

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

J. GARY SHAW)	
CLEBURNE, TEXAS)	
AND	)	Civil Action Numbers:
MARK ALLEN	)	82-1602
WASHINGTON, D.C.,	)	82-2108
	)	82-2109
Plaintiffs,	)	82-2110
	)	82-2128
v.	)	82-2130
	)	82-2156
FEDERAL BUREAU OF	)	82-2379
INVESTIGATION,	)	82-2522
	)	82-2523
Defendants.	)	82-2680

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, FBI Head-
quarters (FBIHQ), Washington, D.C.

Prior to my assignment to FBIHQ, I had approxi-
mately five years of investigative experience in the
Jacksonville, Florida, and the New York FBI Field Offices.

Due to the nature of my official duties, I am
familiar with the procedures followed in processing

Attachment C

Freedom of Information Act (FOIA) requests as related to the FBI. I am also familiar with the various exemptions allowed under 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 (PA) of 1974, wherein documents or portions thereof may be withheld from disclosure.

As part of my official responsibilities, I am personally familiar with the procedures used by the FBI in responding to the requests of Bernard J. Fensterwald, Jr., Esq., on behalf of the plaintiffs, J. Gary Shaw and Mark Allen, for information pursuant to the provisions of the FOIA and the PA. All information contained herein is based upon my personal review of the requests at issue in these lawsuits, as well as the information furnished to me in my official capacity.

(2) I am fully aware that plaintiffs' attorney, Bernard Fensterwald, has complained to the Court about the FBI's handling of document and information referrals to other agencies of the Federal Government during the processing of material which had been determined to be

Freedom of Information Act (FOIA) requests as related to the FBI. I am also familiar with the various exemptions allowed under 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 (PA) of 1974, wherein documents or portions thereof may be withheld from disclosure.

As part of my official responsibilities, I am personally familiar with the procedures used by the FBI in responding to the requests of Bernard J. Fensterwald, Jr., Esq., on behalf of the plaintiffs, J. Gary Shaw and Mark Allen, for information pursuant to the provisions of the FOIA and the PA. All information contained herein is based upon my personal review of the requests at issue in these lawsuits, as well as the information furnished to me in my official capacity.

(2) I am fully aware that plaintiffs' attorney, Bernard Fensterwald, has complained to the Court about the FBI's handling of document and information referrals to other agencies of the Federal Government during the processing of material which had been determined to be

responsive to the plaintiffs' request for information pertaining to the Organization Armee Secrete (OAS). In view of this complaint, I have looked into the procedures for the handling of the referrals in all of plaintiffs' FOIPA requests at issue before the Court under Civil Action Number 82-1602 (consolidated), and wish to report the following:

(A) First, it is to be noted that there are two methods of handling referrals. The first method is commonly known as a "direct response" referral. This method is utilized when the entire document, which is located within FBI files, originated with another agency of the Federal Government. The entire document is forwarded to the originating agency and the other agency responds directly to the requester with its determinations pursuant to the FOIA and/or PA. The second method is commonly known as a "consultation" referral. This method is utilized when information, within an FBI document, can be attributed to another agency of the Federal Government. The information, within the FBI document, is referred to the other agency for a determination regarding its release pursuant to the provisions of the

FOIA and/or PA. After reviewing the information, the other agency advises the FBI of its decision. The FBI will then incorporate the other agency's determination within the FBI response to the requester.

(B) With regards to the "direct response" referrals, I have ascertained that all of the other Federal agencies, to which referrals have been forwarded, anticipate responding to the plaintiffs by June 30, 1983.

(C) With regards to the "consultation" referrals, in which the FBI is requesting a determination from another Federal agency, all documents should be reviewed and all segregable information released to the plaintiffs by July 31, 1983.

(3) The other Federal agencies have given the FBI their best estimates, however, it should be noted that the FBI does not have the same total control over documents requiring referrals as over documents reviewed and processed entirely by the FBI. In at least the case of the Central Intelligence Agency (CIA), the agency is confronted with the problem of handling the FBI referrals as well as meeting its own schedule for

complying with the numerous FOIPA requests which plaintiffs directed to the CIA and which are at issue under ten separate civil action numbers currently pending before Judge Thomas F. Hogan.

(4) Based on the facts set out above, I believe the FBI has made every reasonable good faith effort to comply fully with the letter and spirit of the amended FOIA and PA with regards to the plaintiffs' numerous FOIPA requests.

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

Executed this 23 day of May, 1983.

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