

EXHIBIT 1

United States District Court
Western District of Texas
San Antonio Division

John Eakin,
Plaintiff,

v.

United States Department of Defense,
Defendant.

No. SA-16-CV-00972-RCL

DECLARATION OF MONIQUE WEY GILBERT

1. My name is Monique Wey Gilbert. I am over the age of eighteen, am competent to make this declaration, and am doing so voluntarily. This declaration is based upon my personal knowledge, or upon information I have obtained in the course and scope of my duties as Chief of the Army Human Resources Command (AHRC)-Freedom of Information Act (FOIA)/Privacy Act (PA) Office.

2. I have served as Chief of the AHRC-FOIA/PA Office since May 2015. My physical office is at Fort Knox, Kentucky. However, I have been working from my home in Kentucky since March 2020 and only physically come into the building once or twice a week to pick up mail and send out mail to ensure compliance with the timelines in 5 USC 552 (the FOIA Statute). Before serving as Chief, I served for approximately nine years as a FOIA Action Officer, processing many types of FOIA requests to include requests related to living and deceased servicemen and servicewomen.

3. The AHRC-FOIA/PA Office has nine Action Officer positions and one Chief position. Unfortunately, there has been turnover in the Action Officer positions from 2017 to present. The AHRC-FOIA/PA Office has taken 4 hiring actions during this time-frame. Vacancies take roughly 3 to 5 months to fill and then all new hires require approximately 2 months of training before they are capable of independently working on projects. For this particular project, two of the dedicated Action Officers left the office in 2019.

4. Our Office is responsible for processing over 5,000 FOIA and Privacy Act record requests annually. All FOIA requests are handled on a first-in, first-out basis, except those where exceptional need or urgency is shown. The number of requests we handle has slightly decreased in the last six months because the National Personnel Records Center (NPRC) is now the records custodian for all new requests for the A-L Individual Deceased Personnel Files (IDPF's). In 2021, we anticipate that the number of requests will increase when we take over the MILPAY mission. At the time of this declaration, the Office had 50 pending FOIA requests. This number changes daily because the office receives multiple new requests on a near daily basis. This office is also assisting with two additional litigation cases for Army personnel records. I have assigned two (2) Action Officers based on their current workload to process records for these other litigation cases.

The assigned Action Officers need to review these personnel records and apply redactions while processing these records.

5. In addition to processing FOIA/PA requests, the AHRC-FOIA/PA Office serves as the records custodian for Military Personnel Files relating to the following: active duty military, military personnel matters, physical disability determinations, other military personnel administrative records, records relating to military casualty and memorialization activities, heraldic activities, voting, records relating to identification cards, naturalization, citizenship and investigations. Many of these responsibilities, including responding to FOIA/PA requests, are subject to statutory deadlines.

6. The Defense POW/MIA Accounting Agency (DPAA) is coordinating the response to Mr. Eakin's FOIA request and our Office, as subject matter experts, is assisting DPAA by reviewing the 280,000 plus WWII IDPF files to ensure the files do not include any information protected by the Privacy Act.

7. The review process is a multi-step process. On or about November 18, 2016, our Office received the hard drives containing approximately 280,000 IDPF's from the DPAA that had been digitized as part of a digitization contract. These files were not in a searchable PDF format. Each individual IDPF can contain one or two pages, or as many as hundreds of pages. Because of the large amount of data contained on these hard drives, 4.2 terabytes of information, our Office was required to run security scans and build a separate drive to contain this information, which took approximately six weeks. Another one and one-half weeks were required to download all of the files to a shared drive so FOIA Action Officers could work on the request, and two weeks for the Action Officers to obtain the necessary security permissions.

8. Initially, I assigned three FOIA Action Officers to the IDPF review. These three action officers were given access to the shared drive. Based on our workload, I assigned each action officer to work on review of the IDPFs for one hour per day, five days per week. This one hour per day, five days per week does not take into consideration annual leave, sick leave and holidays.

9. IDPFs created decades ago are marked for release. However, recently created materials, including FOIA requests, correspondence, and medical information, to include information on the DNA of related individuals, is being removed.

10. In accordance with the Court's August 2, 2017 Order, our Office has produced the following to Mr. Eakin:

Date	Size (Approximate)		File Count	Folders
10/1/2017	712 GB		49,938	945
10/1/2017	108 GB		9,182	750
12/1/2017	104 GB		9,489	758
5/17/2018	288 GB		18,259	495

11/26/2018	327	GB	3,883	348
5/30/2019	514	GB	28,835	699
12/1/2019	379	GB	15,978	150
5/18/2020	16	GB	1,225	11
	2,448	GB	136,789	4,156
	2.44	TB		

11. On June 5, 2019, the Court ordered the United States to produce documents as searchable PDFs going forward. Our office did not have the IDPFs in a searchable PDF format but continued to review the documents already downloaded on our servers in an effort to provide Mr. Eakin with a production in December 2019.

12. On February 11, 2020, DPAA sent our office approximately 67,000 IDPFs in a searchable PDF format. We uploaded these documents to our server. Due to the global COVID-19 pandemic, personnel from our office were required to work remotely beginning in March 2020. One FOIA Officer took the hard drive containing the IDPFs that had been converted into a searchable PDF format home to review while working remotely. This reviewer is dedicating one hour, five days per week to this review. This Action Officer is also receiving, reviewing and processing FOIA/PA requests that are assigned to her. This Action Officer is statutorily required to provide a release determination to these requests within 20 business days.

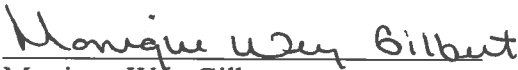
13. On September 9, 2020, our office received the remaining IDPFs (the E-L files) that had been converted into a searchable PDF format. This transmission contained approximately 144,510 IDPFs.

14. The DoD is working diligently to develop solutions to alleviate the current rate of review caused by COVID-19. The FOIA office recently installed five (5) virtual drives that can accommodate 1.5 TB of data each. The virtual drives will allow more than one reviewer to access the files. Personnel are working to upload the files that have been converted into searchable PDFs, in 1.5 TB batches, to the virtual hard drives. Once the files are uploaded to the virtual drives, the FOIA office intends to assign four (4) reviewers to review the files for one hour each day for five (5) days per week. The FOIA office estimates there are 218,466 of the A-L IDPFs left to review. Those files encompass approximately 2.59 TB of data.

15. Our Office does not have the current technological capability to create PII identifiers to scan the shared drive for PII. It has been the consistent practice of our Office to always conduct a manual review of individual files to screen them for PII. Further, it is my opinion that release of any files from our Office without a manual review would risk the possible disclosure of PII.

I declare under the penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct.

Executed on this 28 day of October 2020.


Monique Wey Gilbert
Chief, AHRC FOIA/PA Office