

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

REPORTERS COMMITTEE
FOR FREEDOM OF THE PRESS,
Plaintiff,

v.

FEDERAL BUREAU
OF INVESTIGATION, *et al.*,
Defendants.

Case 1:17-cv-01701-RC

DECLARATION OF KATIE TOWNSEND

I, Katie Townsend, declare as follows:

1. I am the Legal Director at the Reporters Committee for Freedom of the Press (the “Reporters Committee” or “RCFP”), an unincorporated nonprofit association located in Washington, D.C., a position I have held since May 2018. I am an attorney and counsel of record for Plaintiff in this matter. Prior to becoming RCFP’s Legal Director, I was RCFP’s Litigation Director; I held that position from September 2014 to May 2018. I am a member in good standing of the bar for the District of Columbia and am admitted to practice before this Court. I make this declaration in support of Plaintiff’s Opposition to the Motion for Partial Summary Judgment filed by Defendants Federal Bureau of Investigation (“FBI”) and U.S. Department of Justice (“DOJ”) and in support of Plaintiff’s Cross-Motion for Partial Summary Judgment. I have personal knowledge of the matters stated in this declaration.

2. Attached hereto as **Exhibit A** is a true and correct copy of the following publicly available news article: Jenny Wilson, *Bundy defendants interviewed in undercover FBI operation*, Las Vegas Review-Journal (Mar. 22, 2017), obtained from <https://www.reviewjournal.com/news/bundy-blm/bundy-defendants-interviewed-in-undercover-fbi-operation>, archived at <https://perma.cc/469Y-QWRW>.

3. Attached hereto as **Exhibit B** is a true and correct copy of the following publicly available news article: Andrew Blake, *FBI posed as documentary filmmakers to conduct interviews with Bundy Ranch supporters*, The Wash. Times (Mar. 24, 2017), obtained from <https://www.washingtontimes.com/news/2017/mar/24/fbi-posed-documentarians-conduct-interviews-bundy-/>, archived at <https://perma.cc/KNK9-DW74>.

4. Attached hereto as **Exhibit C** is a true and correct copy of the following publicly available news article: Ryan Devereaux, Trevor Aaronson, *America Reloaded: The Bizarre Story Behind the FBI's Fake Documentary About the Bundy Family*, The Intercept (May 16, 2017), obtained from <https://theintercept.com/2017/05/16/the-bizarre-story-behind-the-fbis-fake-documentary-about-the-bundy-family/>, archived at <https://perma.cc/MR57-BNY4>.

5. Attached hereto as **Exhibit D** is a true and correct copy of the following publicly available editorial: Editorial, *Deceptions of the F.B.I.*, The N.Y. Times (Oct. 31, 2014), obtained from <http://mobile.nytimes.com/2014/11/01/opinion/deceptions-of-the-fbi.html>, archived at <https://perma.cc/N8GL-MEYD>.

6. Attached hereto as **Exhibit E** is a true and correct copy of the following publicly available letter to the editor of *The New York Times*: James Comey, Letter to the Editor, The N.Y. Times (Nov. 6, 2014), obtained from <http://mobile.nytimes.com/2014/11/07/opinion/to-catch-a-crook-the-fbis-use-of-deception.html>, archived at <https://perma.cc/GZ4C-N6B5>.

7. Attached hereto as **Exhibit F** is a true and correct copy of the following publicly available report of the Office of the Inspector General for the Department of Justice ("OIG"): *A Review of the FBI's Impersonation of a Journalist in a Criminal Investigation* (Sept. 15, 2016), obtained from <https://oig.justice.gov/reports/2016/o1607.pdf>, archived at <https://perma.cc/PF6J-S5NE>.

8. Attached hereto as **Exhibit G** is a true and correct copy of the following publicly available news article: Mike Carter, *FBI created fake Seattle Times Web page to nab bomb-threat suspect*, Seattle Times (Oct. 27, 2014), obtained from <https://www.seattletimes.com/seattle-news/fbi-created-fake-seattle-times-web-page-to-nab-bomb-threat-suspect/>, archived at <https://perma.cc/78WE-DMLS>.

9. A true and correct DVD of the documentary film *No Man's Land*, 2017, directed and produced by David Byars, is being lodged with the Court as **Exhibit H**. A copy is also being provided to counsel for Defendants.

10. Attached hereto, collectively, as **Exhibit I** are true and correct copies of the following records produced to Plaintiff on February 6, 2018, in response to the Freedom of Information Act ("FOIA") Request at issue in the above-captioned lawsuit:

- FBI(17-cv-1701)-1 – FBI(17-cv-1701)-7;
- FBI (17-cv-1701)-8 – FBI (17-cv-1701)-14;
- FBI (17-cv-1701)-15 – FBI (17-cv-1701)-21; and
- FBI (17-cv-1701)-22 – FBI (17-cv-1701)-28.

11. Attached hereto, collectively, as **Exhibit J** are true and correct copies of the following records released to Plaintiff on August 16, 2018 by Defendants FBI and DOJ in the following two FOIA cases: *Reporters Comm. for Freedom of the Press v. Federal Bureau of Investigation, et al.*, Case No. 15-cv-1392 (D.D.C.); and *Reporters Comm. for Freedom of the Press v. Federal Bureau of Investigation, et al.*, Case No. 18-cv-345 (D.D.C.)

- RCFP 378;
- RCFP 397;
- RCFP 434;

- RCFP 623-624;
- RCFP 627; and
- RCFP 629-632.

12. Attached hereto as **Exhibit K** is a true and correct copy of the following publicly available editorial: Society of Professional Journalists News, *FBI should stop using journalism as a cover for operations says SPJ*, SPJ (Aug. 7, 1996), obtained from <https://www.spj.org/news.asp?ref=462>, archived at <https://perma.cc/PXN3-S34X>.

13. Attached hereto as **Exhibit L** is a true and correct copy of the following publicly available news article: Abby Ellis, Sarah Childress, and Richard Rowley, *New Video Shows Undercover FBI Operation Against Bundy Family* (May 15, 2017), obtained from <https://www.pbs.org/wgbh/frontline/article/new-video-shows-undercover-fbi-operation-against-bundy-family/>, archived at <https://perma.cc/GGN5-UZVT>. This article is accompanied, on its publicly available website, by video footage that was apparently shot by FBI agents posing as a documentary film crew from “Longbow Productions” during the FBI’s investigation of Cliven D. Bundy and Gregory Burleson.

14. Attached hereto as **Exhibit M** is a true and correct copy of the following publicly available news article: Ansel Herz, *FBI Spokesperson Suggests Posing As an Associated Press Reporter Is No Different Than Posing As a Dentist*, The Stranger (Oct. 30, 2014, 3:03 PM), <http://slog.thestranger.com/slog/archives/2014/10/30/fbi-spokesperson-suggests-posing-as-an-associated-press-reporter-is-no-different-than-posing-as-a-dentist>, archived at <https://perma.cc/SD5N-NX8G>.

15. Attached hereto as **Exhibit N** is a true and correct copy of the following publicly available news article: Gene Johnson, *FBI says it faked AP story to catch bomb suspect*, The

Associated Press (Oct. 28, 2014), <https://www.ap.org/ap-in-the-news/2014/fbi-says-it-faked-ap-story-to-catch-bomb-suspect>, *archived at* <http://perma.cc/ZH7W-XBFS>.

16. Attached hereto as **Exhibit O** is a true and correct copy of the following publicly available editorial: Joe Davidson, *FBI impersonation of journalists can be hazardous to their health*, Wash. Post (Dec. 21, 2016), <https://www.washingtonpost.com/news/powerpost/wp/2016/09/21/fbi-impersonation-of-journalists-can-be-hazardous-to-their-health/>, *archived at* <https://perma.cc/4EQP-8CL3>.

17. Attached hereto as **Exhibit P** is a true and correct copy of the following publicly available document that was obtained, at my direction, from ECF: *United States v. Bundy*, No. 2:16-CR-46 (PAL) (GMN), Motion in Limine 3-4, ECF No. 1488 (D. Nev. Feb. 2, 2017). The Motion states, *inter alia*, that FBI agents used “professional credentials, websites and business cards” to lend Longbow Productions the appearance of authenticity, and that Bundy “spoke with undercover agents . . . in a hotel room under circumstances designed to make Bundy believe that he was participating in [a] documentary by recounting his experiences surrounding the [case].”

18. Attached hereto as **Exhibit Q** is a true and correct copy of a letter, dated October 30, 2014, from AP General Counsel Karen Kaiser to then-Attorney General Eric Holder, which is publicly available at https://corpcommap.files.wordpress.com/2014/10/letter_103014.pdf, and archived at <https://perma.cc/W46W-2DLW>.

19. Attached hereto as **Exhibit R** is a true and correct copy of the following publicly available news article: Reporters Committee for Freedom of the Press, *Police officer poses as photographer to nab shooting suspect*, News Media and the Law Fall (Fall 2001), obtained from <https://www.rcfp.org/browse-media-law-resources/news-media-law/news-media-and-law-fall-2001/police-officer-poses-photogra>, *archived at* <https://perma.cc/Y8L7-3AB8>.

20. Attached hereto as **Exhibit S** is a true and correct copy of the following publicly available press release: Committee to Protect Journalists, *CPJ concerned about second incident of police posing as journalists in hostage crisis*, CPJ Alerts (June 15, 2000), obtained from <https://cpj.org/2000/06/cpj-concerned-about-second-incident-of-police-posi.php>, archived at <https://perma.cc/FN3J-TV7K>.

21. Attached hereto as **Exhibit T** is a true and correct copy of a publicly available press release issued by the Office of U.S. Senator Chuck Grassley setting forth the text of a June 12, 2015 letter it states was sent by Senator Grassley to then-FBI Director James Comey, that was obtained from <http://www.grassley.senate.gov/news/news-releases/grassley-seeks-details-fbispyware-programs>, archived at <https://perma.cc/T3S9-NJJ2>.

22. Attached hereto as **Exhibit U** is a true and correct copy of a publicly available letter from U.S. Senator Patrick Leahy to then-Attorney General Eric Holder dated October 30, 2014, obtained from http://images.politico.com/global/2014/10/31/10-30-14_leahy_to_holder_re_-_fbi_fake_ap_article.html, archived at <https://perma.cc/JLT7-M9J8>.

23. On June 5, 2017, RCFP submitted a timely administrative appeal challenging the FBI's response to items (6) and (7) of its FOIA Request at issue in the above-captioned lawsuit, arguing, *inter alia*, that items (6) and (7) "reasonably describe[]" the records sought by Plaintiff pursuant to 5 U.S.C. § 552(a)(3)(A).

24. After Plaintiff submitted its administrative appeal on June 5, 2017, Plaintiff received no further communication from Defendants concerning items (6) or (7) of its FOIA Request prior to the filing of this lawsuit.

25. No records were produced to Plaintiff in response to its FOIA Request prior to the filing of this lawsuit.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on September 12, 2018 in Washington, D.C.



Katie Townsend