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10 **UNITED STATES DISTRICT COURT**
11 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
12 **WESTERN DIVISION**

13 H. RAY LAHR,) Case No. 03-08023 AHM (RZx)
14)
15 Plaintiff,) **PLAINTIFF'S OPPOSITION TO**
16) **CIA'S MOTION FOR PARTIAL**
17 v.) **SUMMARY JUDGMENT**
18)
19 NATIONAL TRANSPORTATION)
20 SAFETY BOARD, *et al.*)
21)
22 Defendants.)
23)
24)

25 Date: October 31, 2005
26 Time: 10:00. a.m.
27 Place: Courtroom 14, 312 N. Spring
28 Street, Los Angeles, CA 90012
Judge: Honorable A. Howard Matz

- 29 (1) PLAINTIFF'S MEMORANDUM IN OPPOSITION TO
30 CIA'S MOTION FOR PARTIAL SUMMARY JUDGMENT
- 31 (2) AFFIDAVIT OF H. RAY LAHR

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(3) AFFIDAVIT BRETT M. HOFFSTADT

(4) AFFIDAVIT GLEN L. SCHULZE

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7 Powell v. United States, Dep’t of Justice, 584 F. Supp. 1508

8 (N.D. Cal., 1984). 23

9 National Wildlife Federation v. United States Forest Service,

10 861 F.2d 1114 (9th Cir. 1988). 23

11 Animal Legal Defense Fund, Inc. v. Department of Air Force, 44 F.

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22 Vaughn v. Rosen, 484 F.2d 820, 827 (D.C. Cir. 1973) 27

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25 Church of Scientology Intern. v. U.S. Dept. of Justice,

26 30 F.3d 224 (1st Cir. 1999). 28

27 N.L.R.B. v. Robbins Tire and Rubber Co., 437 U.S. 214, 242 (1978). 28

28

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2	Fed. R. Ev. 105. <i>Limited Admissibility</i>	15
3	5 U.S.C. § 552 (b)(4)(b)	16
4	5 U.S.C. § 552(b)(5)	18
5	5 U.S.C. § 552 (b)(6)	20
6	5 U.S.C. § 552(b)(7)(C)	21
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8	50 U.S.C. § 403g	21
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OFFER OF PROOF

Bates

Filed herewith:

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11	1 Affidavit of H. Ray Lahr.	30-31
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18	B Affidavit of Darryl Hambley.	40
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20	D Affidavit of Robert Donaldson.	
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1 **1. The law – equitable balancing test**

2 **a. Balancing test**

3 The Ninth Circuit has consistently applied the equitable balancing test to all
4 exemption claims under the FOIA. In General Services Administration v. Benson,
5 415 F.2d at 880 (9th Cir. 1969), the government claimed that commercial
6 information was protected under exemption (b)(4), and that intra-agency
7 memoranda was protected under exemption (b)(5). The court held:

8 In exercising the equity jurisdiction conferred by the Freedom of
9 information Act, the court must weigh the effects of disclosure and
10 nondisclosure, according to traditional equity principles, and
11 determine the best course to follow in given circumstances. The
12 effect on the public is the primary consideration.¹

13 There is no conflict among the circuits. See, e.g., Washington Post Co. v.
14 Department of Health and Human Services, 690 F.2d 252, 268 (D.C. Cir. 1982),
15 after remand, 795 F.2d 205 (D.C. Cir. 1986), sub. op. 865 F.2d 320 (D.C. Cir.
16 1989), construing a (b)(4) proprietary information assertion:

17 A minor impairment cannot overcome the disclosure mandate of
18 FOIA. Rather, the question must be whether the impairment is
19 significant enough to justify withholding the information.... This
20 inquiry necessarily involves a rough balancing test of the extent of
21 impairment and the importance of the information against the public
22 interest in disclosure.

23
24 ¹ See also Newport Pac., Inc. v. County of San Diego, 200 F.R.D. 628,
25 638 (S.D. Cal. 2001) (construing (b)(5) deliberative process claim) ("[T]he
26 Court is compelled to take the analysis a step further and determine whether
27 the government's interest in nondisclosure outweighs the interests of the
28 litigants and public in disclosure. In In re Franklin, the district court...
weighed the 'public interest in opening for scrutiny the government's
decision making process.'" (internal citation omitted)

1 The DC Circuit's seminal case construing a (b)(4) proprietary interest
2 exemption is National Parks & Conservation Ass'n v. Morton, 498 F.2d 765 (D.C.
3 Cir. 1974). The 9th Circuit followed National Parks in GC Micro Corp. v. Defense
4 Logistics Agency, 33 F. 3d 1109, 1115, (9th Cir. 1994): "We agree with the D.C.
5 Circuit that, in making our determination, we must balance the strong public
6 interest in favor of disclosure against the right of private businesses to protect
7 sensitive information."

8 The FOIA's balancing test is well-settled law.²

9
10 **b. The FOIA's purpose is to shed light on agency performance**

11 In 1989 the Supreme Court recited that the FOIA is intended to "shed light
12 on an agency's performance of its statutory duties." U.S Dept. of Justice v.
13 Reporters Committee For Freedom of Press, 489 U.S. 749, 772-73 (1989). Its
14 "central purpose is to ensure that the government's activities be opened to the sharp
15 eye of public scrutiny." Id. at 774.

16 The more notorious the subject, the greater is the public interest in
17 disclosure.³

18
19 ² See e.g., Public Citizen Health Research Group v. FDA, 185 F.3d 898,
20 908-909 (D.C. Cir. 1999) ("[W]e have twice held that Exemption 4 requires
21 a balancing in the interest sought in non-disclosure 'against the public
22 interest in disclosure'.... We held that [t]his inquiry necessarily involves a
23 rough balancing of the extent of the impairment and the importance of the
24 information against the public interest in disclosure" (citations omitted);
25 Public Citizen Health Research Group v. National Institutes, 209 F. Supp. 2d
26 37, 45 (D.D.C. 2002) (construing (b)(4) exemption) ("The Court is therefore
27 charged with balancing the public interest in disclosure against private
28 interest in withholding the information").

³ Cf. Beck v. Department of Justice, 997 F.2d 1489, 1492-94 (D.C. Cir.
1993) (agency's "Glomarized" request for records concerning alleged
wrongdoing by two named employees was proper because of the absence of
evidence of wrongdoing or widespread publicity of the investigation).

1 **c. Evidence of agency malfeasance under the balancing test**

2 "Where it appears that the motives or truthfulness of the investigator are in
3 doubt, the public need for supervision and disclosure is necessarily heightened."
4 Castaneda v. United States, 757 F.2d 1010 (9th Cir. 1985). "[T]he public may
5 have an interest in knowing that a government investigating itself is
6 comprehensive, that the report of an investigation released publicly is accurate."
7 Stern v. FBI, 737 F.2d 84, 90 (D.C. Cir. 1984). "[T]he public interest in ensuring
8 the integrity and reliability of government investigation procedures is greater
9 where there is some evidence of wrongdoing on the part of the government
10 official." Hunt v. Federal Bureau of Investigation, 972 F.2d 286, 289 (9th Cir.
11 1992). Jones v. FBI, 41 F.3d 238 (6th Cir. 1994):

12 [E]ven where there is no evidence that the agency acted in bad faith
13 with regard to the FOIA action itself, there may be evidence of bad
14 faith or illegality with regard to the underlying activities which
15 generated the documents at issue. Where such evidence is strong, it
16 would be an abdication of the court's responsibility to treat the case in
17 the standard way and grant summary judgment on the basis of Vaughn
18 affidavits alone.

19 Directly on point in this Circuit is Favish v. OIC, 217 F.3d 1168, 1172-73
20 (9th Cir. 2000) rev'd in part Nat'l Archives & Records Admin. v. Favish, 124 S. Ct.
21 1570, 1581 (U.S. 2004): "The [FOIA] request focuses on how the OIC conducted
22 its investigation... [and is] in complete conformity with the statutory purpose...
23 [of] showing that he has knowledge of misfeasance by the agency..."

24 **d. Burden of proof**

25 The Supreme Court recently defined a FOIA plaintiff's burden of proof of
26 agency bad faith in Nat'l Archives & Records Admin. v. Favish, 124 S. Ct. 1570,
27 1581 (U.S. 2004), which balanced a privacy claim under exemption (b)(7)(C).
28 (Privacy claims under (b)(6) & (b)(7)(C) are the most litigated FOIA exemptions.)

1 We hold that where... the public interest being asserted is to show that
2 responsible officials acted negligently or otherwise improperly in the
3 performance of their duties, the requester must establish more than a
4 bare suspicion in order to obtain disclosure. Rather, the requester
5 must produce evidence that would warrant a belief by a reasonable
6 person that the alleged Government impropriety might have
7 occurred.... the less stringent standard we adopt today is more faithful
8 to the statutory scheme.

9 Thus, evidence of "bad faith or illegality with regard to the underlying
10 activities which generated the documents at issue" (Hunt id.) is relevant to the
11 Court's balancing of the FOIA's "central purpose" of ensuring "that the
12 government's activities be opened to the sharp eye of public scrutiny" (Reporters
13 Committee id.); against the interest sought to be protected by the exemption.

14 Plaintiff's burden of proof is evidence that "would warrant a belief by a
15 reasonable person that the alleged Government impropriety might have occurred."
16 Favish id.

17 The more publicity associated with the subject, the greater the public interest
18 in disclosure. And equity dictates that the more probative the evidence is of
19 government impropriety, the more weight is to be given the public interest in
20 disclosure.

21 **2. The facts**

22 A study of the government's probe into the Flight 800 tragedy is a study in
23 government impropriety. The government withheld, and misrepresented, forensic
24 test results of the aircraft debris; which in fact showed the presence of explosive
25 residue. It physically altered the parts of the aircraft debris from the reconstruction
26 hanger to hide that the initiating event was external to the aircraft. It
27 surreptitiously seized debris from the hanger showing that missile fire caused the
28 tragedy. It misrepresented the Radar data that showed missile fire as well as the

1 absence of any zoom-climb. It deleted Radar data, deleted Flight Data Recorder
2 data, and deleted portions of underwater videotapes of the debris. The government
3 concealed that military assets conducted classified maneuvers in the air, on the
4 surface, and under the surface, at the time of, and in close proximity to, the
5 disaster. At its first public hearing, it banned eyewitness materials and testimony,
6 as well as the results of forensic testing. At its second public hearing it grossly
7 misrepresented eyewitness testimony.

8 The records upon which the CIA video-animation was based are the subject
9 of this action. The animation is a fiction designed to explain away the hundreds of
10 eyewitness accounts of missile fire.

11 In order for the government to advance the mechanical failure theory,
12 it was necessary to explain away the missile-like streak seen by... the
13 eyewitnesses. The CIA made an astonishing proposal.... [T]he
14 missile-like streak was the burning aircraft itself.... The CIA would
15 have us believe that when the nose was blown away, the aircraft
16 continued to fly and zoom-climb from 13,800 to 17,000 feet, before it
17 rolled over and crashed into the sea. The burning zoom-climb is
18 supposedly the streak seen by the eyewitnesses. Never mind that the
19 eyewitnesses saw the streak rising from the surface, not from 13,800
20 feet.⁴

21 A center-wing-tank explosion could not possibly have been the initiating
22 event because the tank was empty, there was no ignition source, and, in any event,
23 the fuel is not flammable and is incapable of exploding. The zoom-climb is
24 impossible because at least one wing separated early in the crash sequence, a
25 center-wing-tank explosion would have destroyed the spar supporting the wings,
26 the aircraft did not slow and so could not have climbed, and, in any event, the
27 alleged zoom-climb is aerodynamically impossible.

28
4 X Lahr Aff. Bates 281 ¶ 88.

1 The facts stated above come from an impressive array of 29 expert and fact
2 witnesses. These facts are set forth in plaintiff's *Statement of Genuine issues in*
3 *Opposition to CIA's Motion for Summary Judgment*. Among the affiants in the
4 record herein are two aerodynamicists and six air crash investigators, three of
5 whom were parties to the TWA Flight 800 probe. Seven eyewitness accounts are
6 included; four of whom witnessed the disaster from the air, and two of whom are
7 featured in the CIA's animation. One affiant is a retired Admiral. One is a former
8 NTSB Board member. And one lost her brother in the disaster.

10 **3. Application of the facts to the FOIA's balancing test**

11 Under the FOIA, this Court must balance the interest sought to be protected
12 by the exemption, on the one hand, against public interest in opening the inner
13 working of government to public scrutiny, on the other.

14 The Flight 800 tragedy is the most controversial disaster in aviation history.
15 The CIA's zoom-climb animation is so outrageous as to be characterized as "the
16 boldest and most flagrant lie ever visited on the American people in peacetime."⁵
17 The probe's investigative history, virtually all the forensic evidence, the eyewitness
18 accounts, and the application of the immutable laws of physics, can all be
19 reconciled with only one conclusion: The government covered up the true cause of
20 the disaster.

21 Plaintiff does not ask the Court to adjudicate the cause of Flight 800's
22 demise.⁶ Plaintiff seeks the underlying records upon which the CIA's zoom-climb

24 ⁵ First Strike, J. Cashill & J. Sanders, WND Books 2003, Chap. 9, *The*
25 *Big Lie*, at 155.

26 ⁶ Fed. R. Ev. 105. *Limited Admissibility*: "When evidence which is
27 admissible as to one party or for one purpose but not admissible as to
28 another party or for another purpose is admitted, the court, upon request,
shall restrict the evidence to its proper scope..."

1 conclusion was alleged to have been based, and he is hard-pressed to imagine a
2 more fit case for the application of the FOIA's equitable balancing test.

3 4 **4. Exemptions asserted**

5 The agency has the burden to justify the nondisclosure of records and
6 establish that a particular record, or portion thereof, is exempt from disclosure.
7 Citizens Commission on Human Rights v. FDA, 45 F.3d 1325, 1328 (9th Cir.
8 1995); Church of Scientology v. U.S. Department of the Army, 611 F.2d 738, 742
9 (9th Cir. 1979). Under the FOIA, an agency's decision to withhold information
10 from a FOIA requester is subject to de novo review by the district court. Hayden v.
11 National Security Agency/Cent. Sec. Serv., 608 F.2d 1381, 1384 (D.C. Cir. 1979),
12 cert. denied, 446 U.S. 937 (1980). And all claims of exemptions are to be
13 narrowly construed. Favish v. OIC, 217 F.3d at 1172 (9th Cir. 2000) rev'd in part
14 Nat'l Archives & Records Admin. v. Favish, 124 S. Ct. 1570, 1581 (U.S. 2004).

15 16 **a. Exemption 4 "trade secrets" is unavailable**

17 The NTSB asserts Exemption (b)(4),⁷ claiming Boeing trade secrets.
18 "[E]vidence revealing (1) actual competition and (2) a likelihood of substantial
19 competitive injury is sufficient to bring commercial information under Exemption
20 4." GC Micro Corp. v. Defense Logistics Agency, 33 F.3d 1109, 1113 (9th Cir.
21 1994).

22 Contrary to the government's assertion, there is no chance that Boeing would
23 suffer a substantial competitive injury upon disclosure, as former Boeing
24 aerodynamicist Brett Hoffstadt's affidavit makes abundantly clear:

25 In summary, the release of data in the Records will most likely have

26
27 ⁷ 5 U.S.C. § 552 (b)(4)(b): "This section does not apply to matters that
28 are trade secrets and commercial or financial information obtained from an
individual and privileged or confidential"

zero to negligible impact on the market value, competitive advantage, or sole source position of Boeing and its subsidiaries in relation to the 747 Classic SDP, simulators and related services. The remaining barriers and investments for a competitor to offer similar products and services are incredibly high, the market for these products and services has long past its peak demand, the future demand is in predictable permanent decline known to eventually be nonexistent, and Boeing would nonetheless remain the established authority and preferred source for these products and services due to its position as the developer and manufacturer of the aircraft in question.⁸

Additionally, as plaintiff's affidavit recites, the government already released Boeing-supplied data in the NTSB's Flight Path study:⁹

BOEING TWA FLIGHT 800 DATA

Parameter	Before Nose Separation	After Nose Separation
Gross Weight (lbs.)	574000	494606
C.G. %MAC	21.1	57.8
lyy slug-ft ²	27790000.0	15780000.0
lxx slug-ft ²	19110000.0	18970000.0

The government failed its burden of proving that release of the withheld data, of an aircraft placed in service 37 years ago, and since succeeded by three successive models, could competitively harm Boeing.¹⁰

And Boeing's affidavit is belied by Boeing's own press release, issued the same day the CIA's video-animation was broadcast:

⁸ 2 Hoffstadt Aff. Bates 40 ¶ 45.

⁹ X Lahr Aff. Bates 273 ¶ 57.

¹⁰ X Lahr Aff. Bates 375-378 Ex. 13 (Boeing 747 series).

1 "Boeing was not involved in the production of the video shown today,
2 nor... fully understand the data used to create it. While we provided
3 basic aerodynamic information... we are not aware of the data that
4 was used to develop the video."¹¹

5 The government is not permitted to withhold records of information that
6 Boeing's competitors already know. Hughes Aircraft v. Schlesinger, 384 F. Supp.
7 292, 304 (N.D. Cal. 1974).

8
9 **b. Exemption 5 "deliberative process privilege"
10 is largely unavailable**

11 Exemption 5 was intended to incorporate the government's common law
12 privilege from disclosure in litigation, including the deliberative process
13 privilege.¹²

14
15 **(1) CIA animation is an agency final report**

16 "It appears to us that the [Supreme] Court meant in Sears to establish as a
17 general principle that action taken by the responsible decision maker in an agency's
18 decision-making process which has the practical effect of disposing of a matter
19 before the agency is 'final' for purposes of FOIA." Rockwell Int'l Corp. v DOJ,
20 235 F.3d 598, 602 (D.C. Cir. 2001) (internal citation omitted).

21
22
23
24
25 ¹¹ **D Donaldson Aff.** Ex. 21 Bates 114.

26 ¹² 5 U.S.C. § 552(b)(5) exempts from disclosure "inter-agency or intra-
27 agency memorandums or letters which would not be available by law to a
28 party other than an agency litigation with the agency."

1 The CIA video-animation, broadcast to millions of Americans on November
2 18, 1997, was unquestionably a final agency disposition, contrary to the CIA's
3 assertion.¹³
4

5 **(2) Deliberative process privilege is unavailable**
6 **to shield disclosure of post-decisional records**

7 To fall within the deliberative process privilege, the record must be
8 'predecisional' in nature." Maricopa Audubon Soc'y v. U.S. Forest Service, 108
9 F.3d 1089 (9th Cir. 1997) quoting NLRB v. Sears, Roebuck & Co., 421 U.S. 132,
10 149 (1975).

11 Of the 42 records that the CIA disclosed (see 3 Shulze Aff. ¶¶ 13-97), 30 are
12 undated or postdate the public release of defendant's zoom-climb video-animation.
13 No portions of these records can be withheld under the deliberative process
14 privilege. The court in Exxon Corp. v. Federal Trade Com'n, 466 F. Supp. 1088,
15 1097 (D.C. 1978) recognized that Exemption (b)(5) is unavailable to shield post-
16 decisional records from disclosure. "As a matter of logical extension of this
17 principle courts have established the general rule that pre-decisional, deliberative
18 memoranda are privileged, while post-decisional memoranda — communications
19 designed to explain a decision already made — are not." (citations omitted.)
20

21 **(3) Deliberative process privilege does not apply**
22 **to records adopted in a final agency disposition**

23 Nor is the privilege applicable to records adopted in an agency disposition,
24 as the court observed Niemeier v. Watergate Spec. Prosecution Force, 565 F.2d
25 967, 971-72 (7th Cir. 1977). "[I]f an agency chooses expressly to adopt or

26 ¹³ *CIA Motion for Partial Summary Judgment* at 18: "In this case, the
27 CIA has relied on the deliberative process privilege and Exemption 5 to
28 withhold certain materials created as part of the analysis that continued after
the CIA video concerning the explosion of TWA Flight 800 was shown to
the public."

1 incorporate by reference an intra-agency memorandum previously covered by
2 Exemption 5 in what would otherwise be a final opinion, that memorandum may
3 be withheld only on the ground that it falls within the coverage of some exemption
4 other than Exemption 5."

5 "[A] predecisional, deliberative communication sheds the privilege if
6 adopted as policy or in public dealings." Newport Pac., Inc. v. County of San
7 Diego, 200 F.R.D. 628, 637-8 (S.D. Cal. 2001).

8
9 **(4) Deliberative process privilege does not apply**
10 **to purely factual, investigative records**

11 The privilege is not applicable to "purely factual, investigative matters"
12 which do not "reflect[] deliberative or policy making processes." EPA v. Mink,
13 410 U.S. 73, 89 (1973). Plaintiff seeks factual data. This case is like Assembly of
14 Cal. v. United States DOC, 797 F. Supp. 1554, 1567 (E.D. Cal. 1992), where the
15 court found that "the material [computer tapes with adjusted census data] was
16 purely factual and in no way divulged the reasoning process... [and disclosure]
17 would not reveal anything more about the deliberative process than has already
18 been disclosed by the agency."

19 "The privilege applies only to the 'opinion' or 'recommendatory' portion of a
20 document, not to factual information which is contained in the document." Coastal
21 States Gas Corp. v. Department of Energy, 617 F.2d 854, 867 (D.C. Cir. 1980).
22 Segregable portions of factual material which would not expose the deliberative
23 process are not subject to the deliberative process privilege. Mead Data Cent., Inc.
24 v. US Dept of Air Force, 556 F.2d 242, 246 (D.C. Cir. 1977).

25 **c. Exemptions 6 and 7(C) – privacy**

26 5 U.S.C. § 552 (b)(6) permits the government to withhold all information
27 about individuals in "personnel and medical files and similar files" when the
28

1 disclosure of such information "would constitute a clearly unwarranted invasion of
2 personal privacy."

3 5 U.S.C. § 552(b)(7)(C) provides that the FOIA does not apply to matters
4 that are "records or information compiled for law enforcement purposes, but only
5 to the extent that the production of law enforcement records or information... could
6 reasonably be expected to constitute an unwarranted invasion of personal
7 privacy..."

8 Plaintiff does not contest the CIA's withholdings of the names of individuals.
9 Plaintiff does, however, object to any redaction of an individual's job title and job
10 description, as such information would tend to "shed light on an agency's
11 performance of its statutory duties." U.S Dept. of Justice v. Reporters Committee
12 For Freedom of Press, 489 U.S. 749, 772-73 (1989).

13
14 **d. Exemption 3 "other statutes" does not apply**
15 **to CIA analyst Randolph M. Tauss**

16 5 U.S.C. § 552(b)(3) "Exemption 3" provides that the FOIA does not apply
17 to matters that are exempted from disclosure by statute.¹⁴ The statute upon which
18 the CIA relies is 50 U.S.C. § 403g, which, as recited by defendant:

19 "[E]xempts the CIA from 'the provisions of any other law which
20 require the publication or disclosure of the organization, functions,
21 names, official titles, salaries, or numbers of personnel employed by
22 the agency[],' [t]ogether with a statute that directs Director of National
23

24
25 ¹⁴ 5 U.S.C. § 552(b)(3): "[S]pecifically exempted from disclosure by
26 statute, (other than section 552(b) of this title) provided that such a statute
27 (A) requires that the matters be withheld from the public in such a manner as
28 to leave no discretion on the issue, or (B) establishes particular criteria for
withholding or refers to particular types of matters to be withheld.

1 intelligence to 'protect intelligence sources and methods from
2 unauthorized disclosure...'"

3 *Motion for Summary Judgment* at 14.

4 But defendant incorrectly argues that the information does not "match the
5 information previously disclosed" and it has not been "officially acknowledged."
6 *Motion for Summary Judgment* at 15. The Washington Times article (attached to 1
7 Lahr Aff. Bates 31) identifies Randolph M. Tauss as having received "an
8 intelligence medal for his work on the crash." That December 2003 article further
9 states that "[t]he CIA recently declassified a once-secret report on the eyewitnesses
10 to the crash." Clearly, this report has been officially acknowledged, and the
11 information withheld, the name Randolph M. Tauss, "match[es] the information
12 previously disclosed."

13 14 **5. Failure to segregate**

15 The FOIA requires that "any reasonably segregable portion of a record shall
16 be provided to any person requesting such a record after deletions of the portions
17 which are exempt."¹⁵ "The focus in the FOIA is information not documents and an
18 agency cannot justify withholding an entire document simply by showing that it
19 contains some exempt material." Mead Data Central, Inc. v. U.S. Dept. of Air
20 Force, 566 F. 2d 242, 368 (D.C. Cir. 1977).

21 Here, defendant's motion is silent on the issue of segregation, as is the
22 August 15, 2005 Second Declaration of Terry N. Buroker. Defendant does
23 mention segregation in its first Buroker declaration, wherein the affiant makes only
24 blanket statements regarding all the records (at ¶¶ 7 & 40):

25 My determination of segregability was made based upon a careful
26 review of the documents in this case, both individually and as a

27
28
15 5 U.S.C. § 552(b) (sentence immediately following exemptions).

1 whole. When reviewing individual documents, a line-by-line review
2 was conducted...

3 Factual material was examined carefully to determine whether it could
4 be segregated and released. However... what constitutes "facts" in
5 this scenario... is an integral part of the deliberative process itself....

6 And, in some instances, the facts are so inextricably intertwined with
7 privileged deliberations...

8 However, the selection of facts to be included in a record is not part of the
9 deliberative process.¹⁶ The court in Voinche v. F.B.I., 46 F. Supp. 2d 26, 33
10 (D.D.C. 1999) refused to grant summary judgment because agency's blanket
11 statement was inadequate,¹⁷ as is the CIA's. The court in The Wilderness Society
12 v. Bureau of Land Management, 2003 WL 255971 (D.D.C. 2003) required the
13 government to file a supplemental Vaughn index to correct conclusory and
14 generalized exemption claims. Plaintiff asks for similar relief.

17 ¹⁶ See Playboy Enterprises, Inc. v. Department of Justice, 677 F. 2d 931,
18 935 (D.C. Cir. 1982) ("mere fact that a person writing a factual report must
19 select certain facts and omit others does not qualify factual report for
20 deliberative process privilege"). See also Powell v. United States, Dep't of
21 Justice, 584 F. Supp. 1508, 1519 (N.D. Cal., 1984) ("factual material
22 contained in deliberative memoranda cannot be considered to be intertwined
23 with legal or policy matters solely on the broad theory that the very choice
24 of which facts to present necessarily reveals the writer's viewpoint.");
25 National Wildlife Federation v. United States Forest Service, 861 F.2d 1114,
26 1119 (9th Cir. 1988) ("the ultimate objective of exemption 5 is to safeguard
the deliberative process of agencies, not the paperwork generated in the
course of that process.").

27 ¹⁷ See also Animal Legal Defense Fund, Inc. v. Department of Air Force, 44 F.
28 Supp. 2d 295, 301, (D.D.C. 1999) (court denied the government's motion for
summary judgment in part because its declaration was insufficient on the
segregability issue).

1 Regarding the CIA's withholding of six records in their entirety, totaling 66
2 pages, plaintiff's affiant Glen Schulze avers:

3 These estimated 15,000 to 20,000 words are being withheld most
4 likely because they are the critical evidentiary components which, if
5 released to the public, would provide a sturdy foundation for citizen
6 destruction and ridicule of the CIA TWA FL 800 work product.
7 For the CIA "denial in full" of these six documents, supported by the
8 Boeing Company affidavit, to be based upon "technical data
9 consisting of trade secrets and/or confidential commercial
10 information" is ludicrous. How can the aerodynamic performance of
11 a crippled, noiseless airline – climbing at a rate of 2600 ft in 15
12 seconds while its maximum climb rate at takeoff was 500 ft in 15
13 seconds – be considered a trade secret?¹⁸

14 The court in Coleman v. F.B.I., 972 F. Supp. 5, 9 (D.D.C. 1997) rejected
15 narratives on "deleted page sheets" and required the agency to redo its index to
16 "inform the court as to the contents of individual documents and the applicability
17 of the individual Exemptions." Similarly, the court in Krikorian v. Department of
18 State, 984 F.2d 461 467 (D.C. Cir. 1993), remanded the case for a segregability
19 determination for "each of the withheld documents."
20

21 **6. CIA's Vaughn index requires resubmission**

22 Defendant's Vaughn index, and production, is highly probative of agency
23 bad faith.

24 The CIA's June 20, 2005, Vaughn index, filed without a copy of the records,
25 purported to identify 29 records by using one-page *Document Disposition Index*
26 forms (pp. 41-70). These forms identified the records by *Document Number*. But
27 the only numbers appearing on the records themselves are MORI DocID numbers,
28

¹⁸ **3** Schulze Aff Bates 104 ¶ 84.

1 none of which match the numbers on the *Document Disposition Index* forms.
2 Thus, defendant's June 20 Vaughn index was worthless. Additionally, the June 20
3 *Document Disposition Index* forms listed a total of 107 pages. Yet the CIA
4 produced 246 pages in February – a 139 page discrepancy.

5 Adding the 128 pages identified in its two *Document Disposition Index*
6 pages in its August 16 filing, the CIA identified 255 pages. But attached to that
7 filing were 388 pages – a 133 page discrepancy.

8 With its motion for summary judgment filed on August 16, 2005, the CIA
9 produced 388 pages of records, attached to its Second Declaration of Terry N.
10 Buroker. That August 16 Declaration contains a chart (at ¶ 8) purporting to
11 correlate the June 20 *Document Number* with the MORI DocID number.

12 Preceding that chart the affiant declared: "A true and correct copy of the records
13 withheld in part, as released to the Plaintiff, is attached hereto as Exhibit A. For
14 the purposes of clarity, these records bear the following identification numbers."

15 But that chart, filed almost two months late,¹⁹ did little to enable plaintiff to
16 decipher what records were produced and withheld, nor to correlate the exemptions
17 asserted with the records withheld. See 3 Schulze Aff. ¶ 19: "The assigning of
18 MORI numbers to undated, unnumbered pages in a random and reverse
19 chronological order – regardless of the intrinsic value of the document's redacted
20 content – is in itself serious grounds alone for registering strong dissatisfaction
21 with the chaotic format of the CIA response."

22 "Multiple different records contained the same" MORI DocID numbers (id.
23 ¶ 22). This misleading and confusing listing occurred in at least ten records. Id. ¶¶

24
25 ¹⁹ 3 Schulze Aff. ¶ 28: "This affidavit is revised. I first completed this
26 affidavit on August 1st. That version did not have any entries for 'CIA page
27 numbers from the Aug 16 production,' but instead had 'Vaughn index page
28 number.' All columns read 'Not appear in Vaughn index.' I also added the
'Vaughn index comparison' sections."

1 43, 45-46, 48, 55, 56-58, & 59-60. Similarly confusing and misleading, on three
2 occasions (id. ¶¶ 30, 34 & 41), the CIA "spread out in pages with different MORI"
3 DocID numbers "the same record." Id. ¶ 22.

4 The August 16 production does not include at least four records that had
5 been previously produced in redacted form. Id. ¶¶ 30-32, 39 & 61. In one instance,
6 "[t]hese document records have been redacted by removing an unknown number of
7 important pages..." Id. ¶ 30. In another case in point, "[b]ased on textual
8 discontinuity and the lack of page numbers" (id. ¶ 76) "it is impossible to
9 determine the exact number of missing pages." Id. ¶ 39.

10 The August 16 chart misstated the MORI DocID numbers corresponding to
11 *Document Disposition Index* pages 66 and 68. Id. ¶ 25. The June 20 *Document*
12 *Disposition Index* identifies an "Analyst Note" as having been released in part (at
13 p. 59), but that page does not appear in the June 20 chart (Second Buroker Dec. ¶
14 8) – leaving no way to identify the three-page record corresponding to the
15 *Document Number*.

16 And on it goes. Defendant asserts that it has withheld in full six records
17 (Buroker Dec. ¶ 7). Yet, defendant's June 20 *Document Disposition Index*
18 identifies only five (pp. 56-58, 63 & 65). Defendant "[o]mitted from August 16
19 production [r]ecords which the CIA produced in February." Id. ¶ 24(C). Plaintiff's
20 affiant identifies ten sets of records which are not identified in the CIA's Vaughn
21 index (id. ¶¶ 30-39), and two records which are listed in the index but not produced
22 in the August 16 production (id. ¶¶ 61-62).

23 And the CIA failed to identify nine responsive records which it has in
24 electronic format. Id. ¶¶ 31, 33, 44, 47, 62, 66-69. The fact that a significant
25 number of responsive records have not been identified is a "positive indication[] of
26 overlooked materials." Oglesby v. Department of Army, 79 F.3d 1172, 1185 (D.C.
27 Cir. 1996).

1 "Without a proper Vaughn index, a requester cannot argue effectively for
2 disclosure and this court cannot rule effectively." Campaign for Effective
3 Transplantation v. U.S. Food and Drug Admin., 219 F. Supp. 2d 106, 116 (D.D.C.
4 2002). The CIA's Vaughn index cannot possibly "'enable[] the court to make an
5 independent assessment of the claim[s] of exemption.'" Jones v. F.B.I., 41 F. 3d
6 238, 242 (6th Cir. 1994) (quoting Vaughn v. Rosen, 484 F.2d 820, 827 (D.C. Cir.
7 1973).²⁰ "The description and explanation the agency offers should reveal as much
8 detail as possible as to the nature of document without actually disclosing
9 information that deserves protection." Oglesby v. US Dept. of Army, 79 F.3d 1172,
10 1176, (D.C. Cir. 1996).

11 12 **7. CIA's conduct evidences bad faith**

13 The CIA's June 20 Vaughn index did not include any way to identify the
14 records to which it referred, and the total pages identified in it were 139 fewer than
15 the CIA produced. Its late-filed August 16 production differed from its Vaughn
16 index by 133 pages. The CIA claims to have produced around 100 records; while
17 it produced 42 – 21 of which are undated. The assignment of MORI DocID
18 numbers were random, and, insofar as they are dated, in reverse chronological
19 order. Ten times the CIA assigned multiple records the same MORI DocID
20 number, and three times it assigned multiple MORI DocID numbers to a single
21 record. Its August 16 production omitted at least four records that had been
22 provided in redacted form; at least twice it removed pages. It omitted a record
23 from its August 16 chart, leaving no way for plaintiff to identify the record. It
24 misstated the MORI DocID numbers corresponding to two of its *Document*
25 *Disposition Index* pages. Defendant asserted that it withheld six records in their
26 entirety, yet it identified only five. It omitted from its August 16 production

27
28 ²⁰ See also Weiner v. FBI, 943 F. 2d 972, 979 (9th Cir. 1991) (remanding case
for a more thorough Vaughn index.)

1 records which it had previously produced, and omitted ten sets of records from its
2 Vaughn index. Two sets of records are listed in the index but not produced in the
3 August 16 production, and it failed to identify nine responsive records which it has
4 in electronic format.

5 Plaintiff's affiant aptly characterized the CIA's production and Vaughn index
6 as the "CIA's Rubik Cube Format of Submitted Records." Id. ¶ 85. To the extent
7 that the CIA's puzzle can be solved, Mr. Schulze has done so by having spent over
8 70 hours assembling Excel spreadsheets, attached to his affidavit, Bates 113-126.

9 The court in Church of Scientology Intern. v. U.S. Dept. of Justice, 30 F.3d
10 224, 233 (1st Cir. 1999), explained that a good faith presumption of agency
11 affidavits is applicable "only when the agency has provided a reasonably detailed
12 explanation for its withholdings." The reasonable inference to be drawn from
13 defendant's abysmal performance is that did not act in good faith.

14 15 **Conclusion**

16 "[A] basic purpose of the FOIA is to... [provide] a needed check against
17 corruption..."²¹ The relevant issues under FOIA's balancing test are the genesis
18 and breadth of the controversy, and the government's pattern and practice of bad
19 faith in the underlying activities that generated the records at issue.

20 This Court cannot possibly decide this case until the CIA makes a good faith
21 effort to provide a decipherable Vaughn index.

22 Date: September 13, 2005.

23 Respectfully submitted,
24 H. Ray Lahr
25 By Counsel

26 _____
27 John H. Clarke

28 _____
29 ²¹ N.L.R.B. v. Robbins Tire and Rubber Co., 437 U.S. 214, 242 (1978).

1 **PROOF OF SERVICE – BY MAIL**

2 DISTRICT OF COLUMBIA:

3
4 I am a resident of the District of Columbia, over the age of 18 years. My business
5 address is 1717 K Street, NW, Suite 600, Washington, DC 20036. I am counsel
6 for plaintiff.

7 On September 13, 2005, I served a true copy of **PLAINTIFF'S OPPOSITION**
8 **TO CIA'S MOTION FOR PARTIAL SUMMARY JUDGMENT**, including
9 (1) PLAINTIFF'S MEMORANDUM IN OPPOSITION TO CIA'S MOTION FOR
10 PARTIAL SUMMARY JUDGMENT, (2) AFFIDAVIT OF H. RAY LAHR,
11 (3) AFFIDAVIT BRETT M. HOFFSTADT, & (4) AFFIDAVIT GLEN L.
SCHULZE on the interested parties in this action by first class mail proper postage
prepaid, addressed to:

12 David M. Glass, Esquire
13 Assistant United States Attorney
14 20 Massachusetts Avenue, NW
15 Room 7140
16 Washington, DC 20530

17
18
19
20
21
22
23 I declare under penalty of perjury that the foregoing is correct and that this
24 Proof of Service was executed on September 13, 2005.

25
26 _____
27 John H. Clarke
28

AFFIDAVIT OF CAPTAIN H. RAY LAHR

1. My name is H. Ray Lahr. I am the plaintiff in this case.
2. The attached copy of the Dec. 5, 2003, *Washington Times* article is authentic.
3. The videotape of part of the testimony of NTSB investigator Hank Hughes before the US Senate was lodged with my opposition to the NTSB's motion for summary judgment. I transcribed that excerpt of the Senate hearing. The transcript appears below, and is accurate.
5. Partial transcript of the testimony of NTSB investigator Hank Hughes before the United States Senate on Monday, May 10, 1999, being questioned by Senator Charles Grassley:

Hank Hughes: I actually found this man with a hammer pounding on a piece of evidence trying to flatten it out.

Senator Grassley: What was the purpose of his doing that?

Hank Hughes: I have no idea, sir. Another problem that occurred, and it was recognized about two months into the investigation, was the disappearance of parts from the hanger. We found that seats were missing and other evidence had been disturbed. The FBI, on my last complaint, did act, and they found at three o'clock on a Saturday morning two or three of their own agents were in our hanger. It was not authorized. I supervised that project, and these people had no connections to it. There were 430 passenger seats and 21 crew seats, had the seat covers removed, and they were commingled in a dumpster. About two months into the investigation, I went to the dumpster, with the – with the assistance I have to say of an FBI agent, and we tried to sort out the materials. And then we found that in addition to the seat covers, actually seats that had been missing that were mistakenly thrown in there.

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

Date: September 13, 2005.

Captain H. Ray Lahr (Ret.)

The Washington Times

Inside the Ring

Bill Gertz

Rowan Scarborough

CIA on Flight 800

The CIA recently declassified a once-secret report on eyewitnesses to the crash of TWA Flight 800 off Long Island, N.Y., on July 17, 1996. CIA analyst Randolph M. Tauss, who won an intelligence medal for his work on the crash, concluded that numerous eyewitnesses who saw a streak of light heading toward the Boeing 747 jetliner were wrong if they believed it was surface-to-air missile going toward the jet.

Based on sound-travel analysis and a spy satellite sensor, Mr. Tauss stated: "Any eyewitness who thinks he may have seen a missile shoot down Flight 800 needs to have seen something that occurred more than 42 seconds before the aircraft broke into 'two distinct fireballs' and more than 49 seconds before the plane hit the water," he wrote. "CIA analysts are not aware of any eyewitness who did."

Evidence that the streak was burning fuel from the aircraft, which is believed to have exploded shortly after takeoff from a spark inside a center-wing fuel tank, is "extensive and compelling," Mr. Tauss stated.

"Nevertheless, a few people, driven by what they perceive to be an overwhelming number of eyewitnesses who 'saw' a missile attack the plane, persist in thinking otherwise," he said. "Confident that so many eyewitnesses cannot be 'wrong,' they have concluded that the government, for whatever reason, is covering up the true cause of the crash."

Some U.S. officials blame former FBI New York Director James Kallstrom for propagating the terrorist theory. Mr. Kallstrom took control of the crash investigation from the National Transportation Safety Board for months by insisting the crash was a terrorist attack. He gave up the theory after the agency's deputy director for intelligence wrote him a note in March 1997 stating that "the total absence of physical evidence of a missile attack leads CIA analysts to conclude that no such attack occurred."

● *Bill Gertz and Rowan Scarborough are Pentagon reporters. Mr. Gertz can be reached at 202/636-3274 or by e-mail at bgertz@washingtontimes.com. Mr. Scarborough can be reached at 202/636-3208 or by e-mail at rscarborough@washingtontimes.com.*

AFFIDAVIT OF BRETT M. HOFFSTADT

1. I am currently a computational fluid dynamics (CFD) engineer employed full-time by an international engineering analysis and solutions company. In the normal course of business I create, run, and analyze CFD models for major clients in the automotive and aerospace industries.

2. I have been employed in my current position for three years. My first employment in the aerospace industry was in 1989 while enrolled as an undergraduate student in Aerospace Engineering at Purdue University. I have been employed full-time in the aerospace or engineering industry since 1993 with a two-year exception for pursuit of a Master of Science degree in Aerospace Engineering (obtained in 1997) at Penn State University. My professional experience has included specific assignments in aerodynamics, flight testing, flight simulation, propulsion, and aircraft performance, in addition to others.

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Computational fluid dynamics (CFD) computer software program

3. I have reviewed a February 28, 2005 CIA release packet to Captain H. Ray Lahr referencing F-2004-00078 and F-2004-0121. I have also reviewed the declaration of Mr. Richard S. Breuhaus dated March 7, 2005. References to statements by Mr. Breuhaus herein refer to this declaration.

4. A computational fluid dynamics (CFD) computer software program is a common tool for aerodynamicists and other engineers. This tool can take the three-dimensional geometry of arbitrary aircraft configurations--to name just one application--and calculate the airflow, pressures, forces, and moments of such shapes in arbitrary flight conditions. CFD computer

programs are the most complex, thorough, and computer-intensive class of computational tools available for calculating such parameters or for simulating aircraft performance.

5. More specifically, a CFD program can calculate the lift force, drag force, pitching moment, rolling moment, yawing moment, and the coefficients associated with these parameters. More advanced or elaborate programs can calculate these parameters as a function of time, enabling the user to obtain a simulation based on calculations performed at each increment of time specified by the user.
6. One CFD program widely used in the aerospace field is VSAERO. I have personal knowledge that this software is and has been used in The Boeing Company. This product is made by Analytical Methods, Incorporated (AMI), of Redmond, Washington, U.S.A. AMI provides VSAERO to the general public for a price of \$27,500. AMI provides the geometry of a Boeing 747-200 and a 747-300 aircraft for use with VSAERO for a price of \$5,000 each. Unless stated otherwise, references herein to the CFD model of the Boeing 747 refer to this product.

CFD and the 747 Classic

7. Breuhaus states in his Paragraph 11 that the 747-100 and 747-200 are aerodynamically identical, and the 747-300 is almost aerodynamically identical to the 747-100 and 747-200. He further states these three models are collectively known as the 747 Classic, and I will use the same convention herein.
8. The fact that the CFD model of a Boeing 747 Classic exists in the marketplace, and has for several years, presumes that it exists with Boeing's review, consent, and sanction. Conversely, if Boeing objected to the existence of this CFD model in the marketplace--for any reason--it is reasonable to assume that Boeing would have successfully had it removed, withdrawn, or never offered in the first place.
9. The fact that a CFD model of the 747 Classic is available to the public makes it certain that any aerodynamic data about this configuration could be obtained independently from Boeing, with a very high degree of precision.
10. If the features or capabilities of VSAERO are not acceptable or sufficient to an engineer for whatever reason, a competent engineer can reasonably be expected to be able to take this geometry and convert it into a format that

could be used in other CFD programs. Or an engineer could purchase more complex CFD programs from AMI that are available. Both of these options mean that the Boeing 747 Classic geometry is available for use in the most complex and thorough class of CFD programs, not just VSAERO. This means that the aerodynamic characteristics of the Boeing 747 Classic are available to the public independent of Boeing with a very high degree of precision.

11. The fact that a CFD model of the 747 Classic is available to the public makes it certain that the aircraft characteristics described in Paragraph 5 above are consequently available to the public, that Boeing has no objections or concerns about this product being available, and that Boeing must reasonably know and expect that the aircraft characteristics described in Paragraph 5 above would consequently become available to the public.
12. The fact that a CFD model of the 747 Classic is available to the public makes it certain that Boeing has no concerns that Boeing Proprietary or trade secret information will be released, compromised or threatened by the existence of such a model in the public domain. The fact that a CFD model of the 747 Classic is available to the public makes it certain that Boeing has no concerns that such Proprietary or trade secret information could be independently derived or produced by such a CFD model. Otherwise, it is reasonable to assume that Boeing would have prevented this product from entering the marketplace or successfully had it removed. These facts are inconsistent with the claims by Breuhaus in his Paragraphs 4-6, 8, 27, 30-37, and 44-49.
13. The fact that a CFD model of the 747 Classic is available to the public makes it certain that Boeing has previously judged that negligible harm will come to Boeing's competitive advantage, market position, or the market value of Boeing's products and services by the existence of such a CFD model. This fact is inconsistent with the claims by Breuhaus in his Paragraphs 4, 8, 28, 31, 32, 35, and 36.
14. Mr. Breuhaus states in his Paragraph 4 that public disclosure of the aerodynamic characteristics of the 747-100, which are trade secrets, could cause Boeing competitive harm. The claim that release of these aerodynamic characteristics could cause Boeing competitive harm is contradicted by the fact that Boeing has previously consented to the public sale of a 747 Classic CFD model.

15. Mr. Breuhaus states in his Paragraph 4 that public disclosure of the aerodynamic characteristics of the 747-100, which are trade secrets, could cause Boeing competitive harm. The claim that these aerodynamic characteristics are trade secrets is contradicted by the fact that these characteristics can be calculated to a high degree of precision by any competent engineer due to the existence of a Boeing 747 Classic CFD model in the marketplace.
16. Mr. Breuhaus states in his Paragraph 5 that the Records contain confidential or Boeing Proprietary information regarding the aerodynamic characteristics of the 747-100 aircraft. This claim is contradicted by the fact that these characteristics can be calculated to a high degree of precision by any competent engineer due to the existence of a Boeing 747 Classic CFD model in the marketplace.
17. Mr. Breuhaus states in his Paragraph 8 that the Records contain Boeing trade secrets that are not ascertainable or available for use by other parties and are subject to efforts by Boeing to maintain their secrecy. To the extent these Records contain information about the aerodynamic and moment characteristics of the 747 Classic aircraft or publicly available modifications thereof, the claim that these Records contain trade secrets not ascertainable by other parties is contradicted by the fact that a Boeing 747 Classic CFD model exists in the marketplace. This same information can be obtained from the CFD model with a high degree of precision.
18. Mr. Breuhaus states in his Paragraph 8 that the Records contain Boeing trade secrets that are not ascertainable or available for use by other parties and are subject to efforts by Boeing to maintain their secrecy. To the extent these Records contain information about the aerodynamic and pitching moment characteristics of the 747 Classic aircraft or publicly available modifications thereof, the claim Boeing has made efforts to maintain their secrecy is contradicted by the fact that Boeing has previously allowed and sanctioned the existence of a 747 Classic CFD model in the marketplace.

Boeing's research and development costs

19. Mr. Breuhaus states in his Paragraph 9 that the aerodynamic information provided to the NTSB were developed “at great expense” by Boeing. Breuhaus further states in Paragraph 13 that Boeing “invested enormous resources” in the 1960’s to create aerodynamic data for the 747-100.

20. While I am not in a position to dispute these statements, it is also true that the advancement of technology, computing, and engineering knowledge have dramatically reduced the expense of obtaining previous knowledge if it were to be repeated today.
21. For example, the Data General Nova was a computer first released in 1968 (the year before the first 747-100 was delivered). It handled 16-bit word lengths, had 4K of memory, and had a 1.5Mhz processing speed. Its cost was \$8,000. (Source: http://www.fact-index.com/d/da/data_general_nova.html) Today, the PMC-Sierra RM5231A is a popular microprocessor used in automotive and home entertainment applications. It is 64-bit, 400 MHz, and has 32KB memory. Its cost is \$15. When compared to the Nova, its bit size has increased four-fold, its speed has increased 266-fold, its memory has increased eight-fold, while its price has reduced 533-fold. (Source: http://techlibrary.networkcomputing.com/detail/RES/1093027149_246.html?src=nwc)
22. The facts in Paragraph 21 above combined with the fact that Boeing has consented to the public sale of a 747 Classic CFD model directly contradict the relevance of the statements by Breuhaus in his Paragraphs 9 and 13.

CFD results

23. In his Paragraph 10, Breuhaus states that state-of-the-art CFD programs cannot reproduce aircraft aerodynamics data to the level of accuracy reflected in the data presented in or derivable from the Records.
24. As a full-time salaried CFD engineer, I have personal knowledge of CFD results that are a substitute for and have replaced physical tests of large vehicles. One of our well-known automotive clients has eliminated an entire phase of prototype construction and testing due to the accuracy and precision of our CFD analyses. I understand that the accuracy of our CFD results are typically within 1% of experimental data which has allowed for the elimination of this testing. While every CFD application has its own accuracies and limitations, the calculation of large vehicle aerodynamics in such applications such as automobiles and aircraft can be expected to have accuracy accurate enough to compare to or even replace experimental data. These facts contradict Breuhaus' claim in Paragraph 10.
25. I am personally aware of at least five major wind tunnel test facilities in the United States that have been permanently closed in the last ten years. Three of these were facilities in The Boeing Company. The increasing capability, accuracy, and use of modern CFD tools are widely acknowledged to be a

major reason for these closures. The increasing efficiencies and corresponding decreases in cost of computing hardware, when combined with modern CFD tools, are widely acknowledged to be a second major reason for these closures. The increasing use of CFD tools in the aerospace industry combined with the closure of many wind tunnel test facilities contradict Breuhaus' claim in Paragraph 9.

26. Breuhaus states in Paragraphs 30 and 34 that the baseline lift, drag, and pitching moment coefficients in the CIA Records and NTSB Records 6 and 8 contain Boeing proprietary information. The fact that Boeing has consented to the public sale of a CFD model of a 747 Classic aircraft directly contradicts this claim since this same information can be obtained from the CFD model with a high degree of precision.
27. Breuhaus states in Paragraph 30 and 34 that the aerodynamic information contained in the CIA Records and NTSB Record 6 regarding a second hypothetical configuration with the aircraft's forward fuselage removed is proprietary to Boeing. The existence of many visual representations of this configuration in addition to the availability of the aforementioned CFD software directly contradicts this claim. A competent engineer would be able to reproduce this configuration using the 747 CFD model in conjunction with the many visual representations of this configuration and then obtain the same aerodynamic information with a high degree of precision.

Boeing's 747 Classic simulator data package

28. Breuhaus states in Paragraphs 36 that if a competent engineer was able to reproduce the baseline lift coefficient for the 747 Classic aircraft the market value of Boeing's 747 Classic simulator data package (SDP) would be reduced. However, this ability already exists (to a high degree of precision) to any such engineer because the CFD model of a 747 Classic already exists in the marketplace. In fact it is safe to say that the baseline lift coefficient of the 747 Classic has already been reproduced numerous times by engineers using this CFD model and software. Therefore, Boeing has likely previously judged that this reduction in market value is nonexistent, negligible, or acceptable. Therefore also, release of the information in Figures 1 and 4 of the CIA document (or the information in NTSB Records 6 and 8) would not change the market value of Boeing's data package.
29. Breuhaus states in Paragraphs 16, 18, 21, 28, 31, 35, and 39 that Boeing is currently the sole source for the 747 Classic simulator data package. He states in Paragraph 15 that reproduction of this package by a competitor

would require an investment on the order of \$20 million, and free access to the data in the Records would substantially assist in these efforts. He does not quantify or estimate how much this assistance would reduce the \$20 million investment.

30. In Paragraph 22, Breuhaus states that Boeing most recently (in 2001) generated \$1 million in revenue from selling one license of the data package, and has sold ten such licenses since 1991. It may be noteworthy that Boeing has not sold any such licenses in the past four years.
31. Since Mr. Breuhaus did not provide an estimate of how much less an investment would be required to reproduce the data package with the data in the Records, let us assume it would reduce the investment by a generous 25%, or \$5 million.
32. This means a competitor would have to invest \$15 million towards an enterprise that has earned approximately \$10 million in revenue over the past 14 years. Assuming the same demand in the future, this competitor would have to operate for 21 years to recover their investment.
33. This length of return assumes they capture 100% of the market from Boeing, an assumption that should be obvious as mistaken and highly unlikely. This length of return also assumes that the demand for this simulator data package remains constant over the next 21 years. This assumption should be obviously incorrect due to the normal and expected attrition of commercial aircraft that exists, including the 747 Classic aircraft. As noted in Paragraph 30 above, Boeing has operated for the past three years with zero revenue from the license of its 747 Classic simulator data package.

Attrition of 747 Classic

34. To further illustrate the trend and fact of aircraft attrition, as of August 16th, 2005, there have been a total of 675 747 Classic aircraft delivered (Source: Boeing company website <http://active.boeing.com/commercial/orders/userdefinedselection.cfm>.) These consist of 205 747-100's, 389 747-200's and 81 747-300's. The most recent delivery was a 747-300 delivered in September 1990. According to Mr. Breuhaus in his Paragraphs 12 and 18 there are currently 501 747 Classic aircraft available throughout the world. This represents a 26% reduction in the all-time hypothetical maximum market of 747 Classic aircraft and related services.

35. To state these facts in other words, the available market and associated market value of Boeing's 747 Classic simulator data package and related services has already declined 26% from its maximum possible value due to the normal and continuous removal of such aircraft from service from aging, obsolescence, or damage.
36. Based on the facts and assumption in Paragraphs 31 through 35 above, Mr. Breuhaus' claims of the reduction in market value of the 747 Classic simulation data package or fears of competitors entering the market with a similar product after release of the data in the Records appear highly exaggerated.
37. Nonetheless, assuming a competitor successfully reproduces the 747 Classic SDP, they could hypothetically attempt to produce more revenue (and further infringe on Boeing's market position) by incorporating this package into a simulation training facility and offering related services.
38. Mr. Breuhaus states in Paragraph 19 what these services are. He states in Paragraph 20 that these services produced approximately \$20 million in revenue to Boeing in 2003.

Significant additional barriers to competitors for Boeing products and services

39. However, several significant obstacles remain before a competitor could offer these services. First, as Breuhaus states in Paragraph 14, the competitor would have to obtain approval and certification from the national aviation regulatory agency that the simulation facility very closely matches the actual flight characteristics of the aircraft.
40. To accomplish this, the competitor would have to present actual flight test data of the 747 Classic aircraft. This data most certainly is Boeing Proprietary, has not been previously released, is not a subject under discussion here, has not been claimed or described to be in the Records, and is certainly not data that Boeing would voluntarily release to a potential competitor.
41. Given the numerous facts listed in Paragraph 40 above, a potential competitor would immediately recognize the futility of pursuing more revenue by creating a 747 Classic simulation training facility. Add to these obstacles is the fact that Boeing would maintain its status as the recognized and established authority and preferred provider for these services due to its

position as the original developer and manufacturer of the aircraft in question.

42. Nonetheless, assuming a competitor was driven obsessively to accomplish the goal of offering a simulation facility and related services, a solution exists. Instead of obtaining Boeing's flight test data for the 747 Classic aircraft they could reproduce that data themselves. This would require purchasing or obtaining at least one 747 Classic aircraft, significant on-board flight test data hardware, and then subjecting this aircraft to substantial modifications to install this hardware. It would also require ground station equipment and facilities, related staffing and engineering support, access to a large airport, aviation fuel, maintenance equipment and facilities and staff, in addition to many other expenses.
43. At this point the futility and financial foolishness of the endeavor should be obvious, considering this enterprise is for a market whose primary source (the 747 Classic aircraft) ceased deliveries in September 1990 (almost 15 years ago), whose market has already declined 26% from its one-time maximum, and whose market is in predictable permanent decline.

Summary and Conclusions

44. In summary, the release of data in the Records will most likely have zero to negligible impact on the market value, competitive advantage, or sole source position of Boeing and its subsidiaries in relation to the 747 Classic simulator data package, simulators and related services. The remaining barriers and investments for a competitor to offer similar products and services are incredibly high, the market for these products and services has long past its peak demand, the future demand is in predictable permanent decline known to eventually be nonexistent, and Boeing would nonetheless remain the established authority and preferred source for these products and services due to its status as the developer and manufacturer of the aircraft in question.
45. Furthermore, to the extent the information in the Records relates to aerodynamic or pitching moment characteristics of the 747 Classic aircraft or published representations of modifications thereof, the fact that a CFD model of this aircraft exists in the marketplace (with Boeing's consent) makes objections over the release of this data entirely inappropriate and inconsistent with the facts stated herein.

46. In Paragraph 27, Breuhaus states that Boeing previously objected to release of data in NTSB Record 9. I have reviewed the declarations of Mr. Breuhaus dated October 11, 2004, May 14, 2004, and October 2, 2003. In all references to NTSB Record 9 in these previous statements there is no claim that Boeing had made an explicit objection to release of this data.
47. In Paragraphs 30, 33, and 34 Breuhaus states that Boeing previously objected to release of data in NTSB Record 6 and 8. I have reviewed previous declarations of Mr. Breuhaus as described in Paragraph 46 above. In all references to NTSB Records 6 and 8 in these previous statements there is no claim that Boeing had made an explicit objection to release of this data.
48. In Paragraph 38, Breuhaus states that Boeing previously objected to release of data in NTSB Record 7. I have reviewed previous declarations of Mr. Breuhaus as described in Paragraph 46 above. In all references to NTSB Record 7 in these previous statements there is no claim that Boeing had made an explicit objection to release of this data.

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

Dated on this day of 8th September, 2005.



Brett M. Hoffstadt

Affidavit

**COMPLIANCE EVALUATION
OF THE CIA RESPONSE TO THE LAHR FOIA**

Glen H. Schulze

Littleton, Colorado

6 September, 2005

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PREAMBLE

Background

1. My name is Glen Schulze.
2. I am a Life Member of *The Institute of Electrical and Electronic Engineers* and I have accumulated over 40 years of experience as an engineering specialist in the field of recording systems, electronic instrumentation systems and tape storage devices. I have been qualified as an expert witness and I have given courtroom testimony as a Cockpit Voice Recorder Black Box Specialist. A summary CV is attached at the end of this affidavit.
3. I have devoted between 1400 and 1600 hours reviewing the entire collection of the NTSB Reports and other official NTSB documents related to the TWA Flight 800 Cockpit Voice Recorder (CVR) and the Flight Data Recorder (FDR) Accident Tapes. I have additionally reviewed the constructive evaluation of the NTSB FL 800 CVR and FDR sections of the "*TWA FL 800 Interim Report to Congress*" by Commander William Donaldson (Ret.) and other members of his ARAP (Association of Retired Airline Pilots) organization as well as pertinent comments from other citizen accident reviewers. I have also reviewed and evaluated the NTSB's responses and their attempted but flawed compliances to at least three FOIA requests for FDR tape copies.
4. I personally traveled two thousand miles to NTSB Headquarters in Washington D.C on 12 December, 2000 at the request and expense of Mr. and Mrs. Donald Nibert who lost their sixteen year old daughter aboard FL 800. During an intensive two hour meeting I presented the findings and proof of my missing (and withheld) four second data analysis in person to the Niberts, NTSB Chairman Jim Hall and his FDR specialists, Cash, Grossi and Ellingstad.
5. I have reviewed the waveforms of the 105 milliseconds of the sudden loud sound at the end of the CVR tape reported to be at the beginning of the post-disintegration flight trajectory as charted and discussed by the NTSB in their official FL 800 reports. I have also reviewed the NTSB's published sound waveforms obtained from the UK Bruntingthorpe destructive explosion tests of a decommissioned Boeing 747 performed as an adjunct to the investigation of FL 800.
6. Along with JFK former staff member Pierre Salinger and author/investigator Jim Sanders I participated in a major press conference in the spring of 1997 at the Willard Hotel in Washington D.C. Based on my experience gained in Advanced Radar Systems operations and evaluations at the White Sands Missile Range in New Mexico I provided a professional critique of the erroneous FBI interpretations being made about the last few seconds of radar returns received from TWA FL 800 by the FBI's Jim Kallstrom.

7. Furthermore, I have spent over 450 hours reviewing over 600 pages of records produced by the CIA, Air Force, Department of Transportation, NASA, and the FBI produced in response to the Lahr FOIAs. I have also reviewed, and typo corrected, the "Document Index" portion of the CIA's Vaughn index.

8. When TWA 800 exploded and disintegrated off Long Island on 17 July, 1996 hundreds of eyewitnesses observed one or more aspects of the event. A significant number of the eyewitnesses --- over 110 of the total of 755 eyewitnesses --- reported seeing an object rising from very near the surface and traveling in the sky before seeing and hearing a series of explosions of TWA 800, resulting in sudden fireballs and falling sheets of flame. The FBI asked the CIA to help answer the question, "What did the eye witnesses see?"

9. After receiving an early and limited number of FBI Form 302 witness reports, along with other related data such as from FAA Radar returns, black box flight recorders, debris fields, etc., the CIA analysts reached a firm analytical conclusion on 30 December, 1996.

10. The CIA concluded, 5 months after the incident, that the witnesses had only seen the crippled Boeing 747 airliner in its final 15 – 20 seconds of aerodynamic flight before free-falling to the Atlantic Ocean.

11. The CIA, working on the behalf of the FBI, created a video flight simulation showing the 747, with the 747 nose section explosively departing the aircraft, and then arching upward and continuing on in stable flight for 15 seconds. This video was to become known as the "CIA 15 second Zoom-Climb Video".

12. The CIA video simulation showed the nose-less TWA 800 gaining approximately 3,000 feet altitude, in stable and wing level attitude, before losing forward flight momentum and then free-falling vertically to the ocean.

13. The CIA stated its video simulation was based on thousands of hours of computerized modeling of witness triangulation geometry correlated with and checked against various FAA Radar tracks from multiple radars as well as data extracted from CVR and FDR black box recorders. However, no supporting aerodynamic calculations were begun until almost a year later.

14. This CIA video and the attendant explanations of what the eyewitnesses saw was first presented to the public in November 1997, 16 months after the disintegration of TWA 800 and eleven months after the CIA had reached their conclusions of what the eyewitnesses had seen. The two eyewitnesses, whose testimony was featured in the video, challenged the "CIA 15 second Zoom-Climb Video" claiming that that was not what they had observed.

15. Additionally, several highly credible aerodynamicists and physicists claimed the CIA video of 15 seconds of stable, nose-less and altitude-gaining flight of the massive

747 are contrary to the laws of aerodynamics and physics. In a survey of “Aviation Week and Space Technology” readers the majority did not accept the CIA 1997 zoom-climb video as aerodynamically believable.

16. The CIA analysts had provided the FBI a textual report on its Zoom-Climb analysis in April, 1997, 10 months after the incident. Further, the CIA analysts, in testimony given to the NTSB TWA 800 Witness Group in April 1999, 34 months after the incident, again had to defend their Zoom-Climb video by claiming scientific validation of their conclusion by an unnamed and highly experienced aerodynamicist relying on his expertise in aerodynamic flight and flight related parameters.

CIA Zoom-Climb Animation Video Transcript

17. AUDIO TRANSCRIPT OF CIA VIDEO ANIMATION:

“Just after the aircraft exploded, it pitched up abruptly and climbed several thousand feet from its last recorded altitude of about 13,800 feet to a maximum altitude of about 17,000 feet. This is consistent with information provided by NTSB investigators and Boeing engineers who determined that the front third of the aircraft, including the cockpit, separated from the fuselage within four seconds after the aircraft exploded. This significant loss of mass from the front of the aircraft caused the rapid pitch-up and climb.

The explosion, although very loud, was not seen by any known eyewitness.

“However, the subsequent small fire trailing from the aircraft was visible to the closest eyewitnesses on land, sea, and in other aircraft. It was repeatedly described as an ascending white light resembling a flare or fireworks, but it was difficult to see against the relatively light sky.

Shortly after Flight 800 reached the peak of its ascent about 20 seconds after it exploded, a fireball erupted from the aircraft. This was clearly visible to many eyewitnesses. The aircraft then went into a steep and rapid descent. As the aircraft descended, it produced an increasingly visible fire trail. When the jet reached an altitude of roughly one mile, about 42 seconds after it exploded, its left wing separated from the fuselage releasing unburned fuel. The fuel's subsequent ignition and blaze produced a dramatic cascade of flame visible to witnesses more than 40 miles away and detected by infrared sensors aboard a U.S. satellite.

About seven seconds after the left wing detached, and 49 seconds after the initial explosion, the burning debris hit the water.”

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Written CIA statement at end of video:

“The preceding CIA analysis included eyewitness statements obtained by the FBI and data provided by the NTSB. Judgments concerning whether criminal activity caused the crash of TWA Flight 800 are the responsibility of the FBI.”

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Additional comments on the zoom-climb video and its model were provided by the CIA as follows:

“CIA analysts developed this model using observations from key eyewitnesses who were closest to the disaster and who provided detailed descriptions of what they saw and heard. This portrayal was then evaluated against descriptions provided by more than 200 additional eyewitnesses. Not surprisingly, most eyewitnesses saw only the most conspicuous segment of the disaster, the fire trail and cascade of flames in the 10 to 15 seconds before the aircraft hit the water.

Analysts used two techniques to determine that these eyewitnesses saw only the end of the aircraft's descent. First, sound of the aircraft's explosion took more than 40 seconds to reach each of the 58 eyewitnesses who reported hearing sounds associated with the disaster. Therefore, any events those eyewitnesses reported seeing at about the time that they heard the first sound took place well after the explosion. In fact, this technique was used to determine that one eyewitness's observations began more than 17 seconds after the aircraft hit the water. Second, many eyewitnesses, including most of those who reported hearing sounds, described only events that happened within about 10 seconds of when the left wing detached from the fuselage. This was an extraordinary sight as two distinct fireballs and a trailing cascade of flames followed by the burning fuel fell to the ocean. Since the left wing is believed to have detached about 42 seconds after the aircraft exploded, none of these observers, a total of 223, saw events occurring near the time when the recording ended, so of the 244 eyewitness reports analyzed by the CIA, most described observations made only during the final moments of the disaster, well after the aircraft exploded. The 21 eyewitnesses whose observations began earlier described what was almost certainly the aircraft itself in various stages of crippled flight after it exploded. Those who said they saw something ascend and culminate in an explosion probably saw the burning aircraft ascend and erupt into a fireball just after it reached its maximum altitude. From a distance of nine miles or more, this may have looked like a missile attacking an aircraft. But nothing in their statements leads CIA analysts to conclude these eyewitnesses, in fact, saw a missile. Indeed, several eyewitnesses who suspected that they had watched a missile destroy an aircraft were puzzled that they hadn't actually seen the aircraft before the missile hit it.

To date, there is no evidence that anyone saw a missile shoot down TWA Flight 800. Initial speculation that a missile was involved was based totally on the statements of eyewitnesses who were seeking to assist the Federal Bureau of Investigation and the National Transportation Safety Board as these agencies probed into the possible causes of the tragedy. Without the assistance of these eyewitnesses, the accounting given here would not have been possible." (The end)

Lahr FOIA

18. It is a major goal of the Lahr FOIA to obtain the detailed aerodynamic studies, calculations and reports performed by, and sponsored by, the CIA and their unnamed aerodynamic specialist, i.e. – the work product which supplied the necessary 15 second zoom-climb scientific method foundations. Specifically, analog engineering values are required for the aerodynamic parameters of thrust, drag, lift, gravitational weight, angle of attack, roll rate, pitch rate, yaw rates, tri-axial accelerations, airspeed and altitude over the entire 15 second time period of noseless flight, and it's descent to earth. The Lahr FOIA seeks written and electronic records, particularly the trajectory simulation computer model.

The CIA's Record Management System and CIA MORI Numbers

19. The long awaited CIA first document group response to the Lahr FOIA, over 15 months in preparation, reportedly provided approximately 100 documents and 340 pages of CIA analyst work product. In reviewing these documents the reviewer is forced to confront ---and in effect evaluate-- the CIA's Record Management System and the CIA's MORI (Management of Officially Released Information) numbering format.

Existing located CIA documents whose release was "Denied in Full" by the CIA respondents were not assigned CIA MORI Nos. and their existence and their content did not become obvious until 20 June 2005 with the introduction of the CIA "DOCUMENT INDEX NO" list. This list showed that the CIA had "Denied in Full" at least 6 Documents containing over 63 pages of CIA FL 800 work product.

The CIA's MORI Document Numbering ---and DOCUMENT INDEX NO ---- procedures, as use in the Lahr FOIA response, has been found to be totally disorganized, highly inefficient and extremely time-consuming to dissect.

In the year 2000 the **National Archives and Records Administration** reviewed the CIA records management system and found ---

(U) The program, however, does have serious shortcomings that must be rectified to ensure the agency's compliance with federal records management laws and regulations

(U) As a result of the reports and studies noted above, two new senior intelligence service-level positions within DA were created. The Associate Deputy Director for Administration/Information Services (ADDA/IS) is the senior official responsible for agency information services, goals, and objectives, including implementing information and records services plans and policies needed to discharge the mission of the CIA. The Director of Information Management (D/IM) develops and provides oversight and planning for a corporate information, records, classification, and release management program, and serves as the agency's Records Management Officer and the Agency Archivist.

Unfortunately, and possibly because TWA 800 disintegrated 4 years earlier, these important and critical evaluations of CIA record management “shortcomings” are readily seen in the following attributes of the CIA’s document responses to the Lahr FOIA:

- 1) Approximately 140 of the first 340 pages are not dated,
- 2) Multipage documents do not contain any page numbers,
- 3) MORI numbers have frequently been assigned in reverse chronological order,
- 4) Different Doc Nos. and MORI numbers have been assigned to the same document, yet some documents have the same numeric for both.
- 5) Multiple MORI numbers have been assigned to different pages of the same contextual document,
- 6) The latest DOCUMENT INDEX , JUN 20, 2005, does not include all previously submitted MORI numbers

The CIA staff assigning the Lahr MORI numbers apparently had little or no concept of the contextual continuity of the document records being prepared for an FOIA response. The assigning of MORI numbers to undated, unnumbered pages in a random and reverse chronological order ----regardless of the intrinsic value of the document’s redacted content --- is in itself serious grounds alone for registering strong dissatisfaction with the chaotic format of the CIA response.

Note: Examples of the above itemized shortcomings of the CIA’s response to the Lahr FOIA follow:

Item 1) See MORI 1175570 6 pages undated
See MORI 1176348 2 pages undated
See MORI 1176349 40 pages undated
See MORI 1176350 38 pages undated

Item 2) See MORI 1175570 6 pages unnumbered
See MORI 1176347 45 pages unnumbered
See MORI 1215200 15 pages unnumbered

Item 3) See MORI 1175555 1998.1.20
See MORI 1175556 1998.1.15
See MORI 1175557 1998.1.14

See MORI 1175558 1998. 1.13
See MORI 1175559 1998.1.8

Item 4) See Doc. No. 1147307 and MORI 1176341
See Doc. No 1147315 and MORI 1176342
See Doc. No 1147334 and MORI 1176344
See Doc. No 1147338 and MORI 1176348
See Doc. No 1147342 and MORI 1176359

See Doc. No 1215200 and MORI 1215200
See Doc. No 1215201 and MORI 1215201
See Doc. No 1215202 and MORI 1215202
See Doc. No 1215216 and MORI 1215216
See Doc. No 1215218 and MORI 1215218

Item 5) See MORI 1175575
See MORI 1175576
See MORI 1175577
See MORI 1175576

Item 6) See MORI 1214986
See MORI 1214987
See MORI 1214988
See MORI 1214989
See MORI 1214980
See MORI 1215118

The chaotic sequence and muddled format found in the CIA documents response to the Lahr FOIA have in great part been corrected in the subject and following evaluations of these nearly 340 pages ---- and with a recent 15 August 2005 submittal of 127 new pages reaching a total of 567 pages. As a result the CIA stated “nearly 100 documents” were in effect found to be only 41 contextual documents. This required the introduction of the LID or “Lahr ID Numbers” for assignment of sensible ID numbers to contextually consistent documents.

Introduction and Methodology
for Inventory Grouping of FOIA Documents Tab A, B, C and D

20. The original 340 odd pages contained in CIA Tabs A, B and C, produced by the the CIA in February 2005, were generally found to have been randomly assembled without regard to dates, authors, contents, continuity, CIA MORI Nos., completeness or other concerns for orderliness or ease of comprehension by the reviewer. The “Lahr—Page/Tab ID” numbers were assigned by Ray Lahr and appear at ---- <http://raylahr.entryhost.com/CIA.pdf> with the CIA records MORI Nos. thereon.

(A later arriving document group containing 127 new pages was assigned as CIA Lahr Tab D, and Lahr pages 280D to 127D and added to this review and evaluation, bringing the total number of distinct reviewed pages to 567)

21. The MORI Nos. usually appeared on the record pages – one MORI No. on groups of records with between 1 and 48 pages.

22. These records were generally found to have been randomly assembled without regard to dates, authors, contents, continuity, CIA MORI Nos., completeness or other concerns for orderliness or ease of reading. The production of Lahr ID Nos. and deciphering of the records was time-consuming. Multiple different records contained the same MORI Nos., and in some cases the same record content was spread out in pages with different MORI Nos.

23. Accordingly, the evaluation for compliance with the Lahr FOIA required these original 340, plus 127, pages to be formatted into an orderly grouping inventory of specifically unique stand-alone contextual documents before proceeding with the Compliance Evaluation Review.

23. Organizing these 340 plus 127 odd pages into a “reader friendly” format was accomplished by the following procedures:

First, each page received was assigned a sequential page and section number from: 1A – 56A, 57B – 211B, 212C – 265C, 266A – 272A, 273B – 340B, and 280D to 407D.

Second, each page was assigned a specific row in a multicolumn Excel spread sheet. See attached. The Excel spread sheets have column headings of:

LID No. (Lahr Identified Document No.) *
CIA Tab Section
CIA Page No. assigned by R. Lahr
Calendar Date Y/M/D from page
Item Subject
MORI Doc ID
Number of Pages (in contextual content)
Remarks/Review

* The disorganized group of documents and pages was grouped into categories that could be contextually evaluated. Each page was reviewed individually for content review and collating into a reader friendly format and page grouping into an orderly set of unique documents. These documents, 41 in total, were then assigned LID Nos.

22. Assignment of pages to a specific LID No was accomplished by a number of correlation techniques. The specific correlation tools used included Subject matter, Content, Context, Dates, MORI DocID No. and Unique Handwriting. The resulting LID

Nos. were then added to the revised original spread sheets, column 1, for cross referencing between the original "received disorder" from the CIA and the "Lahr LID order."

VAUGHN Index

23. On June 20 the CIA filed 30 *Document Disposition Index* pages, with summaries of its withholding and redactions. However, those pages contained only "Document Numbers," some of which exactly matched MORI Doc ID numbers assigned to the records themselves. A group of 15 of *Document Disposition Index Numbers* contained seven (7) digit numbers totally different from the MORI Doc. ID Numbers. The CIA's Vaughn Index did not include a copy of the records.

Note: See the attached Excel Spread Sheet entitled ----

“CIA MORI Document Nos. and DOCUMENT INDEX Nos. Summary”

24. On August 16 the CIA redundantly re-filed some of the previously submitted records along with two totally new documents and a Vaughn Index Chart, which is reprinted below ----after CIA typo errors correction. From that chart it was theoretically possible to identify which justifications for withholdings in the 24 *Document Disposition Index* pages. But it was not possible to entirely correlate the CIA's index with the records produced because the CIA: ---

- A. Used the same MORI DocID No. on multiple pages and records;
- B. Combined multiple records under one MORI DocID No.;
- C. Omitted from August 16 production: Records which the CIA Produced in February; and
- D. Omitted from its August 16 chart: *Document Disposition Index* pages 56, 57, 58, 59, 63, and 65 ---these six documents later found to be “Denied in Full”.
- E. Delivered other MORI format shortcomings described in paragraph 19 above.

25. The CIA's Confusion Factor is reflected in the CIA originated chart below, corrected by me for CIA typos and expanded to include the (BOLD TYPE) Aug. 16 submittals column and the (BOLD TYPE) Doc. Disposition DI Index page number column. The CIA Confusion Factor between MORI Nos. and Vaughn Doc Index DI Nos. is best absorbed by the attached Excel Spread Sheet ----

Note: See the attached Excel Spread Sheet entitled ----

“CIA MORI Document Nos. and DOCUMENT INDEX Nos. Summary”

Typo Corrected Version of the CIA Vaughn Document Disposition Index Chart

Legend: Non-bolded verbatim from CIA Aug 16 Vaughn index chart (CIA Affidavit p. 6-7).

Bolded Entries added by reviewer.

26 sets of MORI Doc ID Nos. (plus three sets of records produced but not included in Aug 16 chart)	MORI Doc. ID No.	June 20 Document Disposition Index "Document No." Doc Index (DI) No.	June 20 Document Disposition Index page number DI Page no.	August 16 production – found on page numbers of records attached to 2nd Buroker Declaration
1	1176341	1147307	41	19
2	1176342	1147315	42	20-23
3	1176343	1147318	43	24
4	1176344	1147334	44	25-30
5	1176345	1147355	45	31-44
6	1176347	1147336	46	45-75
7	1176348	1147338	47	76-77
8	1176349	1147340	48	78-118
9	1176350	1147342	49	119-156
10	1176351	1147348	50	157-158
11	1176352	1147324	51	159-160
12	1176353	1147339	52	161
13	1176354	1147341	53	162
14	1175601	1080902	54	163
15	1175603	1080903	55	164-211
16	1215200	1215200	60	212-226
17	1215201	1215201	61	227-230
18	1215202	1215202	62	231-258
19	1215016	1215016	64	259
20	1215013 *	1215013	66	260
21	1215014	1215014	67	261-269
22	1215015 *	1215015	68	270
23	1215017	1215017	69	271
24	1215018	1215018	70	272-279
25	1232319	1232319	16 (2nd Bur. Decl.)	280-283
26	1232320	1232320	16 (2nd Bur. Decl.)	284-320

Evaluation Review Explanation

26. Each LID Document was reviewed for FOIA compliance by examining content, context, continuity, reference to other related pages, and data/pages/figures not found. These LID Document reviews were then assembled in a short summary fashion and these forty one (41) document reviews immediately follow this Preamble. The product of that

review is then correlated to the CIA's June 20 and August 16 filings, collectively its Vaughn index.

27. Specific shortcomings are noted on the appropriate line of each summary. Those shortcomings which show that other records were not produced are represented by **bold lettering**. I also provide a comparison of the CIA's Vaughn index to the records.

28. This affidavit is revised. I first completed this affidavit on August 1st. That version did not have any entries for "CIA page numbers from the Aug 16 production," but instead had "Vaughn index page number." All columns read "Not appear in Vaughn index." I also added the "Vaughn index comparison" sections.

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I. EVALUATION OF CIA-PRODUCED MORI RECORDS

Paragraph 29

Note: A: Discrepancies in CIA Letter of Transmittal of 28 February, 2005 are:

- 1) Tab A contained only 10 uniquely identifiable contextual documents, not 27 documents as stated by Mr. Koch.
- 2) Some Tab A documents do not appear contextually in their entirety as stated by Mr. Koch.
- 3) A Doc. with MORI number 1147400 listed in the CIA Tab A paragraph appears to have been "Denied in Full" without supportive entry into the Vaughn Index list.

**Summary of LID No. Tab A Documents
Pages 5A through 56A**

Paragraph 30.

Lahr ID No:

LID No. 1a, 1b, 1c

Discrepancy:

(17 documents not listed on the CIA index.)

MORI Doc ID:

1175555 (2 pages)
1175556 (1 page)
1175557 (4 pages)
1175558 (2 pages)
1175559 (1 page)
1175560 (1 page)
1175561 (1 page)
1175562 (1 page)
1175563 (2 pages)
1175564 (1 page)
1175565 (1 page)
1175566 (1 page)
1175567 (1 page)

Note: These 17 documents and others to follow are not listed in the CIA Vaughn Index of 20 Jun 05 because they are claimed by the CIA to be free of redactions.

But, close reading of these pages reveal missing pages, figs., charts which should place one or more of these pages on the Vaughn list.

1175575 (1 page)
1175576 (1 page)
1175577 (1 page)
1175578 (3 pages)

Document Title/Subject:

(Handwritten computer programming trajectory plotting notes)

CIA page numbers

Aug 16 production:

not identified on Vaughn index

Lahr – Page/Tab ID:

5A through 22A, 41A through 46A

Document Date/s:

12/5/97 to 1/20/98

Author/Source:

unknown

Missing Pages/Figs:

unknown number of computer trajectory printouts

Legibility:

10 % illegible

Remarks:

These notes are not sufficiently complete to stand alone without further explanations from the author and without further records ---which we believe are being denied us---which would have been generated as printouts with these records before program end.

Vaughn index comparison (listed under heading):

MORI Doc ID Aug 16 Vaughn Index
chart (Affidavit p. 6-7)
gives this page for June 20
Document Disposition Index

1175555 (2 pages)	not listed
1175556 (1 page)	not listed
1175557 (4 pages)	not listed
1175558 (2 pages)	not listed
1175559 (1 page)	not listed
1175560 (1 page)	not listed
1175561 (1 page)	not listed
1175562 (1 page)	not listed
1175563 (2 pages)	not listed
1175564 (1 page)	not listed
1175565 (1 page)	not listed
1175566 (1 page)	not listed
1175567 (1 page)	not listed
1175575 (1 page)	not listed
1175576 (1 page)	not listed
1175577 (1 page)	not listed
1175578 (3 pages)	not listed

NOTE: These document records have been redacted by removing an unknown number of important pages which thereby requires that this record/s be listed in the Vaughn Index.

NOTES: I have labeled this record LID No. 1a, 1b, 1c, because its MORI No. pages and date sequences were interspersed with other MORI document records. The assignment of the alphabetic subscripts was necessary in order for the reader to appreciate the contextual continuity of the work product.

Note: Missing records require Vaughn Listing by CIA staff.

Paragraph 31.

Lahr ID No:	LID No. 2	<u>Discrepancy:</u> (Not listed on the CIA index)
MORI Doc ID:	1175568 (1 page)	
Document Title/Subject:	(List of computer "Output files")	
CIA page numbers Aug 16 production:	not identified on <u>Vaughn</u> index	
Lahr – Page/Tab ID:	23A	
Document Date/s:	undated	
Author/Source:	unknown	
Missing Pages/Figs:	Figs. 2 through 5	
Legibility:	25% illegible	
Remarks:	These 15 computer files are required in electronic e-format along with Figs. 2, 3 4 and 5.	

Vaughn index comparison:

<u>MORI Doc ID</u>	Aug 16 <u>Vaughn</u> index chart (Affidavit p. 6-7) gives this page for June 20 <u>Document Disposition Index</u>
1175568 (1 page)	not listed

Note: Missing records require Vaughn Listing by CIA staff.

Paragraph 32.

Lahr ID No:

LID No. 3

**Discrepancy:
(Not listed on the CIA
index)**

MORI Doc ID:

1175569 (1 page)

CIA page numbers
Aug 16 production:

not appear in Vaughn index

Document Title/Subject:

(3 Curves of Latitude/Longitude Plots on graph paper)

CIA page numbers
Aug 16 production:

not identified on Vaughn index

Lahr – Page/Tab ID:

24A

Document Date/s:

undated

Author/Source:

unknown

Missing Pages/Figs:

none

Legibility:

legible

Remarks:

These plotting variances notes are not sufficiently complete to stand alone without further explanations from the author which would have been generated with these records .

Vaughn index comparison:

MORI Doc ID

Aug 16 Vaughn index
chart (Affidavit p. 6-7)
gives this page for June 20
Document Disposition Index

1175569 (1 page)

not listed

Note: Missing records require Vaughn Listing by CIA staff.

Paragraph 33.

Lahr ID No:	LID No. 4	<u>Discrepancy:</u> (Not listed on the CIA index)
MORI Doc ID:	1175570 (6 pages)	
Document Title/Subject:	(Computer program "LATSn91" for Lat/Long distances)	
CIA page numbers Aug 16 production:	not identified on <u>Vaughn</u> index	
Lahr -Page/Tab ID:	25A through 30A	
Document Date/s:	undated	
Author/Source:	unknown	
Missing Pages/Figs:	Computer program is missing from records.	
Legibility:	legible	
Remarks:	This Computer program is required in e-format	

Vaughn index comparison:

<u>MORI Doc ID</u>	Aug 16 <u>Vaughn</u> index chart (Affidavit p. 6-7) gives this page for June 20 <u>Document Disposition Index</u>
1175570 (6 pages)	not listed

Note: Missing records require Vaughn Listing by CIA staff

Paragraph 34.

Lahr ID No:	LID No. 5	<u>Discrepancy:</u> (Two documents not listed on the CIA index)
MORI Doc ID:	1175571 (2 pages) 1175572 (2 pages)	
Document Title/Subject:	(Computer Printouts for “fitrng.pri” and “MATCH RANGE FROM RADARS”)	
CIA page numbers Aug 16 production:	not identified on <u>Vaughn</u> index	
Lahr –Page/Tab ID:	31A through 34A	
Document Date/s:	10/27/97 to 19/29/97	
Author/Source:	unknown	
Missing Pages/Figs:	Printout records	
Legibility:	legible	
Remarks:	These printouts are not sufficiently complete to stand alone without further explanations from the author and without printout records which would have been generated with this record	

Vaughn index comparison:

<u>MORI Doc ID</u>	Aug 16 <u>Vaughn</u> index chart (Affidavit p. 6-7) gives this page for June 20 <u>Document Disposition Index</u>
1175571 (2 pages)	not listed (Missing printouts require Vaughn Listing.)
1175572 (2 pages)	not listed “

Note: Missing records require Vaughn Listing by CIA staff

Paragraph 35.

Lahr ID No:

LID No. 6

**Discrepancy:
(Not listed on the
CIA index)**

MORI Doc ID:

1175573 (4 pages)

Document Title/Subject:

(Hand written computer programming trajectory plotting notes)

CIA page numbers
Aug 16 production:

not identified on Vaughn index

Lahr – Page/Tab ID:

35A through 38A

Document Date/s:

10/29/97

Author/Source:

unknown

Missing Pages/Figs:

unknown number

Legibility:

10 % illegible

Remarks:

These notes are not sufficiently complete to stand alone without further records from the author which would have been generated with these notes

Vaughn index comparison:

MORI Doc ID

Aug 16 Vaughn index
chart (Affidavit p. 6-7)
gives this page for June 20
Document Disposition Index

1175573 (4 pages)

not listed

Note: Missing records require Vaughn Listing by CIA staff.

Paragraph 36.

Lahr ID No:	LID No. 7	<u>Discrepancy:</u> (Not listed on the CIA index)
MORI Doc ID:	1175574 (2 pages)	
Document Title/Subject:	(Handwritten computer programming trajectory plotting notes)	
CIA page numbers Aug 16 production:	not identified on <u>Vaughn</u> index	
Lahr – Page/Tab ID:	39A, 40A	
Document Date/s:	03/17/98	
Author/Source:	unknown	
Missing Pages/Figs:	unknown number	
Legibility:	10 % illegible	
Remarks:	These notes are not sufficiently complete to stand alone without further records which would have been generated with these records.	

Vaughn index comparison:

<u>MORI Doc ID</u>	Aug 16 <u>Vaughn</u> index chart (Affidavit p. 6-7) gives this page for June 20 <u>Document Disposition Index</u>
1175574 (2 pages)	not listed

Note: Missing records require Vaughn Listing by CIA staff.

Paragraph 37.

Lahr ID No:

LID No. 8

**Discrepancy:
(Not listed on the CIA
index)**

MORI Doc ID:

1175579 (4 pages)

Document Title/Subject:

“TWA Fl 800 data/animation notes”

CIA page numbers
Aug 16 production:

not identified on Vaughn index

Lahr – Page/Tab ID:

47A through 50A

Document Date/s:

03/24/97

Author/Source:

unknown

Missing Pages/Figs:

unknown number

Legibility:

legible

Remarks:

**These notes are not sufficiently complete to stand alone
without further written explanations from the author
which would have been generated with these records**

Vaughn index comparison:

MORI Doc ID

Aug 16 Vaughn index
chart (Affidavit p. 6-7)
gives this page for June 20
Document Disposition Index

1175579 (4 pages)

not listed

Note: Missing records require Vaughn Listing by CIA staff.

Paragraph 38.

Lahr ID No:

LID No. 9

Discrepancy:
(Not listed on the CIA index)

MORI Doc ID:

1175581 (2 pages)

Document Title/Subject:

“Great Circle Navigation Program”

CIA page numbers
Aug 16 production:

not identified on Vaughn index

Lahr – Page/Tab ID:

51A through 52A

Document Date/s:

undated

Author/Source:

unknown

Missing Pages/Figs:

Computer program

Legibility:

legible

Remarks:

Usage and purpose not justified.

Vaughn index comparison:

MORI Doc ID

Aug 16 Vaughn index
chart (Affidavit p. 6-7)
gives this page for June 20
Document Disposition Index

1175581 (2 pages)

not listed

Note: Missing records require Vaughn Listing by CIA staff.

Paragraph 39.

Lahr ID No:	LID No 10	<u>Discrepancy:</u> (Not on CIA index)
MORI Doc ID:	1175678 (4 pages)	
Document Title/Subject:	“A Study of the JFK 4.6 Second Radar and Its Effect on the TWA FL 800 Trajectory Model”	
CIA page numbers Aug 16 production:	not identified on <u>Vaughn</u> index	
Lahr – Page/Tab ID:	53A through 56A	
Document Date/s:	Undated	
Author/Source:	unknown	
Missing Pages/Figs:	4 to 8 pages and Figs 2 through 7	
Legibility:	legible	
Remarks:	Without page numbers it is impossible to determine the exact number of missing pages	

Vaughn index comparison:

<u>MORI Doc ID</u>	Aug 16 <u>Vaughn</u> index chart (Affidavit p. 6-7) gives this page for June 20 <u>Document Disposition Index</u>
1175678 (4 pages)	not listed

Note: Missing records require Vaughn Listing by CIA staff .

**Summary of LID No. Tab B Documents
Pages 58B through 211B**

Paragraph 40.

Lahr ID No: LID No. 11

MORI Doc ID: 1176341 (1 page)

Document Title/Subject: (Handwritten Red Team Agenda notes)

CIA page numbers
Aug 16 production: 19

Lahr – Page/Tab ID: 58B

Document Date/s: 01/09/98

Author/Source: unknown

Missing Pages/Figs: unknown number of computer trajectory printouts

Legibility: 20 % illegible

Remarks: **These agenda notes are not sufficiently complete to stand alone without further explanations from the author and without further records and printouts which would have been generated with these records**

Vaughn index comparison:

Index identifies record: "Multi-topic meeting notes"

<u>MORI Doc ID</u>	Aug 16 <u>Vaughn</u> index chart (Affidavit p. 6-7) gives this page for <u>June 20 Document Disposition Index</u>	Page numbers of Records attached to <u>Aug 16 Affidavit</u>
1176341 (1 page)	41	19

Redactions: (b)(3):
"names of CIA employee and intelligence source and method"

Note: Records as well as names and sources have also been redacted and require Vaughn Listing as such.

Paragraph 41.

Lahr ID No: **LID No. 1d, 1e, 1f**

MORI Doc ID: 1176342 (4 pages)
 1176344 (6 pages)
 1176345 (14 pages)
 1176347 (31 pages)

Document Title/Subject: (Hand written computer programming trajectory plotting notes)

CIA page numbers
Aug 16 production: 20-23
 25-26
 28-44
 45-75

Lahr – Page/Tab ID: 59B through 62B, 64B through 65B, 70B through 114B

Document Date/s: 10/26/97 to 12/22/97

Author/Source: unknown

Missing Pages/Figs: **unknown number of computer trajectory printouts**

Legibility: 25% illegible

Remarks: **These notes are not sufficiently complete to stand alone without further trajectory printouts from the author.**

Vaughn index comparison:

<u>MORI Doc ID</u>	Aug 16 <u>Vaughn index</u> chart (Affidavit p. 6-7) gives this page for <u>June 20 Document Disposition Index</u>	Page numbers of Records attached to <u>Aug 16 Affidavit</u>
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Index identifies record:
"Analyst notes"

1176342 (4 pages)	42	20-23
Redactions:	(b)(6) NTSB telephone numbers	
Index identifies record: "Analyst notes"		
1176344 (6 pages)	44	25-26, 28-30
Redactions:	(b)(3) – other statutes (b)(5) – deliberative process (b)(6) – privacy (b)(7) – privacy Deliberative, CIA organizational data, eyewitness name	
Index identifies record: "TWA 800 Witness Questions"		
1176345 (14 pages)	45	31-44
	(b)(3) – other statutes (b)(6) – privacy Names, CIA and eyewitness	
Index identifies record: "Analyst Note"		
1176347 (31 pages)	46	45-75
Redactions:	(b)(3) – other statutes "intelligence source and/or method"	

Note: Records as well as names and sources have also been redacted and require Vaughn Listing as such

NOTE: This record is labeled LID No. 1d, 1e, 1f. I have labeled this record LID No. 1d, 1e, 1f, because its MORI No. pages and date sequence were interspersed with other MORI document records. The assignment of the alphabetic subscripts was necessary in order for the reader to appreciate the continuity and context of the work product.

Paragraph 42.

Lahr ID No: **LID No. 12**

MORI Doc ID: 1176343 (1 page)

Document Title/Subject: "TWA 800 Witnesses Questions"

CIA page numbers
Aug 16 production: 24

Lahr – Page/Tab ID: 63B

Document Date/s: 02/12/97

Author/Source: unknown

Missing Pages/Figs: **See remarks.**

Legibility: legible

Remarks: **The 17 witnesses' answers to these questions are missing and are required**

Vaughn index comparison:

Index identifies record:
"TWA 800 Witness Questions"

<u>MORI Doc ID</u>	Aug 16 <u>Vaughn</u> index chart (Affidavit p. 6-7) gives this page for <u>June 20</u> <u>Document Disposition Index</u>	Page numbers of Records attached to <u>Aug 16 Affidavit</u>
1176343 (1 page)	43	24
Redactions:	(b)(3) – other statutes (b)(6) – privacy (b)(7) – privacy Names, CIA and eyewitnesses	

Note: Records as well as names and sources have also been redacted and require Vaughn Listing as a such.

Paragraph 43.

Lahr ID No: **LID No. 13** **Discrepancy:**
(Multiple documents
listed as one in CIA index)

MORI Doc ID: 1176344 (1 page) (5 more pages under same number)

Document Title/Subject: "TWA 800 Analysis of the Science of Aerodynamics"

CIA page numbers
Aug 16 production: 27

Lahr – Page/Tab ID: 66B

Document Date/s: undated

Author/Source: unknown

Missing Pages/Figs: **See remarks**

Legibility: legible

Remarks: **This redacted page of Aerodynamics Science for TWA
800 is a major goal of this FOIA**

Vaughn index comparison:

Index identifies record: "Analyst Notes"

<u>MORI Doc ID</u>	Aug 16 <u>Vaughn</u> index chart (Affidavit p. 6-7) gives this page for <u>June 20</u> <u>Document Disposition Index</u>	Page numbers of Records attached to <u>Aug 16 Affidavit</u>
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1176344 (5 pages/1 page)	44	25-30
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Redactions: (b)(3) – other statutes
(b)(5) – deliberative process
(b)(6) – privacy
(b)(7) – privacy
Deliberative, CIA organizational data, eyewitness name

NOTE: The CIA's identification of this record/s is inaccurate and distorted because it lists multiple records with the same MORI Doc ID number.

Note: Records as well as names and sources have also been redacted and require Vaughn Listing as such.

Paragraph 44.

Lahr ID No: **LID No. 14**

MORI Doc ID: 1176348 (2 pages)

Document Title/Subject: “Program Rotate MLM”

CIA page numbers
Aug 16 production: 76-77

Lahr – Page/Tab ID: 115B, 116B

Document Date/s: 10/15/81

Author/Source: unknown

Missing Pages/Figs: **See remarks.**

Legibility: legible

Remarks: **This Computer program is required in e-format**

Vaughn index comparison:

Index identifies record:
"Mathematical / computer program"

<u>MORI Doc ID</u>	Aug 16 <u>Vaughn</u> index chart (Affidavit p. 6-7) gives this page for <u>June 20</u> <u>Document Disposition Index</u>	Page numbers of Records attached to <u>Aug 16 Affidavit</u>
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1176348 (2 pages)	47	76-77
Redactions:	(b)(3) – other statutes (b)(6) – privacy Name, CIA	

Note: Missing records require Vaughn Listing by CIA staff.

Paragraph 45.

Lahr ID No:

LID No. 15

**Discrepancy:
(Multiple documents
listed as one in CIA index)**

MORI Doc ID: 1176349 (11 pages) [CIA provided 40 pages with this same MORI Doc. ID No.]

Document Title/Subject: (Slides of TWA 800 Related Location Sites)

CIA page numbers
Aug 16 production: 78-88

Lahr – Page/Tab ID: 117B through 127B

Document Date/s: undated

Author/Source: unknown

Missing Pages/Figs: **See remarks**

Legibility: legible

Remarks: **These slides can not stand alone without the supporting text.**

Vaughn index comparison:

(Index identifies record:
"Graphs, Maps, transponder
data and analyst notes")

MORI Doc ID

Aug 16 Vaughn index
chart (Affidavit p. 6-7)
gives this page No. for June 20
Document Disposition Index

Page numbers of
Records attached to
Aug 16 Affidavit

1176349 (41 pages/11 pages) 48

Redactions:

(b)(3) – other statutes
(b)(6) – privacy
(b)(7) – privacy
Intelligence source/method,
third-party name

78-118*

* (Only pages 78 to 88
are contained in LID
15)

NOTE: The CIA's identification of this record is inaccurate because it lists multiple records with the same MORI Doc ID number -- requires Vaughn Listing as such.

Paragraph 46.

Lahr ID No:

LID No. 16a, 16b

Discrepancy:
(Multiple documents listed as one in CIA index)

MORI Doc ID: 1176349 (10 pages) [CIA provided 40 pages with this same MORI Doc. ID No.]

Document Title/Subject: "TWA FL 800 Missile Theory"

CIA page numbers
Aug 16 production: 78-88

Lahr – Page/Tab ID: 128B through 135B, 137B, 138B

Document Date/s: undated

Author/Source: unknown

Missing Pages/Figs: **See remarks.**

Legibility: legible

Remarks: **Unknown number of missing pages and missing paragraph headings of major importance**

Vaughn index comparison:

Index identifies record:
"Graphs, Maps, transponder data and analyst notes"

<u>MORI Doc ID</u>	Aug 16 <u>Vaughn</u> index chart (Affidavit p. 6-7) gives this page for <u>June 20 Document Disposition Index</u>	Page numbers of Records attached to <u>Aug 16 Affidavit</u>
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1176349 (41 pages/10 pages)	48	78-88
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Redactions: (b)(3) – other statutes
(b)(6) – privacy
(b)(7) – privacy
Intelligence source/method,
third-party name

NOTE: The CIA's identification of this record is inaccurate because it lists multiple records with the same MORI Doc ID number -- requires Vaughn Listing as such.

Paragraph 47.

Lahr ID No: **LID No. 17**

MORI Doc ID: 1176349 (1 page)

Document Title/Subject: (6.43 mb MIME compliant file)

CIA page numbers
Aug 16 production: 97

Lahr – Page/Tab ID: 136B

Document Date/s: undated

Author/Source: unknown

Missing Pages/Figs: **See remarks**

Legibility: legible

Remarks: **This “readme file” and attachments are required in e-format**

Vaughn index comparison:

Index identifies record:
"Graphs, Maps, transponder data and analyst notes"

<u>MORI Doc ID</u>	Aug 16 <u>Vaughn</u> index chart (Affidavit p. 6-7) gives this page for <u>June 20</u> <u>Document Disposition Index</u>	Page numbers of Records attached to <u>Aug 16 Affidavit</u>
1176349 (40 pages/1 page)	48	97
Redactions:	(b)(3) – other statutes (b)(6) – privacy (b)(7) – privacy Intelligence source/method, third-party name	* Only page 97 is contained in this LID No.

Note: Missing records require Vaughn Listing by CIA staff.

Paragraph 48.

Lahr ID No: **LID No. 18** **Discrepancy:
(Multiple documents
listed as one in CIA index)**

MORI Doc ID: 1176349 (19 pages) [CIA provided 40 pages with this
same MORI Doc. ID No.]

Document Title/Subject: “TWA 800 and other A/C Transponder data from FAA and
Sikorsky Radar”

CIA page numbers
Aug 16 production: 100-118

Lahr – Page/Tab ID: 139B through 157B

Document Date/s: unknown

Author/Source: unknown

Missing Pages/Figs: none

Legibility: legible

Remarks: Authors and dates are required.

Vaughn index comparison:

Index identifies record:
"Graphs, Maps, transponder data and analyst notes"

<u>MORI Doc ID</u>	Aug 16 <u>Vaughn</u> index chart (Affidavit p. 6-7) gives this page for <u>June 20</u> <u>Document Disposition Index</u>	Page numbers of Records attached to <u>Aug 16 Affidavit</u>
1176349 (41 pages/19 pages)	48	100-118

Redactions: (b)(3) – other statutes
(b)(6) – privacy
(b)(7) – privacy
Intelligence source/method,
third-party name

NOTE: The CIA's identification of this record is inaccurate because it lists multiple records with the same MORI Doc ID number.

Note: Records as well as names and sources have also been redacted
and require Vaughn Listing as such.

Paragraph 49.

Lahr ID No: **LID No. 19**

MORI Doc ID: 1176350 (38 pages)

Document Title/Subject: "Technical Analysis Briefing" (PowerPoint Slides)

CIA page numbers
Aug 16 production: 119-156

Lahr – Page/Tab ID: 158B through 205B

Document Date/s: March, 1997

Author/Source: unknown

Missing Pages/Figs: **Impossible to determine without page numbers**

Legibility: legible

Remarks: **These slides can not stand alone without additional supporting text to that supplied on page 266A of the June 17 Document**

Vaughn index comparison:

Index identifies record:
"Graphs, Maps, transponder data and analyst notes"

<u>MORI Doc ID</u>	Aug 16 <u>Vaughn</u> index chart (Affidavit p. 6-7) gives this page for <u>June 20 Document Disposition Index</u>	Page numbers of Records attached to <u>Aug 16 Affidavit</u>
1176349 (41 pages/38 pages)	48	119-156

Redactions: (b)(3) – other statutes
(b)(6) – privacy
(b)(7) – privacy
Intelligence source/method,
third-party name

Note: Text as well as names and sources have also been redacted and require Vaughn Listing as such.

Paragraph 50.

Lahr ID No: **LID No. 20**

MORI Doc ID: 1176351 (2 pages)

Document Title/Subject: (Hand drawn graphs of Range and Altitude)

CIA page numbers
Aug 16 production: 157-158

Lahr – Page/Tab ID: 206B through 207B

Document Date/s: 16 March, 1997

Author/Source: unknown

Missing Pages/Figs: **See remarks**

Legibility: legible

Remarks: **These graphs can not stand alone without the supporting records and text.**

Vaughn index comparison:

Index identifies record:
"Analyst Note"

<u>MORI Doc ID</u>	Aug 16 <u>Vaughn</u> index chart (Affidavit p. 6-7) gives this page for <u>June 20 Document Disposition Index</u>	Page numbers of Records attached to <u>Aug 16 Affidavit</u>
1176351 (2 pages)	50	157-158
Redactions:	(b)(3) – other statutes Name, CIA	

Note: Records as well as names and sources have also been redacted and require Vaughn Listing as such.

Paragraph 51.

Lahr ID No: **LID No. 21**

MORI Doc ID: 1176352 (2 pages)

Document Title/Subject: "New Radar Plots Impact on TWA 800 Analysis"

CIA page numbers
Aug 16 production: 159-160

Lahr – Page/Tab ID: 208B through 209B

Document Date/s: 27 October, 1997

Author/Source: unknown

Missing Pages/Figs: **See remarks**

Legibility: legible

Remarks: **The redaction of the witness testimony (not witness identity) from this document renders it essentially useless. The exact witness testimony is required .**

Vaughn index comparison:

Index identifies record:
"New Radar Plots Impact on TWA 800 Analysis"

<u>MORI Doc ID</u>	Aug 16 <u>Vaughn</u> index chart (Affidavit p. 6-7) gives this page for <u>June 20</u> <u>Document Disposition Index</u>	Page numbers of Records attached to <u>Aug 16 Affidavit</u>
1176352 (2 pages)	51	159-160
Redactions:	(b)(3) – other statutes (b)(6) – privacy (b)(7) – privacy Names, CIA & FBI and "intelligence source and/or method"	

Note: Witness testimony as well as names and sources have also been redacted and require Vaughn Listing as such.

Paragraph 52.

Lahr ID No: **LID No. 22**

MORI Doc ID: 1176353 (1 page)

Document Title/Subject: "TWA 800 beacon datasets (3)"

CIA page numbers
Aug 16 production: 161

Lahr – Page/Tab ID: 210B

Document Date/s: 25 Nov, 1997

Author/Source: Mike O'Rourke

Missing Pages/Figs: **unknown**

Legibility: legible

Remarks: **The referred to attachments are required and missing**

Vaughn index comparison:

(index identifies record:
"TWA Beacon Datasets")

<u>MORI Doc ID</u>	Aug 16 <u>Vaughn</u> index chart (Affidavit p. 6-7) gives this page for <u>June 20</u> <u>Document Disposition Index</u>	Page numbers of Records attached to <u>Aug 16 Affidavit</u>
1176353 (1 page)	52	161
Redactions:	(b)(3) – other statutes Name, CIA	

Note: Records as well as names and sources have also been redacted and require Vaughn Listing as such.

Paragraph 53.

Lahr ID No: **LID No. 23**

MORI Doc ID: 1176354 (1 page)

Document Title/Subject: "Inputs for TWA Flight 800 Video (16 June 97 Dist. Date)"

CIA page numbers
Aug 16 production: 162

Lahr – Page/Tab ID: 211B

Document Date/s: 04-21-97

Author/Source: unknown

Missing Pages/Figs: Redacted names

Legibility: legible

Remarks: **The redaction of the author’s name of this document and the redaction of the speaker’s name in paragraph (2) greatly reduces the apparently extremely important consequence of this document. This document completely contradicts and negates the CIA Video of the TWA 800 Zoom-Climb scenario.**

Vaughn index comparison:

Index identifies record:
"Inputs for TWA Flight 800 Video (16 June 1997 distribution date)"

<u>MORI Doc ID</u>	Aug 16 <u>Vaughn</u> index chart (Affidavit p. 6-7) gives this page for <u>June 20</u> <u>Document Disposition Index</u>	Page numbers of Records attached to <u>Aug 16 Affidavit</u>
1176354 (1 page)	53	162
Redactions:	(b)(3) – other statutes (b)(6) – privacy (b)(7) – privacy Names, CIA & FBI	

Note: Very important required names and important sources have been redacted and are required to be identified in order to prioritize this record -- requires Vaughn Listing by CIA staff.

**Summary of LID No. Tab C Documents
Pages 213C through 285C**

Paragraph 54.

Lahr ID No: LID No. 24

MORI Doc ID: 1175601 (1 page)

Document Title/Subject: (Three Key Witness Positions)

CIA page numbers
Aug 16 production: 163

Lahr – Page/Tab ID: 213C

Document Date/s: undated

Author/Source: unknown

Missing Pages/Figs: Corresponding witness accounts are missing.

Legibility: legible

Remarks: **Corresponding witness accounts are required and not included.**

Vaughn index comparison:

Index identifies record:
"Geo Coordinates"

<u>MORI Doc ID</u>	Aug 16 <u>Vaughn</u> index chart (Affidavit p. 6-7) gives this page for <u>June 20</u> <u>Document Disposition Index</u>	Page numbers of Records attached to <u>Aug 16 Affidavit</u>
1175601 (1 page)	54	163
Redactions:	(b)(3) – other statutes (b)(6) – privacy Name, CIA	

Note: Witness accounts as well as names and sources have also been redacted and require Vaughn Listing as such.

Paragraph 55.

Lahr ID No:

LID No. 25

**Discrepancy:
(Multiple documents
listed as one in CIA index)**

MORI Doc ID: 1175603 (8 pages)

[CIA provided 48 pages with
this same MORI Doc. ID No.]

Document Title/Subject: (TWA 800 Lat. And Long.; At t = 0, = 15. = 42 secs)

CIA page numbers

Aug 16 production: 164-171

Lahr – Page/Tab ID: 214C through 221C

Document Date/s: undated

Author/Source: unknown

Missing Pages/Figs: **See remarks**

Legibility: legible

Remarks: **Data totally unusable without corresponding witness
testimony (not witness identity) for witness entries 001
through 233.**

Vaughn index comparison:

Index identifies record:
"Eye Witness Names / Data"

MORI Doc ID

Aug 16 Vaughn index
chart (Affidavit p. 6-7)
gives this page for June 20
Document Disposition Index

Page numbers of
Records attached to
Aug 16 Affidavit

1175603 (8 pages of 48)

55

*164-211
*(Pages 164 to 171
comprise LID No.
25)

Redactions: (b)(3) – other statutes
(b)(6) – privacy
(b)(7) – privacy, Names, CIA & FBI

Note: Witness accounts ----as well as identity ---have been redacted and
require Vaughn Listing as such.

Paragraph 56.

Lahr ID No:

LID No. 26

**Discrepancy:
(Multiple documents
listed as one in CIA index)**

MORI Doc ID: 1175603 (8 pages) [CIA provided 48 pages with this
same MORI Doc. ID No.]

Document Title/Subject: (Witness Lat. And Long.; and Distances and Az. To TWA; At t
= 0, = 15. = 42 secs)

CIA page numbers
Aug 16 production: 172-179

Lahr – Page/Tab ID: 222C through 229C

Document Date/s: undated

Author/Source: unknown

Missing Pages/Figs: **See remarks.**

Legibility: legible

Remarks: **Data totally unusable without corresponding witness
testimony (not witness identity) for witness entries 001
through 233.**

Vaughn index comparison:

Index identifies record:
"Eye Witness Names / Data"

<u>MORI Doc ID</u>	Aug 16 <u>Vaughn</u> index chart (Affidavit p. 6-7) gives this page for <u>June 20</u> <u>Document Disposition Index</u>	Page numbers of Records attached to <u>Aug 16 Affidavit</u>
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1175603 (8 pages of 48)	55	*164-211 *(Pages 172 to 179 comprise LID No.
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Redactions: (b)(3) – other statutes
(b)(6) – privacy
(b)(7) – privacy, Names, CIA & FBI

Note: Witness accounts ----as well as identity ---have been redacted and
require Vaughn Listing as such.

Paragraph 57.

Lahr ID No:

LID No. 27

Discrepancy:
(Multiple documents listed as one in CIA index)

MORI Doc ID:

1175603 (8 pages)

[CIA provided 48 pages with this same MORI Doc. ID No.]

Document Title/Subject:

(Witness Elev. And Delta Times To TWA; At t = 0, = 15. = 38.5 secs)

CIA page numbers
Aug 16 production:

180-187

Lahr – Page/Tab ID:

230C through 237C

Document Date/s:

undated

Author/Source:

unknown

Missing Pages/Figs:

See remarks

Legibility:

legible

Remarks:

Data totally unusable without corresponding witness testimony (not witness identity) for witness entries 001 through 233.

Vaughn index comparison:

Index identifies record: "Eye Witness Names / Data"

MORI Doc ID

Aug 16 Vaughn index chart (Affidavit p. 6-7) gives this page for June 20 Document Disposition Index

Page numbers of Records attached to Aug 16 Affidavit

1175603 (8 pages/48 pages)

55

*164-211
*(Pages 180 to 189 comprise LID 27)

Redactions:

(b)(3) – other statutes
(b)(6) – privacy
(b)(7) – privacy
Names, CIA & FBI

Note: Witness accounts ----as well as identity ---have been redacted and require Vaughn Listing as such.

Paragraph 58.

Lahr ID No:	LID No. 28	<u>Discrepancy:</u> (Multiple documents listed as one in CIA index)
MORI Doc ID:	1175603 (8 pages)	[CIA provided 48 pages with this same MORI Doc. ID No.]
Document Title/Subject:	(TWA 800 and USAIR217 Lat. Long. Alt. at t = 12, t = 0)	
CIA page numbers Aug 16 production:	188- 195	
Lahr – Page/Tab ID:	238C through 245C	
Document Date/s:	undated	
Author/Source:	unknown	
Missing Pages/Figs:	See remarks	
Legibility:	legible	
Remarks:	Data totally unusable without corresponding witness testimony (not witness identity) for witness entries 001 through 233.	

Vaughn index comparison:

Index identifies record:
"Eye Witness Names / Data"

<u>MORI Doc ID</u>	Aug 16 <u>Vaughn</u> index chart (Affidavit p. 6-7) gives this page for <u>June 20 Document Disposition Index</u>	Page numbers of Records attached to <u>Aug 16 Affidavit</u>
1175603 (8 pages/48 pages)	55	*164-211 *(Pages 188 to 195 comprise LID No. 28)

Redactions: (b)(3) – other statutes
(b)(6) – privacy
(b)(7) – privacy
Names, CIA & FBI

Note: Witness accounts ----as well as identity ---have been redacted and require Vaughn Listing as such.

Paragraph 59.

Lahr ID No:	LID No. 29	<u>Discrepancy:</u> (Multiple documents listed as one in CIA index)
MORI Doc ID:	1175603 (8 pages)	[CIA provided 48 pages with this same MORI Doc. ID No.]
Document Title/Subject:	(Witness. To TWA and USAIR ; Az and El.; At t = 0, = -12 secs)	
CIA page numbers Aug 16 production:	196- 203	
Lahr – Page/Tab ID:	246C through 253C	
Document Date/s:	undated	
Author/Source:	unknown	
Missing Pages/Figs:	See remarks	
Legibility:	legible	
Remarks:	Data totally unusable without corresponding witness testimony (not witness identity) for witness entries 001 through 233.	
 <u>Vaughn index comparison:</u>		
Index identifies record: "Eye Witness Names / Data"		
<u>MORI Doc ID</u>	Aug 16 <u>Vaughn</u> index chart (Affidavit p. 6-7) gives this page for <u>June 20 Document Disposition Index</u>	Page numbers of Records attached to <u>Aug 16 Affidavit</u>
1175603 (8 pages of 48)	55	*164-211 *(Pages 196 to 203)
Redactions:	(b)(3) – other statutes (b)(6) – privacy (b)(7) – privacy, Names, CIA & FBI	

Note: Witness accounts ----as well as identity ---have been redacted and require Vaughn Listing as such.

Paragraph 60.

Lahr ID No:

LID No. 30

Discrepancy:
(Multiple documents
listed as one in CIA index)

MORI Doc ID: 1175603 (8 pages) [CIA provided 48 pages with this
same MORI Doc. ID No.]

Vaughn index
page number: not appear in Vaughn index

Document Title/Subject: (Witness Lat. Long.; Primary Shooter Lat. Long.; Wit to Shooter
Distance and Az)

CIA page numbers
Aug 16 production: 204-211

Lahr – Page/Tab ID: 254C through 261C

Document Date/s: undated

Author/Source: unknown

Missing Pages/Figs: **See remarks**

Legibility: legible

Remarks: **Data totally unusable without corresponding witness testimony
(not witness identity) for witness entries 001 through 233.**

Vaughn index comparison:

Index identifies record:
"Eye Witness Names / Data"

<u>MORI Doc ID</u>	Aug 16 <u>Vaughn</u> index chart (Affidavit p. 6-7) gives this page for <u>June 20</u> <u>Document Disposition Index</u>	Page numbers of Records attached to <u>Aug 16 Affidavit</u>
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1175603 (8 pages of 48)	55	*164-211 *(Pages 204 to 211 comprise LID No. 30
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Redactions: (b)(3) – other statutes
(b)(6) – privacy
(b)(7) – privacy
Names, CIA & FBI

Note: Witness accounts ----as well as identity ---have been redacted and
require Vaughn Listing as such.

Page 262C : March 1, 2005; USAF Letter to Lahr

Page 263C : March 3, 2005; DOT FAA Letter to Lahr

Paragraph 61.

Lahr ID No:	LID No. 31	<u>Discrepancy:</u> (Listed in CIA index but not produced in Aug 16 production)
MORI Doc ID:	1147418 (3 pages)	
Document Title/Subject:	“TWA 747 Out of JFK –FAA Radar Data”	
CIA page numbers Aug 16 production:	not in production	
Lahr – Page/Tab ID:	264C through 266C	
Document Date/s:	undated	
Author/Source:	unknown	
Missing Pages/Figs:	See remarks	
Legibility:	legible	
Remarks:	Slides number 3 through 7 are missing	

Vaughn index comparison:

Index identifies record:
"Final Report to FBI (from CIA)"

<u>MORI Doc ID</u>	Aug 16 <u>Vaughn</u> index chart (Affidavit p. 6-7) gives this page for <u>June 20</u> <u>Document Disposition Index</u> missing	Page numbers of Records attached to <u>Aug 16 Affidavit</u> not in production
1147418 (3 pages)		

Note: Five (5) slides have been redacted and require Vaughn Listing as such.

Paragraph 62.

Lahr ID No:

LID No. 32

Discrepancy:
**(Listed in CIA index
but not produced in Aug 16
production)**

MORI Doc ID:

1147417 (19 pages)

Document Title/Subject:

“Program to analyze FAA radar data [xy2rng.f]”

CIA page numbers

Aug 16 production:

not in production

Lahr – Page/Tab ID:

267C through 285C

Document Date/s:

6 - 8 Jan 98

Author/Source:

unknown

Missing Pages/Figs:

See remarks

Legibility:

legible

Remarks:

This program is required in e-format on computer disk

Vaughn index comparison:

MORI Doc ID

Aug 16 Vaughn index
chart (Affidavit p. 6-7)
gives this page for June 20
Document Disposition Index

Page numbers of
Records attached to
Aug 16 Affidavit

Index identifies record:

"Description of TWA 800 for Video"

1147417 (19 pages)

not in production

Note: The subject FAA electronic program has been withheld and
requires Vaughn Listing as such.

Note: Nine New Lahr LID Numbers added on 6 Sep. 2005

Paragraph 63

Lahr ID No: **LID No. 33**

MORI Doc ID: 1215013 (1 page)

Document Title/Subject: CIA Memo to Boeing asking for "Defining probable motion of the aircraft" after loss of nose, Aerodynamics of lift, drag, etc.

CIA page numbers 260
Aug 16 production:

Lahr – Page/Tab ID: 273B

Document Date/s: 3 Mar, 1997

Author/Source: Unknown

Missing Pages/Figs: Boeing's Response, unknown number of pages

Legibility: Legible

Remarks: **Boeing's response is critical and foundational to the explanation of the 747 Zoom-climb aerodynamic performance.**

Vaughn index comparison:

<u>MORI Doc ID</u>	Aug 16 <u>Vaughn</u> index chart (Affidavit p. 6-7) gives this page for <u>June 20 Document Disposition Index</u>	Page numbers of Records attached to <u>Aug 16 Affidavit</u>
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1215013 (1 page)	66	260
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Redactions: (b)(3) – other statutes
 (b)(4) – trade secret
 (b)(6) – privacy
 Names, CIA Trade secrets, "technical data"

Note: The subject communications between the CIA and Boeing have been denied in full and require Vaughn Listing as such.

Paragraph 64

Lahr ID No: **LID No. 34**

MORI Doc ID: 1215015 (1 page)

Document Title/Subject: CIA Memo: FBI Says TWA 800 Clock suspect by 4 seconds, 07 seconds should be 11 seconds

CIA page numbers
Aug 16 production: 270

Lahr – Page/Tab ID: 283B

Document Date/s: 15 Apr., 1997

Author/Source: unknown

Missing Pages/Figs: unknown

Legibility: legible

Remarks: **Full disclosure of all those knowledgeable about this 4 second discrepancy should be identified for full understanding of the associated zoom-climb video**

Vaughn index comparison:

<u>MORI Doc ID</u>	Aug 16 <u>Vaughn</u> index chart (Affidavit p. 6-7) gives this page for <u>June 20 Document Disposition Index</u>	Page numbers of Records attached to <u>Aug 16 Affidavit</u>
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1215015 (1 page)	68	270
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Redactions: (b)(3) – other statutes
(b)(6) – privacy
(b)(7) – privacy
Names, CIA & eyewitnesses

Note: The subject 4 second considerations require full exposure and Vaughn Listings as such.

Paragraph 65

Lahr ID No: LID No. 35

MORI Doc ID: 1215016 (1 page)

Document Title/Subject: CIA Memo on two eyewitnesses from same azimuth, may be brief for G. Tenet, J. Kallstrom, L. Freeh and PRES. CLINTON (approx. 3 months after CIA conclusions)

CIA page numbers
Aug 16 production: 259

Lahr – Page/Tab ID: 284B

Document Date/s: 16 Apr 1997

Author/Source: unknown

Missing Pages/Figs: unknown

Legibility: legible

Remarks: **This document was potentially prepared for President Clinton and full disclosure is required to name those involved in its preparation.**

Vaughn index comparison:

<u>MORI Doc ID</u>	Aug 16 <u>Vaughn</u> index chart (Affidavit p. 6-7) gives this page for <u>June 20 Document Disposition Index</u>	Page numbers of Records attached to <u>Aug 16 Affidavit</u>
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1215016 (1 page)	64	259
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Redactions: (b)(3) – other statutes
(b)(6) – privacy
(b)(7) – privacy
Names, CIA & eyewitnesses

Note: The subject eye witnesses unabridged testimony has been removed and requires Vaughn Listing as such.

Paragraph 66

Lahr ID No: **LID No. 36**

MORI Doc ID: 1215017 (1 page)

Document Title/Subject: CIA Memo on Description of TWA 800 for Video, with 7 Bullets, Bullet #7 -- Altitude unknown (approx. 4 months after CIA conclusions)

CIA page numbers 271
Aug 16 production:

Lahr – Page/Tab ID: 285B

Document Date/s: 12 May 1997

Author/Source: unknown

Missing Pages/Figs: unknown

Legibility: legible

Remarks: **Data available in e-mail form is necessary for constructing zoom-climb video is critical to theory.**

Vaughn index comparison:

<u>MORI Doc ID</u>	Aug 16 <u>Vaughn</u> index chart (Affidavit p. 6-7) gives this page for <u>June 20 Document Disposition Index</u>	Page numbers of Records attached to <u>Aug 16 Affidavit</u>
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Index identifies record:
"Description of TWA 800 for Video"

1215017 (1 page)	69	271
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Redactions: (b)(3) – other statutes
 (b)(4) – trade secret

Note: The subject FAA electronic program has been withheld and requires Vaughn Listing as such.

Paragraph 67

Lahr ID No: **LID No. 37**

MORI Doc ID: 1215018 (8 pages)

Document Title/Subject: CIA Memo to FBI on: five PC .DOC Files: FBIPB3_A,
FBIPB4_A, TWAFINPT, TWAQ&A, TWAKEY_A

CIA page numbers 2732-279
Aug 16 production:

Lahr – Page/Tab ID: 286B – 293B(8 pages)

Document Date/s: 14 Nov 1997

Author/Source: unknown

Missing Pages/Figs: unknown number of missing computer file disks

Legibility: legible

Remarks: **These missing computer files and disks are necessities
for reviewing the zoom-climb video.**

Vaughn index comparison:

<u>MORI Doc ID</u>	Aug 16 <u>Vaughn</u> index chart (Affidavit p. 6-7) gives this page for <u>June 20</u> <u>Document Disposition Index</u>	Page numbers of Records attached to <u>Aug 16 Affidavit</u>
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1215018(8 pages)	70	272-279
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Redactions: (b)(3) – other statutes
(b)(6) – privacy
(b)(7) – privacy
Names, CIA & eyewitnesses

Note: The subject CIA electronic file disks have been withheld and
require Vaughn Listings as such.

Paragraph 68

Lahr ID No: **LID No. 38**

MORI Doc ID: 1215200 (15 pages)

Document Title/Subject: 1 Page Text and 5 Pages of Computer Code for Trajectory Plots, TWA 800 Flight Simulation Plots: Azimuth, angles, range, altitudes

CIA page numbers
Aug 16 production: 212-226

Lahr – Page/Tab ID: 294B-308B

Document Date/s: unknown

Author/Source: unknown

Missing Pages/Figs: **Computer program software for generating zoom-climb Aerodynamic trajectory used in CIA video**

Legibility: legible

Remarks: **This computer program is one of the major CIA records sought by the subject FOIA.**

Vaughn index comparison:

<u>MORI Doc ID</u>	Aug 16 <u>Vaughn</u> index chart (Affidavit p. 6-7) gives this page for <u>June 20 Document Disposition Index</u>	Page numbers of Records attached to <u>Aug 16 Affidavit</u>
1215200 (15 pages)	60	212-226

Redactions: (b)(3) – other statutes
(b)(4) – trade secret
(b)(6) – privacy
Names, CIA Trade secrets, "technical data"

Note: The subject electronic program has been withheld and requires Vaughn Listing as such.

Paragraph 69

Lahr ID No: **LID No. 39**

MORI Doc ID: 1215202 (28 pages)

Document Title/Subject: MVS Alpha numeric computer printout Set Up for FL 800
Analysis uses Boeings Second Estimate CL-CD Data

CIA page numbers 231-258
Aug 16 production:

Lahr – Page/Tab ID: 313B-340B

Document Date/s: 15 Mar 2004

Author/Source: unknown

Missing Pages/Figs: Computer software program in e-form

Legibility: legible

Remarks: **This computer program is one of the major CIA records sought by the subject FOIA. This 2004 program was generated after the 2003 FOIA request !!!**

Vaughn index comparison:

<u>MORI Doc ID</u>	Aug 16 <u>Vaughn</u> index chart (Affidavit p. 6-7) gives this page for <u>June 20 Document Disposition Index</u>	Page numbers of Records attached to <u>Aug 16 Affidavit</u>
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1215202 (28 pages)	62	231-258
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Redactions: (b)(3) – other statutes
(b)(4) – trade secret
Names, CIA
Trade secrets, "technical data"

Note: The subject FAA computer software program has been withheld and requires Vaughn Listing as such.

Paragraph 70

:

Lahr ID No: LID No.40

MORI Doc ID: 1232319 (4 pages)

Document Title/Subject: **Review of FBI Agent's Critique ---What would cause the A/C to then pitch downward? (Working with Boeing to fix this problem)**

CIA page numbers
Aug 16 production: 280-283

Lahr – Page/Tab ID: (New Doc. ----no Lahr page number assigned.)

Document Date/s: unknown

Author/Source: unknown

Missing Pages/Figs: unknown

Legibility: legible

Remarks: **This critical FBI review of the CIA zoom-climb theory contains relevant arguments all of which should be released to the public. Boeing Co. input should be provided in full.**

Vaughn index comparison:

<u>MORI Doc ID</u>	Aug 16 <u>Vaughn</u> index chart (Records page) gives this page for <u>June 20 Document Disposition Index</u>	Page numbers of Records attached to <u>Aug 16 Affidavit</u>
1232319 (4 pages)	16 (Vaughn listing only)	280-283
	Redactions: (b)(3) – other statutes (b)(6) – privacy (b)(7) – privacy Names, CIA & eyewitnesses	

Note: The subject full contents of what appears to be an FBI “Whistle Blower” report has been withheld and requires Vaughn Listing as such.

Paragraph 71

Lahr ID No: **LID No 41**

MORI Doc ID: 11232320 (123 pages)

Document Title/Subject: Witness No: (many) : Location, Distances, Azimuth, Times from explosions; Observations--- CIA Conclusions and some witness sketches

CIA page numbers
Aug 16 production: 284-407

Lahr – Page/Tab ID: (New Doc. ----no Lahr page number assigned.)

Document Date/s: unknown

Author/Source: unknown

Missing Pages/Figs: Missing verbatim witness testimony

Legibility: legible

Remarks: **These 128 pages of witness’s locations, experiences and testimony have been augmented with witness testimony statements, but highly condensed by CIA analysts, thereby clouding and distorting the issue of what the witnesses really saw.**

Vaughn index comparison:

<u>MORI Doc ID</u>	Aug 16 <u>Vaughn</u> index chart (Records page) gives this page for <u>June 20</u> <u>Document Disposition Index</u>	Page numbers of Records attached to <u>Aug 16 Affidavit</u>
1215202 (124 pages)	17 (Vaughn listing only)	284-407

Redactions: (b)(6) – privacy
(b)(7) – privacy
Names, CIA & eyewitnesses

Note: In the subject 123 pages the CIA has withheld the actual witness verbatim testimony and therefore requires Vaughn Listing as such.

II. CONCLUSIONS AND LISTINGS OF THE MAJOR FOIA RESPONSE SHORTCOMINGS

(Listed in order of appearance in the CIA response to the FOIA and identified by Lahr LID Number.)

Paragraph 72.

Conclusion 1

Handwritten Computer Programming Trajectory Plotting Notes
(from LID Nos. 1a, 1b, 1c, 1d, 1e, 1f, (with LID Nos. 2, 4 and 7))

The above LID Documents were found to contain the following information:
(Parenthetical additions are added by this reviewer for timing and context.)

These 76 or more pages are handwritten notes (quite distinctive by one author) that describe numerous mathematical calculations dealing with, for the most part, transponder radar data from TWA 800. This math is involved with converting the raw radar azimuth and range data from "raw radar returns" to altitude, elevation angle and rectangular N/S and E/W Cartesian coordinates for ease in producing maps of the radar data from TWA 800, as well as from other aircraft in the vicinity of TWA. During this 3 month period from 26 October, 1997 to 26 January, 1998, a considerable number of computer radar target position and target trajectory related data files were generated and computer program runs were produced using these files. These computer runs can be described as producing "flight/trajectory plots" for TWA 800 – where flight plots apply before the explosion of TWA 800 and trajectory plots apply after the explosion of TWA 800.

During these three months many meeting contacts and phone contacts were made between the writer of these handwritten notes and Charlie P. ((202) 314-6564) and Dennis X.((202) 314-6569), assumed to be NTSB radar specialists staff.

(It is noted that this trial and error computer program writing exercise begins about a month before the Zoom-Climb Video is made public on November 17, 1997 – 17 months after the destruction of TWA 800 – and continues steadily for another two months thereafter.)

(From the incomplete documents received it is not made clear what exact work products were produced by this three month effort and in what form this work product was produced. However, it is clear that numerous computer files and computer programs were generated in some form or another.)

(The received handwritten documentation from this computer specialist work appears to stop on 26 January, 1998 and then appears to resume on 17 March, 1998, with this 6-week gap unexplained and undocumented.)

Notes by Compliance Reviewer:

- (1) the flight/trajectory path calculations of TWA 800 are the key information items being sought,
- (2) the establishment of this flight/trajectory path relied heavily on computer based data files and computer executed computer programs using these files,
- (3) it is impossible to make use, and derive benefit from, the originally supplied handwritten notes and information without these computer files and programs,
- (4) it is inconceivable that these computer files and programs have not been retained for continuity in the event of computer specialist personnel/staff replacement,
- (5) these computer files and programs can be easily copied to CD by a few clicks of a computer mouse, and
- (6) no computer files or programs have yet to be provided in e-format executable in a desk top PC.

Conclusion: Therefore, as a minimum but not a complete listing, the following computer based files and executable computer programs are required to be supplied in standard Compact Disc –CD--- format:

- A) xy2rng.f
- B) hpn1.dat
- C) ntsb.jfk
- D) ntsb.isp
- E) xy2rng.14c.f
- F) fort.2
- G) fort.2
- H) fort.3
- I) fort.8
- J) fort.9
- K) fort.14-15
- L) fort.14
- M) fort.16-19
- N) firt.20
- O) fort.21-24
- P) fort.33
- Q) fort.50
- R) fort.51-4
- S) fort.61-4
- T) fort.71-4
- U) fitrng.pri
- V) the final executable program versions of the trajectory plotting program
- W) the final version plots of the trajectory plotting program
- X) other required computer downloads that may be referred to in the above
- Y) any handwritten computer specialist revision and improvement notes to the above computer files and programs performed between 26 January, 1998 and 17 March, 1998

Paragraph 73

Conclusion 2

**"A Study of the JFK 4.6 Second Radar
and Its Effect on the TWA FL 800 Trajectory Model"**
(from LID No. 10)

Conclusion: By simple Fig. numbers sequence and textual discontinuity the following missing pages and Figs. are required to make this document complete:

- A) Figs. 2 through 7
- B) Associated missing pages 4 to 8

Paragraph 74.

Conclusion 3

"TWA 800 Witnesses Questions"
(from LID No. 12)

Conclusion: The witnesses' answers to these questions are missing and are required and can be supplied without revealing the identity or invading the privacy of the witnesses:

- A) Witness 3
- B) Witness 5
- C) Witness 6
- D) Witness 7
- E) Witness 8
- F) Witness 34
- G) Witness 37
- H) Witness 44
- I) Witness 54
- J) Witnesses 47, 54, 58,61, 68, 75, 78, 81

Paragraph 75.

Conclusion 4

Redacted page/s of Aerodynamics Science for TWA 800
(from LID No. 13)

Conclusion:

The following redacted reference of Aerodynamics Science for TWA 800 is the major goal of this FOIA and does not qualify to be redacted under any justification. The following aerodynamic information is required:

- A) All pages of the redacted information contained in the “TWA 800 Analysis of the Science of Aerodynamics” are required.
- B) The aerodynamic analysis of the flight 800 zoom-climb trajectory resulting in flight 800 gaining altitude after the 747 nose separated from the aircraft, showing the following aerodynamic parameters vs. the time from t = 0 to t = 42 seconds after the nose separation, are required information:

Thrust	Longitudinal acceleration	Pitch rate
Drag	Lateral acceleration	Roll rate
Lift	Vertical acceleration	Yaw rate
Weight	Altitude	Air speed
Latitude	Longitude	

Paragraph 76.

Conclusion 5

“TWA FL 800 Missile Theory”
(from LID Nos. 16a and 16b)

Conclusion: Based on textual discontinuity and the lack of page numbers, there are an unknown number of missing pages from this document.

- A) All pages missing from this document are required.

Paragraph 77.

Conclusion 6

6.43 mb MIME compliant file
(from LID No. 17)

Conclusion: This file is required in e-format.

Paragraph 78.

Conclusion 7

“Technical Analysis Briefing”(PP Slides)

(from LID No.19)

Conclusion: The missing textual presentation accompanying these 38 Power Point Slides for complete understanding is required.

Paragraph 79.

Conclusion 8

“New Radar Plots Impact on TWA 800 Analysis”

(from LID No. 21)

Conclusion: The numerous reports of witnesses' accounts, referred to on these pages, are missing and are required and can be supplied without revealing the identity or invading the privacy of the witnesses:

Paragraph 80.

Conclusion 9

“Inputs for TWA Flight 800 Video (16 June 97 Dist. Date)”

(from LID No. 23)

The redaction of the author’s name from this document and the redaction of the speaker’s name in paragraph 2) greatly reduce the apparently extremely important consequence of this document. This document completely contradicts and negates the CIA Video of the TWA 800 Zoom-Climb scenario, and the following redacted information is required:

Conclusion:

- A) The document author’s name, title, affiliation and job description are required.
- B) The paragraph 2 authors name, title, affiliation and job description are required.

Paragraph 81

Conclusion 10

Witness Spread Sheets Showing Various Witness Sighting Parameters

(from LID Nos. 25, 26, 27, 28, 29 and 30)

The sighting parameter data contained in these numerous spread sheets are totally worthless and unusable without corresponding textual reports of witness accounts (not witness identity) for witness entries 001 through 233.

Conclusion: The following information is required:

The complete witness testimony for witnesses numbered 1 to 233

Paragraph 82.

Conclusion 11

“CIA Memo to Boeing asking for "Defining probable motion of the aircraft" after loss of nose, Aerodynamics of lift, drag, etc.”

(LID No. 33)

Boeing’s response to this memo is denied to us by the CIA on the grounds of “trade secrets” and loss of commercial property advantage by Boeing. This claimed aerodynamic modeling of the zoom-climb performance of a crippled and pilot less airplane is in no stretch of the imagination a trade secret ---it is impossibility. Only an indefensible aerodynamic trajectory computer model could possibly have been corrupted to produce such an impossible rate of climb, and this certainly cannot be claimed to be a “trade secret”.

Conclusion: This trajectory computer model, used jointly by Boeing and the CIA, should not be withheld from the public on the ridiculous grounds of being a trade secret or a commercial property advantage. The services of a Court Appointed aerodynamic expert should be sought to help judge the veracity of the “trade secrets” claim for withholding the trajectory modeling software being requested.

Paragraph 83.

Conclusion 12

**Text and Computer Codes for Flight Simulation Plots (9 pages),
Computer Code and Output Trajectory Parameter Plots for MVS
(Modularized Vehicle Simulation - 28 pages)**

(LID Nos. 38 and 39)

These 37 pages show the latest CIA efforts (15 March 2004) to produce a flight trajectory software program using aerodynamic science and 747 performance input data from the Boeing Co. These pages show the results of this 2004 effort in the form of several plotted graphs and supporting tabulated flight parameter data obviously produced by a computer software program.

The major and astounding aerodynamic highlight of this effort is the altitude plot and altitude tabulation both which show the crippled nose-less aircraft gaining 2,842 ft to a maximum altitude of 16, 602. (See 15 August 2005 records page 231, and value for H --- altitude ---on page 245 at time ---TCI ---of 19.200000 seconds.)

This computer program described in part by numerous alpha-numeric code lines and instructions, and the attendant flight trajectory results, form the single-most major information records sought by the Lahr FOIA.

In displaying the presence of this computer program and the resultant output data graphs and tables the CIA is providing evidence that this flight trajectory software program for a crippled 747 aircraft exists.

To deny the release of this software program ---in executable e-format ---on the basis of commercial trade secrets requires the belief that the commercial aircraft manufacturing industry would be interested in the flight parameters of nose-less aircraft.

Conclusion: This 15 April 2004 MVS software program designed especially by the CIA for a nose-less 747 must be obtained in full executable e-format and evaluated for its compliance with well known aerodynamic laws.

Paragraph 84.

Conclusion 13

**Six Documents of 66 Pages:
“Draft reports, various charts, handwritten notes,
multiple graphs, etc., all conveying technical data
of certain aspects of flight simulation—“**

(No Lahr has been given to these 6 denied documents.)

The six (6) documents “Denied in Full” are the single most objectionable denial in the CIA’s response to the Lahr FOIA. These are DOCUMENT INDEX Nos. 1215024, 1215194, 1215195, 1215196, 1213197, and 1215209 identified in T. Buroker’s submittal to Lahr of 20 June, 2005.

These six documents contain 66 pages of highly relevant exchanges between the several analysts responsible for the CIA’s zoom-climb theory. These estimated 15,000 to 20,000 words are being withheld most likely because they are the critical evidentiary components which, if released to the public, would provide a sturdy foundation for citizen destruction and ridicule of the CIA TWA FL 800 work product.

For the CIA “denial in full” of these six documents, supported by the Boeing Company affidavit, to be based upon “technical data consisting of trade secrets an\d/or confidential commercial information” is ludicrous. How can the aerodynamic performance of a crippled, noiseless airline ----climbing at a rate of 2600 ft in 15 seconds while its maximum climb rate at takeoff was 500 ft in 15 seconds ---be considered a trade secret?

Conclusion: These six documents are extremely important and all 66 pages beg to be released.

Paragraph 85.

Conclusion 14

CIA’s Rubik Cube Format of Submitted Records

With the addition of the CIA's chart at pages 7 and 8 of its August 15, 2005 "Second Declaration of Terry N. Buroker," I could correlate the Document number given on the June 20 index, and so I revised this affidavit to include the CIA's response in its Vaughn index.

These are my findings after correlating the CIA's August 16 chart with its June 20 Doc. index:

a. The CIA August chart purports to identify 26 records, numbered 41 through 70 (24 records), supposedly the records already produced, and the last two, numbered 16 and 17, for the two sets of additional records produced. The chart is incomplete, misleading, and had to be deciphered. A more complete and expanded Chart showing all MORI and all Doc. Index Numbers has been constructed and attached as ---

“CIA MORI Document Nos. and DOCUMENT INDEX Nos. Summary”

- b. The CIA August chart is incomplete as can be seen by comparison with the above cited attachment.
- c. The CIA August chart is misleading as can be seen by comparison with the above cited attachment.

Conclusion: The five (5) attached Excel Chart Spread Sheets should be the basis for determining the interrelationships of the over 500 pages of records submitted by the CIA in a hap hazard manor in response to the Lahr FOIA request:

List of Attached Excel Spread Sheets

- A: CIA FOIA Response To Lahr, Letter of 28 Feb, 2005, Sheet Tab A, Rev 6 Sep 2005**
B: CIA FOIA Response To Lahr, Letter of 28 Feb, 2005 Sheet Tab B, Rev 6 Sep 2005
C: CIA FOIA Response To Lahr, Letter of 28 Feb, 2005, Sheet Tab C, Rev 6 Sep 2005
D: CIA FOIA Response To Lahr; of 15, 16 Aug, 2005, Sheet Tab D, Rev 6 Sep 2005
E: CIA MORI Document Nos. and DOC. INDEX Nos. Summary , Rev 6 Sep 2005

III. EVALUATION RECORDS PRODUCED BY AIR FORCE,
DEPARTMENT OF TRANSPORTATION, NASA, & FBI

The reports from the Air Force, Department of Transportation, NASA and the FBI are irrelevant to the CIA's zoom-climb work product

IV. Chart: Summary of FOIA requests and deficiencies

Summary of FOIA requests and deficiencies

No.	FOIA No.	Requests	Requests Summarized (all re zoom-climb conclusions)	Summary of production deficiency
1	4	<p>CATEGORY 1: All records of formulas used by the NTSB in its computations of the zoom-climb conclusions.</p> <p>CATEGORY 2: All records of the weight and balance data used by the NTSB in its computations of the zoom-climb conclusions. (hereinafter referred to as ONE & TWO FORMULAS &</p>	<p>NTSB formulas and weight & balance data</p>	<p>formulas and calculations performed by use of computer files and executable computer programs have not been herein provided</p>

		DATA)		
2	69	ONE & TWO FORMULAS & DATA records upon which CIA-produced animation based (broadcast on all networks and CNN November 1997.)	CIA formulas and data	formulas and calculations performed by use of computer files and executable computer programs have not been herein provided
3	71	CATEGORY 3: All records of the formulas and data entered into the computer simulations regarding the CIA and/or NTSB's zoom-climb conclusion , (hereinafter referred to as THREE - FORMULAS & DATA ENTERED INTO COMPUTER).	formulas and data entered into CIA and NTSB simulations	formulas and calculations performed by use of computer files and executable computer programs have not been herein provided
4	75	THREE - FORMULAS & DATA ENTERED INTO COMPUTER records upon which CIA-produced animation (broadcast on all networks and CNN November 1997.)	formulas and data entered into computer re CIA animation	Formulas and calculations performed by use of computer files and executable computer programs have not been herein provided
5	77	CATEGORY 4: All records reflecting whether or not the CIA conducted the computer simulations and	records of when and who performed computer simulations for the CIA	records and records' authors of computer simulations and dates of their work products have not been herein included

		video animations in-house &, if not, all records of when, where, and by whom the computer simulations were performed (hereinafter FOUR SIMULATIONS BY WHOM).		
6	83	CATEGORY 5: The computer simulation and animation programs used by the CIA and/or the NTSB (hereinafter FIVE COMPUTER SIMULATION ITSELF).	simulation and animation programs used by the CIA and the NTSB	no electronic records of simulation and animation programs have been herein produced
7	89	CATEGORY 6: The printout of the computer simulations used by the CIA and/or NTSB (hereinafter SIX COMPUTER PRINTOUTS)	printouts of computer simulations used by the CIA and NTSB	printouts received were not sufficiently identifiable, dated and complete to determine compliance
8	93	SIX COMPUTER PRINTOUTS records upon which CIA-produced animation based (broadcast on all networks and CNN November 1997.)	computer printouts of CIA animation	printouts received were not sufficiently identifiable, dated and complete to determine compliance
9	96	SEVEN - TIMING SEQUENCES -- RADAR, RADIO, FDR records upon which CIA-produced	timing sequences including radar, radio, and the FDR re CIA	no timing sequence data for the radar data, CVR and FDR was found in any form

		animation (broadcast on all networks and CNN November 1997.)	animation	
10	98	CATEGORY 8: All records of the correlation of the zoom-climb calculations with the actual radar plot (hereinafter EIGHT - RADAR PLOT CORRELATION	correlation of calculations with radar plot	no correlation of zoom-climb aerodynamic calculations with actual radar data was found in any form
11	99	EIGHT - RADAR PLOT CORRELATION records upon which CIA-produced animation based (broadcast on all networks and CNN November 1997), was based.	correlation of calculations with radar plot upon which CIA-produced animation based	no correlation of aerodynamic animation calculations with actual radar data was found in any form
12	101	CATEGORY 9: All records of the information provided by Boeing to the NTSB used by the NTSB to calculate these zoom-climb conclusions (hereinafter NINE - INFO PROVIDED BY BOEING).	records of the information provided by Boeing to the NTSB	the required Boeing aerodynamic information supplied to the NTSB was not supplied
13	102	NINE - INFO PROVIDED BY BOEING records upon which CIA-produced animation based (broadcast on all networks and CNN November 1997.)	Boeing-supplied records upon which CIA-produced animation based	the required Boeing aerodynamic information supplied to the NTSB was not supplied

14	104	CATEGORY 10: All records of the process by which the NTSB arrived at its zoom-climb conclusions (hereinafter TEN - ALL RECORDS GENERATED OR RECEIVED).	records of the process by which the NTSB arrived at its zoom-climb conclusions	no records of the zoom-climb conclusion reaching process were supplied
15	105	TEN - ALL RECORDS GENERATED OR RECEIVED records upon which CIA-produced animation based (broadcast on all networks and CNN November 1997.)	records upon which CIA-produced animation based	records received were highly disorganized and not sufficiently identifiable, sequenced, dated or complete to determine compliance
16	107	CATEGORY 11: All records generated or received by the NTSB used in its computations of its zoom-climb conclusions (hereinafter ELEVEN - ALL RECORDS OF PROCESS)	records generated or received by the NTSB	records received were highly disorganized and not sufficiently identifiable, sequenced, dated or complete to determine compliance
17	108	REQUEST 108: ELEVEN - ALL RECORDS OF PROCESS records upon which CIA-produced animation (broadcast on all networks and CNN November 1997.)	records of process records upon which CIA-produced animation based	records received were highly disorganized and not sufficiently identifiable, sequenced, dated or complete to determine compliance

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

Date: September ____, 2005.

Glen H. Schulze

Glen H. Schulze

Littleton, Colorado

Summary CV

January, 2004

Institute of Electrical and Electronic Engineers, IEEE, Life Member
Washington University St. Louis, BSEE and EE Graduate Studies
University of Texas at Austin, Applied Research Labs, Consultant in Digital and Analog
Tape Recording for the US Navy LRAPP/EAES Programs
NASA Programs Apollo and Skylab, MMC, Tape Recording and Telemetry Systems
Engineering
Central Intelligence Agency Contractor, Ampex Corp., Program Manager, Digital Tape
Recording
US Naval Research Labs, NRL, ASW Acoustic Programs Tape Recording Consulting
Engineer, Digital and Analog Systems
NUSC, Andros Island Bahamas, Mark 48 Torpedo Data Collection System Design and
Operation
KSC Florida, Pan American World Airways, Telemetry Systems Engineer
White Sands Missile Range, Advanced Radar Systems Engineer

Standards Organization Memberships:

International Standards Organization, ISO TC 97 SC 12, Chairman, Tape
Recording Standards
American National Standards Institute, ANSI, X3B6, Tape Recording Standards
Inter-Range Instrumentation Group, IRIG 106, Instrumentation Tape Recording
Standards
IEEE, Chairman, Instrumentation Tape Recording Committee
Society of Motion Pictures and Television Engineers, SMPTE, Video Tape
Recording Standards

Aviation Law Firms Supported:

Kirtland Packard, Los Angeles, Aviation Accidents ATC Tape Analysis
Wolk & Genter, Philadelphia, Aviation Accidents, CVR Expert Witness
Hale Pratt, Denver, Aviation Noise, DIA Aviation Noise Measurements Expert
Witness

Western Environmental Law Center, WELC, Taos NM, Aviation Noise EIS
Analysis
Van Elmore Law Offices, Denver, CO., Community Noise Testimony

Miscellaneous:

FDR Accident Tape Analysis of TWA FL 800 for Family Members
ATC Accident Tape Analysis of AAL FL 587 for Pilot's Parents

Professional References:

Dr. Norm Gholson
SAIC Gulfport, MS
601 863 7840

Ms. Nancy Bedford or
Dr. Clark Penrod
University of Texas, ARL
Austin, TX
(512) 835-3200

Mr. Charles Stuart
Competitive Enterprise Solutions
Arlington, VA
(703) 203-0628

Professor Ronald Stearman
The University of Texas at Austin
Aerospace Engineering Department
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9 *Attorneys for Plaintiff*

10 **UNITED STATES DISTRICT COURT**
11 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
12 **WESTERN DIVISION**

13 H. RAY LAHR,) Case No. 03-08023 AHM (RZx)
14)
15 Plaintiff,) **PLAINTIFF'S PROPOSED**
16) **ORDER**
17 v.)
18) Date: October 31, 2005
19 NATIONAL TRANSPORTATION) Time: 10:00. a.m.
20 SAFETY BOARD, *et al.*) Place: Courtroom 14, 312 N. Spring
21) Street, Los Angeles, CA 90012
22 Defendants.) Judge: Honorable A. Howard Matz
23)
24)

25 Upon defendants' motion for entry of partial summary judgment as to the
26 Central Intelligence Agency (CIA), the materials submitted in support thereof and
27 in opposition thereto, it is this _____ day of _____, 2005, hereby
28 ORDERED, that defendant CIA's motion is hereby DENIED; and it is
further

ORDERED, that within 30 days of the entry of this Order, the CIA shall
resubmit its Vaughn index, which shall include a copy of all records that the CIA
has disclosed to plaintiff, including those records that the CIA claims to have
provided in full. The CIA shall insert one of its *Document Disposition Index*

1 forms immediately preceding each record, and on it shall state how disclosure
2 would infringe upon the interest sought to be protected by the exemption.

3 Where the record contains more than one redaction based upon the same
4 exemption, and the basis for the withholdings differs, the CIA shall correlate its
5 basis of the withholding with each such redaction.

6 The CIA shall exercise due diligence in separating the pages, and in
7 grouping the pages, so that each *Document Disposition Index* form corresponds to
8 one individual record.

9 The CIA shall also include in its Vaughn index a *Document Disposition*
10 *Index* form for each record that the CIA has with withheld in its entirety, including
11 records in electronic format, such as computer programs and software, and shall
12 include the reason why it could not reasonably segregate the record and release
13 any non-exempt portions thereof.

14 The records identified shall be consecutively numbered, beginning with
15 Record number one; and it is further

16 ORDERED, that the parties shall, within fifteen days of the submission of
17 the Vaughn index, file with the Court a proposed briefing schedule for the CIA's
18 filing of a motion for summary judgment.

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21
22

A. HOWARD MATZ
UNITED STATES DISTRICT JUDGE
23
24
25
26
27
28

1 Copies to:

2 John F. Dunne, Jr., Esquire
3 1601 Cloverfield Boulevard
4 Second Floor, South Tower
5 Santa Monica, California 90404-4084

6 David M. Glass, Esquire
7 Assistant United States Attorney
8 20 Massachusetts Avenue, NW
9 Room 7140
10 Washington, DC 20530

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1 **PROOF OF SERVICE – BY MAIL**

2 DISTRICT OF COLUMBIA:

3
4 I am a resident of the District of Columbia, over the age of 18 years. My business
5 address is 1717 K Street, NW, Suite 600, Washington, DC 20036. I am counsel
6 for plaintiff.

7 On September 13, 2005, I served a true copy of **PLAINTIFF'S PROPOSED**
8 **ORDER** on the interested parties in this action by first class mail proper postage
9 prepaid, addressed to:

10 David M. Glass, Esquire
11 Assistant United States Attorney
12 20 Massachusetts Avenue, NW
13 Room 7140
14 Washington, DC 20530

15
16
17
18
19 I declare under penalty of perjury that the foregoing is correct and that this
20 Proof of Service was executed on September 13, 2005.

21
22
23 _____
24 John H. Clarke
25
26
27
28