. Since these markings will not appear on your file copy, no deletion or exemption for deletion should be necessary. If, however, you are unable to locate your file copy and must use the enclosed copy for your response, the requester should be advised that non-substantive deletions have been made by this Agency under FOIA exemption (b)(3)/ PA exemption (j)(1).
- d. Document(s) numbered _____. Substantive information has been deleted from this material as marked. The requester should be informed of this denial and of the FOIA/PA exemption(s) claimed. Please see additional information given under Comments.
- Additional information about this/these document(s) is given under Comments.

FOR YOUR REVIEW AND RESPONSE BACK TO THIS AGENCY:

- 6 CIA document(s) containing information provided by your Agency (enclosure 1). Please review your information (bracketed in red), and return the document(s) to us, marking any deletions you deem appropriate, citing FOIA/PA exemption(s) claimed, and stating the current and proper level of any classified information. In your response, please cite the date of this memo, the name of the requester, and the CIA case number.
- Additional information about this/these document(s) is given under Comments.

A copy of the requester's initial letter and any other significant correspondence are enclosed for your records (enclosure 2). If you have any questions, please contact Allie Falardeau, 351-2561 on 05/19/82.

COMMENTS: Please expedite and respond ASAP - first by telephone and then followed by written response. WE HAVE A 1 JUNE 1982 COURT DEADLINE, and must allow enough time beforehand for compilation of determinations. THANKS.

SECRET

CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

1 June 1982

TO James K. Hall, Chief
Freedom of Information-Privacy Acts Branch
J. Edgar Hoover Building, Room 6296
10th & Pennsylvania Avenue, NW
Washington, DC 20535

ATTENTION: WILLY NEWTON, Room 6984

FROM : Information and Privacy Coordinator, Central Intelligence Agency

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d. Document(s) numbered _____. Substantive information has been deleted from this material as marked. The requester should be informed of this denial and of the FOIA/PA exemption(s) claimed. Please see additional information given under Comments.

[] Additional information about this/these document(s) is given under Comments.

B. FOR YOUR REVIEW AND RESPONSE BACK TO THIS AGENCY:

[x] ___ CIA document(s) containing information provided by your Agency (enclosure ___). Please review your information (bracketed in red), and return the document(s) to us, marking any deletions you deem appropriate, citing FOIA/PA exemption(s) claimed, and stating the current and proper level of any classified information. In your response, please cite the date of this memo, the name of the requester, and the CIA case number.

[x] Additional information about this/these document(s) is given under Comments.

A copy of the requester's initial letter and any other significant correspondence are enclosed for your records (enclosure ___). If you have any questions, please contact Eunice Evans for ATtie Falardeau on 551-5011 2562.

COMMENTS: Attached are two additional documents requiring FBI coordination. Document No. 1591 has info bracketed for your review. Document No. 1594 should be reviewed in full. You are aware of our court deadline and therefore we would greatly appreciate a telephonic response ASAP. Thank you very much for your help and cooperation. UNCLASSIFIED When Separated Eunice Evans

DOCUMENT NO.	DESCRIPTION OF DOCUMENT	PAGES		DESCRIPTION OF DELETIONS MADE	EXEMPTIONS	CROSS REFERENCE
		ACT	REL			
1413-492-H	4/26/67	1	1	Paragraphs la, b and c - currently and properly classified. See attached declaration of SA Gary L. Haegele.	(b) (1)	(5) (A)
1-492-BI	1/10/64	4	4	Page 1 - currently and properly classified. See attached declaration of SA Gary L. Haegele.	(b) (1)	(5) (A)
1523-1097	1/27/63	5	5	Information identified as k - currently and properly classified. See attached declaration of SA Gary L. Haegele.	(b) (1)	(5) (A)
1552-1111	6/3/64	3	3	Page 3, Information identified as k - currently and properly classified. See attached declaration of SA Gary L. Haegele.	(b) (1)	(5) (A)
1553-1112	6/9/64 CIA document	1	1	Paragraph 4 - Information concerning a third party supplied by an informant.	(b) (7) (C) (b) (7) (D)	(5) (B) (2) (5) (C) (1)
1557-1114-B	Undated CIA document	2	2	Page 1, Paragraph 1, information identified by the letter k - information concerning a third party.	(b) (7) (C)	(5) (B) (2)
1625-1124	3/23/65	1	0	Entire document - currently and properly classified. See attached declaration of SA Gary L. Haegele.	(b) (1)	(5) (A)