

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

THOMAS J. COLBERT
TJC Consulting, LLC
1534 N. Moorpark Road, #373
Thousand Oaks, CA 91360-5129

Plaintiff

v.

Civil Action No. 16-1790

FEDERAL BUREAU OF
INVESTIGATION
935 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

and

DEPARTMENT OF JUSTICE
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Defendant.

* * * * *

COMPLAINT

This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, et seq., as amended, for the disclosure of agency records memorializing the Federal Bureau of Investigation’s investigative file, otherwise known as “Norjak”, of the “D.B. Cooper” skyjacking of Northwest Orient Airlines flight #305 on November 24, 1971.

JURISDICTION

1. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the defendant pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

VENUE

2. Venue is appropriate under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391.

PARTIES

3. Plaintiff Thomas J. Colbert (“Colbert”) has been a trainer and community-affairs specialist for law enforcement and public safety agencies for more than three decades. He is also a former senior media executive, with thirty-six years of management and editorial experience in the national news, TV entertainment, publishing and motion-picture fields thereby qualifying him as a representative of the news media for purposes of FOIA. For the past five years he has led a Cold Case Team of forty experts, to include law enforcement personnel (including former FBI agents), criminologists, journalists and attorneys investigating the 1971 D.B. Cooper skyjacking. As a result of their efforts, the true identity of D.B. Cooper has been learned and is detailed in Colbert’s book *“The Last Master Outlaw: How He Outfoxed the FBI Six Times But Not A Cold Case Team”* (2016). He is a U.S. citizen and resident of the State of California.

4. Defendant Federal Bureau of Investigation (“FBI”) is in possession and/or control of the records requested by Colbert that are the subject of this action. Department of Justice (“DOJ”) is an agency within the meaning of 5 U.S.C. § 552 (e), and DOJ controls – and consequently serves as the proper party defendant for litigation purposes – the FBI.

FACTUAL BACKGROUND

5. On November 24, 1971, a man named “Dan Cooper” hijacked Northwest Orient Airlines flight #305 from Portland, Oregon, to Seattle, Washington. He later parachuted from the rear of the airplane at 10,000 feet with \$200,000 in cash he had received in exchange for releasing the flight’s thirty-six passengers. Dan Cooper, who was later

erroneously identified by a reporter as “D.B. Cooper,” the name that has stuck for four decades, was never found dead or alive and the crime remains unresolved. The only physical evidence that ever surfaced was in 1980 when \$5,800 in \$20 bills that matched the serial numbers of the ransom money given to D.B. Cooper was suspiciously found along the shores of the Columbia River buried just under the sand. <https://www.fbi.gov/history/famous-cases/db-cooper-hijacking> (last accessed September 7, 2016). No other hijacking money has ever been found.

6. The D.B. Cooper skyjacking remained an open and unsolved FBI case until July 11, 2016. Following the completion of a two-part investigative series by The History Channel that aired July 10-11, 2016, the Special Agent in Charge of the Seattle, Washington, FBI Field Office held a press conference and stated that the FBI was administratively closing the case, a rare if not unprecedented decision especially for such a high-profile criminal investigation. <http://www.cnn.com/2016/07/12/world/d-b-cooper-fbi-closes-case/index.html> (last accessed September 7, 2016). “We have arrived at our conclusion today that it was just time to close the case because there isn’t anything new out there,” said Special Agent in Charge Frank Montoya, Jr. “There’s a lot that goes into that decision but really it was just time.”

7. On July 12, 2016, the FBI’s Seattle Public Affairs Specialist Ayn Dietrich-Williams issued a written statement that can be found on the FBI’s website at <https://www.fbi.gov/contact-us/field-offices/seattle/news/press-releases/update-on-investigation-of-1971-hijacking-by-d.b.-cooper> (last accessed September 7, 2016). The statement reads:

Following one of the longest and most exhaustive investigations in our history, on July 8, 2016, the FBI redirected resources allocated to the D.B. Cooper case in order to focus on other investigative priorities. During the course of the 45-year NORJAK investigation, the FBI exhaustively reviewed all credible leads, coordinated between multiple field offices to conduct searches, collected all available evidence, and interviewed all identified witnesses. Over the years, the FBI has applied numerous new and innovative investigative techniques, as well as examined countless items at the FBI Laboratory. Evidence obtained during the course of the investigation will now be preserved for historical purposes at FBI Headquarters in Washington, D.C.

The mystery surrounding the hijacking of a Northwest Orient Airlines flight in November 1971 by a still-unknown individual resulted in significant international attention and a decades-long manhunt. Although the FBI appreciated the immense number of tips provided by members of the public, none to date have resulted in a definitive identification of the hijacker. The tips have conveyed plausible theories, descriptive information about individuals potentially matching the hijacker, and anecdotes—to include accounts of sudden, unexplained wealth. In order to solve a case, the FBI must prove culpability beyond a reasonable doubt, and, unfortunately, none of the well-meaning tips or applications of new investigative technology have yielded the necessary proof. Every time the FBI assesses additional tips for the NORJAK case, investigative resources and manpower are diverted from programs that more urgently need attention.

Although the FBI will no longer actively investigate this case, should specific physical evidence emerge—related specifically to the parachutes or the money taken by the hijacker—individuals with those materials are asked to contact their local FBI field office.

8. Colbert and his Cold Case Team were the focus of the investigative series aired by The History Channel. At the time Colbert had accumulated over one hundred separate pieces of evidence that could lead a reasonable person to believe Robert W. Rackstraw (“Rackstraw”), an individual alive and well and living in southern California, as having been D.B. Cooper. Some of those pieces of evidence were outlined during The History Channel’s two-part investigative series, which ultimately steered away from the theory that Rackstraw is D.B. Cooper. For reasons unknown, the production team that created

the History Channel program intentionally disregarded key pieces of evidence and cooperated with the FBI, resulting in the appearance that the case remains unsolved. Upon information and belief, the FBI took advantage of the airing of the program to close its case and hide the fact that it could not develop evidence sufficient to prosecute Rackstraw beyond a reasonable doubt because of earlier Bureau investigative errors and failures.

9. The History Channel program falsely insinuated the FBI had reviewed all of the Cold Case Team's evidence. In actuality, the FBI was never provided with a copy of the evidence, notwithstanding several offers to do so. In fact, there are more than a dozen significant pieces of evidence, to include forensic, that were not part of The History Channel's program and which have never been disclosed to the FBI or public until now.

10. The entirety of the evidence compiled by Colbert and his Cold Case Team, much of which can be found at <http://dbcooper.com/> (last accessed September 7, 2016), that links Rackstraw to D.B. Cooper is outlined below. It reveals a man who has fabricated his history, lied about his background, received military training that would allow a parachute jump from a commercial airliner at 10,000 feet, committed various crimes to include fraud, and insinuated, if not admitted, to family members and close friends that he was, in fact, D.B. Cooper. The relevant pieces of never-before-seen evidence are highlighted in bold:

- a. On October 20, 1963, the Santa Cruz Police Department found an intoxicated Rackstraw with false identification.
- b. In January 1967, Rackstraw – then a U.S. Army Reserve Corporal – moved to Fort Benning, Georgia, for four weeks for infantry jump school training.
- c. In February 1967, Rackstraw began eight weeks of demolition training.

d. In September 1967, Rackstraw began ten months of scuba and underwater demolition training at the U.S. Army's Presidio of Monterey, California.

e. In or around this same period of time, Rackstraw obtained a second Social Security number.

f. On July 22, 1968, Rackstraw – now holding the rank of Sergeant – began ten weeks of classes at the Special Warfare School at Fort Bragg, North Carolina. The courses included 140 hours on conducting Special Forces Operations and Survival Training, along with 130 hours in PSYOP (schooling in deception, interrogation and propaganda techniques).

g. In or around this same period of time, Rackstraw falsely stated to his first wife that he was now a Green Beret. Later, while on leave in California, he is allegedly photographed in a Green Beret cap. He was never a Green Beret, although he did take some training courses.

h. On June 25, 1969, Rackstraw – having completed ten months of chopper/fixed-wing flight training at Fort Wolter, Texas, and Fort Rucker, Alabama, and now holding the rank of Warrant Officer – deployed to Vietnam.

i. In or around this same period of time, and while deployed to Vietnam, Rackstraw is involved in “freelance” jungle operations with individuals associated with or working for the Central Intelligence Agency (“CIA”) and Special Forces.

j. In February 1971, subsequent to his return to the United States, now-Lieutenant Rackstraw is detained at Fort Rucker, Alabama, for domestic assault. After his first wife filed for divorce, the U.S. Army initiated an inquiry into Rackstraw's history.

k. On June 21, 1971, Rackstraw is accused of falsifying his college records and lying about his rank and medals. He is forced to resign from the U.S. Army.

l. On June 22, 1971, Rackstraw stopped payments on his leased car and vanished from Fort Rucker, Alabama.

m. In or around this same period of time, Rackstraw traveled northwest, as he would later tell his family in California, to open a “plane service for realtors” for the purpose of seeking aerial pictures.

n. During 1971-72, an individual claiming to be Norman de Winter, a Swiss Baron, participated in con artistry in Oregon. Some of the evidence linking Norman de Winter to Rackstraw includes, but is not limited to, the following:

i. Between 2013 and 2016, fourteen witnesses in both Astoria and Covallis, Oregon, were tracked down by Colbert. Those witnesses stated to Colbert – and later gave video testimony to The History Channel – that Norman de Winter looked like Rackstraw. Five of these witnesses stated that in 1971 Norman de Winter had told them that he (Norman de Winter) had a plane at their unsupervised runway. During the same time period, Rackstraw told his family in California that he was flying a plane for a realtor “up north.” According to witnesses in the zone where the FBI believes the November 24, 1971 jump took place, a small plane was heard departing in the night.

ii. The name “Norman de Winter” could be based on the Army Airborne’s co-founder, World War II hero Dick Winters, who took part in the invasion at Normandy. During the Vietnam War era, the story of “Normandy Winters” was told to all Army Airborne recruits, and Rackstraw was trained at the Army Airborne School.

iii. Two Astorian newspaper articles, dated March 7, 1972, and March 14, 1972, substantiates residents’ stories about the July 16, 1971, arrival, various schemes, money borrowing and sudden late September 1971, vanishing of this “Swiss baron,” Norman de Winter. The articles tell of a “baron [that] claimed to be from a wealthy family in Switzerland.” He “won his way in the friendship and homes of some of [Astoria’s] most prominent citizens,” but then he “started borrowing bits and dabs, \$20 here, \$100 there,” into the thousands.

iv. While in Astoria, Oregon, between July 16 and late September 1971, “Norman de Winter” befriends a football athlete. When the athlete leaves for his second year at Oregon State University (“OSU”), Norman de Winter becomes his pen-pal and letters are exchanged (posted September 2, 1971 and September 17, 1971, by Norman de Winter). A 1971 licked stamp from one of the six recovered Norman de Winter letters, as well as a water bottle Rackstraw abandoned during an interaction in San Diego, California on May 20, 2013, were sent to a respected DNA laboratory. A forensic professor, Jeff Renz, stated that although there was no conclusive match, there was enough of a “mixture” to warrant a “particularized suspicion that Robert W. Rackstraw is Norman de Winter.”

v. In late September, 1971, “Norman de Winter” vanishes from Astoria, Oregon. Shortly after that, Rackstraw makes a surprise stop at his parents’ home in Valley Springs, California, where he picks up his sister and two daughters and takes them to Disneyland for an all-expense-paid weekend. Resort photos at Disneyland are stamped for October 1971.

After the weekend, and before departing, Rackstraw tells his parents and his sister that he has a job flying a plane for a “real estate guy” in Washington State.

vi. The next week, “Norman de Winter” resurfaces in Corvallis, Oregon, which has an unsupervised airstrip. He looks up the OSU football athlete pen-pal and they become roommates for five weeks. After five weeks, Norman de Winter leaves without notice and abandons his belongings, which are put into storage by the football player.

vii. A mile away from his pen-pal’s location, on November 19, 1971, “Norman de Winter, entered a crowded Corvallis party in the apartment of another OSU football athlete, who happened to be the manager. He is allowed to sleep on the couch there for five days. According to three witnesses, he vanishes from that apartment without notice on November 23, 1971 – the day before the Portland, Oregon hijacking of Northwest Orient Airlines flight #305.

viii. On December 9, 1971, “Norman de Winter” re-emerges in Corvallis, Oregon. While there for one week, he writes two letters to one of nine witnesses in Astoria, Oregon, a fish factory co-worker. The letters, which are available, included the address of the house in which he roomed with the OSU football athlete as the return address. There is no verification that Norman de Winter ever returned to that house, although his personal belongings had been placed in storage by the OSU football athlete.

o. On July 23, 1971, four months prior to the hijacking, the National Guard Armory in Santa Cruz, California – where Rackstraw began his military career – was hit by a “highly sophisticated,” after-hours burglary. The next day, armory officials discovered that all M-1 rifles, 45-caliber pistols, and machine guns were missing, as well as a grenade launcher. Based on interviews conducted by the Cold Case Team it was learned that for nearly 10 years, Rackstraw’s family members and co-workers were told by the FBI they suspected Rackstraw had committed the burglary as his first “stick it to the man” caper, but he was never charged.

p. In or around this same period of time, Rackstraw’s step-father in Valley Springs, California, tells his 24-year-old daughter that “somebody’s looking for Bob, so don’t tell anybody he’s here.” Rackstraw’s sister told Colbert’s Cold Case Team that their step-father “used to lie for Bob.”

q. The 1971 hijacking.

- i. The only stewardess (though the current terminology is to state flight attendant, those of this time period apparently prefer “stewardess”) who saw “Dan Cooper” with his sunglasses off said he had “penetrating brown eyes” (like Rackstraw) and appeared to be wearing makeup to darken his skin.
- ii. When a stewardess asks if he had a grudge against her airline, “Cooper” says: I don’t have a grudge against your airline, Miss. I just have a grudge.” Rackstraw’s sister told Colbert’s Cold Case Team that when he came home in October 1971, he said “he wasn’t happy with the Army. You know, [calling it] politics as usual – they had their agenda and I didn’t fit in with that.”
- iii. After the hijacker’s nighttime jump into icy rain, two investigators reported “a small plane was heard in the [forest] are near where the FBI believes D.B. Cooper bailed out.” Rackstraw had been trained for all-weather jumps and flying in similar conditions.

r. In the week after the 1971 hijacking, officials confiscated four D.B. Cooper letters that had been mailed to papers in the Northwest. The first and last of those four letters were sent from California mailboxes thirty-five miles and fifty miles, respectively, from where Rackstraw remotely lived for eighteen months. Former FBI agent Jack Trimarco deemed the postal-marking discovery an “8 out of 10, evidentiary-wise.”

s. In or around 1972, as confirmed by court documentation, reporters and a police officer, Rackstraw was living, working, hunting and commuting from Valley Springs, California. He remained there for the next 18 months. At that point, Norman de Winter and D.B. Cooper vanished for good.

t. In or around this same period of time, a college student who sat across from D.B. Cooper on the hijacked airplane gives the FBI a better sketch of the hijacker. This student also claimed the hijacker’s dark “hair was shiny, as if it were dyed.”

u. In 1973, Rackstraw unlocked an airplane hangar in Palo Alto, California and revealed a Cessna airplane to his future second wife. Rackstraw described the plane as his own, although FAA records demonstrate Rackstraw never registered any aircraft.

v. On July 15, 1973, at a floor and deck-laying company in San Francisco Bay, California, Rackstraw – then a new employee – would sometimes wear a black suit and tie to look like a free-moving manager. A former co-worker claims he did it “so he could steal around the shipyard. He reveled in it – he was a thief and a gangster.”

w. In October 1973, while Rackstraw was supervising the laying of a gym floor at Pepperdine University, he hired Jon Richard “Dick” Briggs (“Briggs”), a Portland, Oregon, resident who had temporarily relocated to California. Sources in three states say Briggs, a future cocaine dealer and trafficker, became Rackstraw’s close friend and secret crime-partner. In 1980, it is believed Briggs was Rackstraw’s co-conspirator in the alleged scheme to plant D.B. Cooper ransom cash along the Columbia River.

x. In Portland, Oregon in 1974, Briggs introduces his new friend, Rackstraw, to Jim Shell. Rackstraw arrives at the meeting with “a duffel bag” of cash. Shell never asked any questions about the duffel bag. This was the first of sixteen known trips Rackstraw made to the Northwest, and one of four to meet with Briggs. Shell confirmed that Briggs, a Colombian drug supplier, dealt in Krugerrands, the then-currency of the black market. In 1979, two separate witnesses claimed Rackstraw was in possession of his own supply of Krugerrands. It is, of course, possible Rackstraw laundered the D.B. Cooper ransom money into Krugerrands, which is why it has never been found other than \$5,800.

y. In March 1974, after working a floor job in Los Angeles, California, Rackstraw takes Briggs and two co-workers to the Century City Playboy Club. When the staff treats Rackstraw like a celebrity and the floor-show crowd cheers him on arrival, Rackstraw admits to Briggs and the two co-workers that he had called ahead to the Club and made a reservation pretending to be then-Governor Ronald Reagan’s private pilot.

z. In May 1974, Rackstraw volunteers as a part-time chopper pilot for the Calaveras County, California, “Sheriff’s Posse.” Months later, his ID badge is taken away after abusing it in bars in Stockton, California. He later impersonates a sheriff’s deputy during a drunk-driving stop.

aa. On May 24, 1974, shortly after marrying for the second time, Rackstraw’s new wife opens his briefcase. Inside she finds “a disguise”. When she confronts him about it, Rackstraw claims he used the brown toupee to hide his balding head during important meetings. Rackstraw did not provide her with any explanation about the tape-on mustache.

bb. In or around this same time, Rackstraw uses his new wife’s identity in loan documents. He opens a secret printing shop that he later uses for an elaborate check-kiting scheme in 1977.

cc. Between 1974 and 1976, Rackstraw made out-of-state road trips for a California floor company. During those trips, he would rent planes at various airports and take a regular workmate out for local flights. That workmate stated that Rackstraw would put down “wrong names” on the rental applications and when he directly asked Rackstraw if he was D.B. Cooper, Rackstraw responded with a “half smile”.

dd. Twenty-two cases of dynamite, enough to level the local county center six times over, that were stored in a mountain quarry bunker in Rackstraw's former hometown of Santa Cruz, were found to be missing on February 18, 1975. An ATF official later stated the thief or thieves "knew what they were doing." Press articles from 1978 indicate that family members and co-workers who were interviewed by the FBI claimed Rackstraw was a prime suspect in the theft, but he was never charged.

ee. On May 15, 1975, during a business trip in Cleveland, Ohio, Rackstraw is pulled over for speeding. When the police officer asks for his name, Rackstraw uses the name and address of one of his workers. This shocked the passenger in the car, who provided the Cold Case Team with an interview, as that passenger was the brother of the worker in question. When the cop suddenly has to depart for an emergency call, Rackstraw reassures his passenger, saying "Ah, they'd never do anything about it."

ff. In August 1975, during a visit to Rackstraw's California aviation company, Pudgy Hunt and Briggs find themselves on a flight into the center of a thunderstorm with only a radio to guide Rackstraw through blinding downpour and lightning. Hunt later says, "He was unfazed, didn't bother him one bit. It bothered the airport though, him being the only one up. Briggs and I forced him to turn around and go back."

gg. Based on interviews, the Cold Case Team learned that one night in 1977, Rackstraw takes Briggs to San Jose, California, where they stole a truck, smashed it into a closed gun shop, and then fled with a cache of weapons. Rackstraw's first wife told Colbert that the guns were subsequently hidden in her mother's house.

hh. In or around this same time, according to a colleague of Rackstraw and Briggs, the two men then hot-wired a parked Volkswagen. They drove it into the back of a half-ton truck, stripped it of parts for resale, and then dumped the vehicle on a backroad.

ii. In March 1977, Rackstraw paid a surprise visit to a Portland bar owner, and told the man he's heading to a "floor installation job" in southern Oregon. Two witnesses told the Cold Case Team that within days the bar owner learned that Rackstraw actually came to Oregon to ram a car into the closed business of a rival company and stole valuable merchandise.

jj. While facing local felony charges, and under suspicion for the disappearance of his stepfather, a construction partner, Rackstraw fled Oregon before authorities could serve him with warrants in early December 1977. But before departing the area, he tried to send a UPS shipment of illegal explosives to a friend in Texas – the box is intercepted by authorities.

kk. In early January 1978, two Stockton police officers learned of Rackstraw's hidden explosives and background as a pilot and veteran and become suspicious that he

might be D.B. Cooper. Based on their initial research they notified the local FBI field office of their potential discovery.

ll. In response to the suspicions raised by the Stockton police officers, on January 24, 1978, FBI agents paid a visit to Rackstraw's sister in California. According to interviews with Rackstraw's sister conducted by the Cold Case Team the agents mentioned they were aware of an "angry" letter Rackstraw sent to the Army after his involuntary discharge in 1971, and implied that it gave Rackstraw a motive to commit the 1971 hijacking.

mm. On January 26, 1978, a police bomb squad executed a warrant on Rackstraw's eight bins at a Stockton warehouse and found 150 pounds of illegal dynamite – enough to level a city block.

nn. By this time Rackstraw had traveled to Iran to work for Bell Helicopter, Inc. On February 10, 1978, a private investigator learned of Rackstraw's exact location in Iran. The investigator notified the local county sheriff, who in turn notified the local FBI field office.

oo. After being fired by Bell Helicopter for lying about his education, Rackstraw is persuaded to fly back to the United States on February 20, 1978. Although he attempted to deplane in Paris, France, FBI agents were waiting for him and escorted him back to the United States. The FBI stamps Rackstraw's passport as "cancelled". He is given a one-way "Certificate of Identity of a U.S. Citizen," with two aliases noted: R.L. Roehner/Boehner and Gary Miller.

pp. Upon his return to the United States, Rackstraw refused to exit the airplane and forced the FBI agents to carry him out. Upon being asked if he is D.B. Cooper, Rackstraw demanded a lawyer. No further questions are asked at that time about whether Rackstraw is D.B. Cooper. He is then handed over to California authorities who charge him with several felonies, including the murder of his stepfather, whose body had just been discovered.

qq. Upon Rackstraw's return to California on March 14, 1978, he falsely informed Calaveras County Homicide Detective Bud Lawrence that he (Rackstraw) was CIA. Detective Lawrence later tells a reporter "we don't know that for a fact."

rr. On July 11, 1978, at the opening of his California trial for the murder of his stepfather, Rackstraw – now in a wheelchair – sympathetically claimed to be a disabled Green Beret Captain with five Vietnam campaigns and 40 medals, including five Purple Hearts and Presidential Unit citations.

ss. Doctors for the District Attorney's Office examined Rackstraw and concluded he did not suffer from any disability. The prosecution was never able to obtain Rackstraw's military records in time for the the trial. Had they been able to do so, they

would have learned that although Rackstraw had been a pilot in Vietnam, he was never a Green Beret Captain. He was an Army Lieutenant in a Huey transport chopper. He served on only one tour of duty, not five. Nor did he receive any Presidential Unit citations or war wounds. His military service records actually reflect that Rackstraw was a “chronic liar” and forced out of the service for “conduct unbecoming an officer.” Rackstraw was found not guilty of his stepfather’s murder and released on bail as other charges were still pending.

tt. On September 15, 1978, during a court hearing for check kiting, writing bad checks, and possession of explosives the prosecutor asked Rackstraw “about being D.B. Cooper”. According to former Deputy District Attorney F. Clark Sueyres, now a retired judge who serves as a member of the Cold Case Team, Rackstraw invoked his right to legal counsel and would not respond.

uu. On October 11, 1978, twenty-four hours before Rackstraw was due to appear in court to face his check-kiting arraignment, he was flying in a rented Cessna plane to purportedly visit his ex-wife and children in Santa Cruz, California. During the flight he called in a distress signal and claimed the plane was on fire over Monterey Bay. Searchers found no wreckage from the missing plane and Rackstraw disappeared for four months. Newspaper reports claim the FBI was scheduled to question him specifically about the D.B. Cooper case.

vv. Shortly after his disappearance, FBI agents arrived at the home of Rackstraw’s first wife and revealed the ongoing search for Rackstraw. According to an interview with his first wife, the FBI agents mentioned the 1971 armory break-in where weapons were stolen and that they suspected Rackstraw was involved.

ww. In November 1978, in the Washington State woods, an elk hunter found a plastic card that said “Emergency Exit Handle”. This card was verified by the FBI as having fallen off of the rear-exit door of Northwest Orient Airlines flight #305 which had been hijacked in 1971 by D.B. Cooper. The card landed “six flying minutes” from where D.B. Cooper is believed by the FBI to have jumped – near Ariel, Washington.

xx. In December 1978, Briggs’ teenage son interrupted his father’s conversation with a “shady character” on their suburban home’s driveway in Portland, Oregon. Briggs’ son told the Cold Case Team that he is adamant the “shady character” was Rackstraw. This interaction occurred two months before Briggs began claiming he (Briggs) was D.B. Cooper, and fourteen months before the \$5,800 in D.B. Cooper ransom money was “discovered” buried along the Columbia River.

yy. In 1979, Rackstraw obtained a third Social Security number.

zz. On January 27, 1979, Rackstraw – using the alias Robert C. Eastman – copied a counterfeit pilot’s license and medical certificate in a California print shop.

According to numerous articles, his stolen “Mayday” rental plane is found in a hanger, repainted, and marked with a fake tail number.

aaa. On February 3, 1979, two Stockton detectives revealed to a reporter that they were told by the FBI that Rackstraw was “known to be flying to a real estate development company in the Washington [State] area about the time of the hijacking.” Rackstraw’s sister told Colbert’s Cold Case Team that Rackstraw had given their family this same alibi in October 1971, presumably to provide himself with cover should the authorities investigate his whereabouts. It is believed this Rackstraw alibi, which is false, serves as one of the primary reasons why the FBI refuses to acknowledge Rackstraw is D.B. Cooper.

bbb. The two Stockton detectives also informed the reporter that during a January 20, 1978, interrogation of Rackstraw, he had claimed that he had been asked about whether he was D.B. Cooper by the Army at Fort Cronkhite in San Francisco Bay. But the Stockton detectives learned Rackstraw was discharged five months prior to the 1971 hijacking. This is just one of several alibis Rackstraw has concocted that have proven to be false.

ccc. On February 5, 1979, newspaper headlines for the first time questioned whether Rackstraw could be D.B. Cooper. Days later, Briggs informed two drug runners – Ron L. Carlson and Verne Burke – that he (Briggs) was D.B. Cooper, thus beginning years of Briggs’ telling stories of being D.B. Cooper. It is believed by the Cold Case Team that Briggs began to claim he was D.B. Cooper to steer attention away from Rackstraw.

ddd. On February 6, 1979, during a local Stockton Record newspaper interview, Rackstraw denied that he was D.B. Cooper “with a flippant smirk.” The reporter, however, noted the following about Rackstraw: “He identifies with the spirit of D.B. Cooper, a person he says ‘challenged the legal system and beat it. I think I stand for the American people, I really do.’”

eee. On March 1, 1979, Briggs took two drug runners, Ron L. Carlson and Verne Burke, for a midnight tour of his Portland, Oregon home. They entered a second-floor room that contained a military arsenal – “hundreds” of large-caliber rifles, pistols, rocket launchers and machine guns were laid out like a gun show. The Cold Case Team believes it is possible these were the weapons stolen in 1971 by Rackstraw from the Santa Cruz armory.

fff. While in jail on March 7, 1979, Rackstraw called an NBC News station in Los Angeles and admitted to being D.B. Cooper. When asked for proof, Rackstraw stated that he used the last name “Cooper” to honor his uncle, Ed Cooper, who had skydived more than 2,000 times. The NBC News station confirmed the family name connection. Reporters were sent to the Stockton jail to get Rackstraw’s confession on camera but he refused.

ggg. On April 25, 1979, as part of Rackstraw's California criminal trial for possession of illegal explosives, the District Attorney blew up a car with dynamite as a demonstration for the jury. The dynamite used was from the same cache Rackstraw tried to ship to a Texas friend.

hhh. On July 25, 1979, before Rackstraw is sentenced to two years, a probation officer tells the court Rackstraw's history as a "chronic liar". A former Army superior testifies that Rackstraw was "one of the two worst lieutenants I've ever seen in my 29 years."

iii. At Rackstraw's sentencing, the local NBC News station again asked him whether he was D.B. Cooper. Rackstraw refused to directly answer and ended the interview with a pondering pose: "You say with a story like that, should it be fiction or should it be fact? It's primarily up to the American people someday, how that comes out."

jjj. On November 24, 1979, Briggs and one of his drug runners Ron L. Carlson ("Carlson") attended the 8th annual D.B. Cooper Day party in Woodland, Washington, Briggs laughed at tourists who "have no clue" who he really is. He even wore a festival t-shirt that said "I'm D.B. Cooper". On the way home, Briggs feigned frustration to Carlson, who was interviewed by the Cold Case Team, that he wasn't able to "share the truth" with the crowd.

kkk. On February 7, 1980, at a party along the Columbia River, Briggs told his two drug runners, one of whom (Carlson) was interviewed by the Cold Case Team: "I'm going to tell you something that'll prove to you who I am." He then pointed to a hippie couple in the crowd and said, "In a few days they and their son are going to find some of my [Cooper] money on the north side of the Columbia River."

lll. On February 12, 1980, the two drug runners saw the same "hippie couple," who were identified as Dwayne and Patricia Ingram, on national news with their son, Brian, as they explained how they "discovered" D.B. Cooper ransom money along the north shore of the Columbia River. The FBI lead agent at the scene later suggested that D.B. Cooper "either landed in the Columbia and drowned, or died in the mountains and the mountain was washed out."

mmm. On August 19, 1980, after apparently being cleared by the FBI as a hijack suspect, Rackstraw is released from prison after serving just one of his two year sentence. He subsequently vanished from the media's radar until 2016.

nnn. Seventeen years later, on October 19, 1997, Rackstraw – now a college instructor with three degrees in law and economics – is pulled over in Southern California and charged with resisting arrest, Driving Under the Influence of drugs, and providing a false ID to a police officer.

ooo. On May 22, 2003, Don Ray – a former researcher for the NBC News station that covered Rackstraw’s 1979 trial in California – told a journalism class about a March 7, 1979, phone call received from “a man in jail claiming to be D.B. Cooper.” Ray explained how he found the caller’s uncle, Ed Cooper, to confirm the uncle’s name. A local school newspaper article corroborated Ray’s telling of this story.

ppp. In 2007, the FBI’s case agent assigned to the D.B. Cooper investigation stated that the “Dan Cooper” airline ticket was signed by the hijacker. Colbert hired Linton A. Mohammed, former President of the American Society of Questioned Document Examiners, to compare the ticket signature to the handwriting in one of the four D.B. Cooper letters. The analysis found “similarities” and “indications [they] were written by one person.”

qqq. On February 2, 2011, Carlson – one of the drug runners for the now-deceased Briggs – was interviewed on camera by Colbert’s Cold Case Team. Carlson, who offered to take an FBI polygraph and testify in court to demonstrate his recollection is accurate, stated that Briggs had claimed to be D.B. Cooper, as well as the other evidence listed above.

rrr. On July 9, 2011, in coordination with Colbert’s Cold Case Team, Carlson made a “spontaneous” call to another other former Briggs’ associate Jim Shell, who was living in Portland, Oregon. Carlson asked Jim Shell if he (Shell) remembers Briggs claiming to be D.B. Cooper, as well as the day Briggs “set up that hippie couple.” Jim Shell said, “Yeah, wasn’t that a big coincidence.”

sss. On October 29, 2011, Colbert’s Cold Case Team conducted a telephonic interview with the “hippie couple” whose son found the D.B. Cooper ransom money in 1980. The parents denied the discovery of the D.B. Cooper cash was a set-up stunt. However, the version of events recited by Dwayne Ingram during the interview did not match the story he told in 1980.

ttt. On November 1, 2011, with the cooperation of the FBI, several examples of the D.B. Cooper ransom money found in the Columbia River in 1980 was scientifically examined. The conclusion was that it could not have gotten there “without mechanical or human intervention”. <http://www.citizensleuths.com/moneyanalysis.html> (last visited September 7, 2016).

uuu. On November 26, 2011, at a D.B. Cooper Symposium in Portland, Oregon, Colbert’s Cold Case Team video-interviewed Brian Ingram, who was then forty years old, regarding his discovery of the D.B. Cooper ransom money in 1980. Ingram states he believed the cash was planted on the Columbia River but that he did not believe his parents had anything to do with it. Ingram also provided additional details concerning his parents’ October 29, 2011, interview that contradicted his own version of the 1980 incident, particularly regarding whether he found the money on his own or if his father had told him specifically where to dig.

vvv. On March 21, 2012, Colbert's Cold Case Team conducted videotaped interviews of three former newsmen involved in the interviews Rackstraw gave to the local NBC News station in 1979. Former Editor Pete Noyes provided the Cold Case Team his story file, including two 1979 jail letters from Rackstraw that contain possible DNA.

www. In April 2012, Colbert's Cold Case Team received records from the Army through a FOIA request for Rackstraw's military records. Among the records received was an Army ID picture of Rackstraw which appears to be a "perfect match" for the FBI's D.B. Cooper drawing #2 (which is considered the most accurate). FBI Seattle Case Agent Curtis Eng later requested a copy of the Army ID picture for his official file, as the FBI apparently did not have one, and Colbert personally delivered it.

xxx. On June 3, 2012, former Briggs' drug runner, Carlson, sat for a polygraph examination administered by former FBI polygrapher Jack Trimarco. After a two hour examination in which Carlson repeated his prior claim that Briggs had claimed to be D.B. Cooper, Carlson was deemed to have completed the examination without any deception indicated.

yyy. On November 6, 2012, in response to an e-mail from a Cold Case Team member about his 1978 "wrongful arrest" as D.B. Cooper, Rackstraw expressed interest in discussing the story pending "compensatory discussions." On November 8, 2012, Rackstraw stated during a telephone call that he can relate to highly-trained Vietnam vets who, upon return, became outlaws: "I can see where a lot of individuals who don't have the drive, gumption, knowledge and education I would have go, 'Well, screw it all, the hell with the government ... I'm anti-government.'"

zzz. In a telephone conversation on February 19, 2013, Rackstraw was informed that recent forensic tests, overseen by the FBI, had concluded that the D.B. Cooper ransom money could not have washed down the Columbia River and instead appeared to have been planted. Rackstraw stated: "Yeah, I heard that too ... [to] get them off track."

aaaa. On May 20, 2013, Colbert and members of the Cold Case Team visited Rackstraw's boatyard business. When Colbert – only known as a TV series producer that Rackstraw had been communicating with for months – initially drove up and introduced himself, he unrolled a link crime chart that displayed Rackstraw's secret trail and collaborators over the years. During Rackstraw's silent seven minutes of study, Colbert pointed out Rackstraw's 1970 Army ID picture and stated that it was taken "14 months before the big day," obliquely referring to the November 24, 1971 hijacking for the first time. Rackstraw's response was "Yeah, yeah."

bbbb. During the same discussion, Rackstraw smiled and pointed at a chart photo and correctly identified Briggs. Rackstraw claimed to have only known Briggs as a teacher in the 1960s and that he was not aware that Briggs had died. The Cold Case Team's investigation, however, determined the two first met in 1973.

cccc. When Colbert offered payment to Rackstraw for his life story if he would confess, Rackstraw responded "I told everybody I was [D.B. Cooper]" and claimed it was just an elaborate stunt. Rackstraw asked to see the life-rights option check twice to make sure his name was on it.

dddd. On May 21, 2013, Colbert and his Cold Case Team returned to Rackstraw's business and filmed their conversation with a two-man, mobile camera crew. After being asked whether he was D.B. Cooper, Rackstraw stated: "What difference does it make?" Rackstraw was told in response: "Because if you're D.B. Cooper, the world would want to know your story." Rackstraw, while smirking, answered: "Sure they would. So would the FBI and the secret indictment in Washington, D.C."

eeee. As Rackstraw prepared to drive away, he was asked: "Why are you so evasive about what should be a simple thing to say?" Rackstraw responded: "Because you guys would make such a big deal out of it."

ffff. On May 31, 2013, Rackstraw responded, via e-mail through his attorney, to Colbert's last offer to come clean by stating: "Now, we will consider a real offer if they provide virtually every piece of data and information they have acquired in the past years."

gggg. On June 25, 2013, Rackstraw's estranged sister agreed to share her story of why she now believed her brother could be D.B. Cooper. Two weeks later, she sat for a four-hour, tell-all video interview. Four weeks after that, she died from cancer. She also provided Colbert with fifty-six family pictures that show Rackstraw at different ages.

hhhh. In June 2013, Colbert contacted Jim Shell, one of Briggs' former drug associate. Shell admitted to his drug past, to meeting Rackstraw in Portland and to hearing Briggs call himself D.B. Cooper.

iiii. On August 3, 2013, Colbert obtained information from Verne Burke, one of Briggs' drug runners. Burke corroborated Carlson's story, including that Briggs used to claim he was D.B. Cooper and that he revealed the cash-planting scheme prior to the 1980 incident.

jjjj. On May 12, 2015, Lieutenant Colonel Ken L. Overturf – Rackstraw's former Vietnam commander – stated that when Rackstraw wasn't in the air, he was a rule-breaker, a con artist and a thief. LTC Overturf told Colbert that he believes Rackstraw is D.B. Cooper, particularly because Rackstraw had the parachuting skills and "go to hell" attitude to pull it off.

kkkk. In or around May 2015, Colbert's Cold Case Team also spoke with Rackstraw's former Vietnam co-pilot, Captain Wayne Olmstead who described Rackstraw as "very pleasant, personable, capable and a natural leader" and that he was "fearless and a "crazy sucker." CPT Olmstead further stated that Rackstraw "always had unauthorized weapons around – including a Browning Army rifle, AK-47s, M-79 grenade launchers, satchel charges" – and a stolen jeep.

llll. In the History Channel interview about the 1980 incident, Dwayne and Brian Ingram are asked to describe the discovery of the D.B. Cooper ransom money. Dwayne Ingram said that when his son started digging a fire pit he directed him to move to a different location. He recalled saying, "Let's start right over there. See them two little sticks over there? Let's do it right there." Dwayne Ingram is also shown the video interview of Carlson and that he indicated the money had been planted and it was known in advance that Ingram would find it. Dwayne Ingram can be seen removing his glasses, closing his eyes, tightening his facial muscles and grimacing as he turns away. He then responded that Carlson must have been "tweaking" and could not be trusted.

mmmm. On September 21, 2015, the college student who sat across from "Dan Cooper" on the airplane in 1971 (and provided FBI drawing #2) agreed to review a professional "six-pack" photo array examination. When asked if D.B. Cooper was among the pictures, he pointed to Rackstraw's 1970 Army ID picture.

nnnn. On October 1, 2015, the History Channel interviewed Rackstraw's former girlfriend, who is known as the "Getaway Girl," who joined him on two escapes from California custody between 1977 and 1979. The Getaway Girl stated that Rackstraw told her in 1978 that the U.S. Government was trying to prove that he was D.B. Cooper. Before Rackstraw's 1978 murder trial, the Getaway Girl acquired his military file, including his awards and skill sets for his defense attorneys. Rackstraw became upset because "all of this proves I could be this [Cooper] person." The Getaway Girl stated that she directly asked Rackstraw if he was D.B. Cooper but refused to disclose his response. She said, "If I knew he was D.B. Cooper, I would never discuss [it] until he had died." She further noted that Rackstraw would say, "Angel, don't talk to the psychologist, don't talk to anyone because there's no statute of limitations on skyjacking."

oooo. On July 26, 2016, Colbert was told by a former member of Rackstraw's family that Rackstraw's first wife maintains a safe that is believed to contain incriminating evidence that could link Rackstraw to being D.B. Cooper.

pppp. As part of the History Channel program, the FBI surprisingly arranged for former Northwest Orient Airlines flight #305 stewardess Tina Mucklow, who had declined interviews for decades, to review a photo array of potential D.B. Cooper suspects, which included Rackstraw. Mucklow failed to identify Rackstraw as the man she interacted with on November 24, 1971.

Unbeknownst to the History Channel, the FBI was aware in advance that Mucklow would be unable to identify any photographs shown to her as being D.B. Cooper as she was determined by the FBI years earlier to have little to no memory capable of identifying any suspect. In fact, at least one FBI agent believed she could never be a witness at any trial, and it would be useless to give her photos for review. Upon information and belief, the FBI deliberately staged this photo array review in order to undermine the theory that Rackstraw is D.B. Cooper so as to prevent embarrassment for the Bureau's failure to develop evidence sufficient to prosecute him for the crime.

11. Despite credible evidence linking Rackstraw to D.B. Cooper, the FBI chose to officially close its investigation. This FOIA lawsuit intends to secure for the American public the entire history and details of the FBI's investigation to prove once and for all the true identity of D.B. Cooper.

FIRST CAUSE OF ACTION

12. By letter dated July 12, 2016, Colbert submitted a FOIA request to the FBI for the agency's investigative file of the "D.B. Cooper" skyjacking incident on November 24, 1971. The request noted that it was reasonably likely that the FBI Headquarters, the FBI field office in Seattle, Washington, as well as the FBI Resident Agencies in Washington and Oregon were likely to have responsive records. Colbert further explained that as a journalist he qualified as a representative of the news media and requested a fee waiver. He alternatively indicated that he was willing to pay up to \$25 for any applicable fees. Finally, he requested that responsive records be produced in electronic format.

13. As twenty working days have elapsed without a substantive response from the FBI, Colbert has constructively exhausted all required administrative remedies.

14. Colbert has a legal right under the FOIA to obtain the information he seeks, and there is no legal basis for the denial by the defendants of said right.

15. As the FBI has administratively closed its investigation, release of the requested

records could not reasonably be expected to interfere with pending enforcement proceedings. Furthermore, the defendants will be unable to demonstrate specifically how each document or category of documents, if disclosed, would interfere with any investigation, for example, how revelation of any particular record or record category identified as responsive to Colbert's request would reveal to particular targets actual or potential, the scope, direction, or focus of the FBI's inquiry.

WHEREFORE, plaintiff Thomas J. Colbert prays that this Court:

(1) Orders the defendants to disclose the requested records in their entirety and make copies promptly available to him via electronic means;

(2) Award reasonable costs and attorney's fees as provided in 5 U.S.C. § 552 (a)(4)(E) and/or 28 U.S.C. § 2412 (d);

(3) Expedite this action in every way pursuant to 28 U.S.C. § 1657 (a); and

(4) Grant such other relief as the Court may deem just and proper.

Date: September 8, 2016

Respectfully submitted,

/s/

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