

# EXHIBIT

“1”



UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ERIC CRODDY et al.,

Plaintiffs

v.

FEDERAL BUREAU OF  
INVESTIGATION et al.,

Defendants

Civil Action No. 00-0651 (EGS)

\* \* \* \* \*

DECLARATION OF ERIC CRODDY

The undersigned hereby declares as follows:

1. I am a person over eighteen (18) years of age and competent to testify. I make this Declaration on personal knowledge. This Declaration is submitted in support of the plaintiffs' Opposition to Defendants' Motion to Dismiss and Cross-Motion for Discovery.

2. I am a plaintiff in this matter.

3. I have never used illegal drugs or abused prescription drugs.

4. I have never sold drugs of any type.

**THE POLYGRAPH RESULTS INACCURATELY INDICATE THAT MY PAST DRUG USE HISTORY IS OUTSIDE THE ACCEPTABLE PARAMETERS OF THE FBI'S HIRING POLICIES AND PRACTICES**

5. In late 1997, I underwent a polygraph examination at the FBI's field office in San Francisco, California. Although I have never used illegal drugs, I was accused of lying about whether I had violated the FBI's guidelines with regard to drug use. The polygrapher attempted to get me to confess to drug use, which I refused to do. As a result, I was subsequently notified by letter that I failed the polygraph and my conditional job offer was rescinded.

STIGMATIZATION CAUSED BY THE POLYGRAPH RESULTS

6. I am in the process of applying for employment as a federal law enforcement officer. Ironically, although I am probably one of the few people my age who has never experimented with illegal drugs, I will have to reveal the fact that I failed the drug questions on an FBI polygraph examination. The FBI will also release this finding to any agency for which I seek employment. This will obviously seriously impact my chances of obtaining federal employment, if not eliminate it outright.

I do solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge.

Date: September 29, 2000

 9-29-00  
Eric Croddy



5. I used cocaine once in 1985 during the fall of my senior year in high school. I was seventeen years old. Again, this one use of cocaine was prefaced by irresponsible use of alcohol as a teenager. Had it not been for my youthful indiscretion, I would have never experimented with cocaine. I have never done so since then, and I never will.

6. I have never purchased or sold any illegal drugs. I do not currently use illegal drugs. In fact, I have not taken any illegal drugs since January 1988, when I was nineteen years old. I am now thirty-two.

7. I do not have, nor have I ever had, any kind of substance abuse problem or addiction.

8. I disclosed all of the above facts to the FBI well in advance of my polygraph examination. I am currently completely within the FBI's guidelines on experimental drug usage, and I was completely within the FBI's guidelines on experimental drug usage when I was polygraphed.

9. I have reiterated this fact to the FBI in writing numerous times since my polygraph test in June 1996. Any background investigation of me would support everything I have stated here. All I have ever wanted was for the FBI to take the time to investigate my background - not rely on the results of a machine whose validity is so widely questioned by experts inside and outside of the FBI.

#### **STIGMATIZATION CAUSED BY THE FBI'S POLYGRAPH RESULTS**

10. I fully believe that my failed FBI polygraph affected my applications for employment for sworn positions to the North Carolina State Bureau of Investigation, The Chapel Hill, North Carolina Police Department, and the Raleigh, North Carolina Police Department.

11. The Chapel Hill and Raleigh Police departments actually conducted background investigations on me as part of the application process. I passed two Voice Stress Analysis tests (detection of deception exams) with the Raleigh Police Department during two


separate application processes. My statements concerning my drug usage were part of that test for deception.

12. On the written application for all the law enforcement agencies that I applied to after failing the FBI polygraph exam, I was required to disclose that I had applied to other law enforcement agencies (which has only been the FBI) and that I was not hired. Both the Chapel Hill and Raleigh police departments asked me about my experience with the FBI. I had to specifically disclose to them during my interviews that I failed the FBI's polygraph exam. In each interview setting, my polygraph exam became a point of contention or concern to my interviewers. I was asked if I lied. I was asked what I had lied about. I was asked why I failed. Based on these questions, I believe my failing the FBI's polygraph exam negatively stigmatized me and adversely affected the decisions of law enforcement agencies not to hire me.

13. Furthermore, if I apply to other law enforcement agencies, whether state, local or federal, I will be required - and even if not, it would be prudent - to reveal the fact that I failed prior FBI polygraph examinations on the drug usage questions. In any event, at some point the FBI will notify these other agencies that I failed their polygraph examination. Since I did not lie to the FBI, the fact that the FBI will inform prospective employers that I failed the polygraph will always stigmatize me.

I do solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true to the best of my knowledge.

Date: September 28, 2000

  
\_\_\_\_\_  
John Doe#1

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

ERIC CRODDY et al.,

Plaintiffs

v.

Civil Action No. 00-0651 (EGS)

FEDERAL BUREAU OF INVESTIGATION et al.,

Defendants

\* \* \* \* \*

DECLARATION OF JOHN DOE#2

JOHN DOE#2, pursuant to 28 U.S.C. § 1746, hereby declares as follows:

- 1. I am a person over eighteen (18) years of age and competent to testify. I make this declaration on personal knowledge and in support of the plaintiffs' Opposition to Defendants' Motion to Dismiss and Cross-Motion for Discovery.
2. I am a plaintiff in this action. My identity is known to this Court and the defendants.

THE POLYGRAPH RESULTS INACCURATELY INDICATE THAT MY PAST DRUG USE HISTORY IS OUTSIDE THE ACCEPTABLE PARAMETERS OF THE FBI'S HIRING POLICIES AND PRACTICES

- 3. As an applicant for employment with the Federal Bureau of Investigation ("FBI"), I was required to truthfully reveal my past drug usage. As part of the formal written application process an applicant must answer two questions regarding past drug usage: 1) Have you used marijuana more than 15 times total or during the last 3 years, and 2) Have you used any other illegal drug or combination of illegal drugs more than 5 times or during the last 10 years. I answered both questions with the answer "no" throughout the written application process.
4. When undertaking my first polygraph examination on or about October 20, 1998, I was asked these questions again and instructed to reveal all past drug usage with times

and dates of drug usage, as well as identify the type of drug was used. I informed the FBI polygrapher that I recalled having used marijuana 5 times in my life. The occasions were as follows:

- 1) May or June of 1984 - shared a single marijuana cigarette with 3 others at a high school graduation party.
- 2) Between March and April of 1985 - shared a single marijuana cigarette with two others while drinking at a bar.
- 3) July 1985 - shared a single marijuana cigarette with other coworkers after work.
- 4) November 1988 - Smoked a marijuana cigarette after my discharge from the Army. It was a tradition for the outgoing servicemen to smoke marijuana as a way of bucking the system.
- 5) March 1989 - Smoked marijuana with friends at a college party.

I also noted that there was a one time incident in which I technically experimented with cocaine sometime during the later part of 1985. While at a house watching a football game, several coworkers, who unbeknownst to me used cocaine on a regular basis, had cocaine. As a curiosity I dipped my finger in the cocaine and tasted it. I also rubbed it around on my gums but was too scared to actually take it. Since this one-time "experiment" had occurred more than ten years earlier, I was not required to have noted this on my written application.

5. I also honestly revealed to the FBI that, like so many other college students, I had been around illegal drugs on some occasions while in college at parties. I had seen cocaine on 3 other occasions and marijuana several times. However, beyond what I described above, I did not participate in any other drug usage.

6. When pushed by the polygrapher, who was apparently trying to ascertain a number that I would supposedly be comfortable with for the purposes of the polygraph, I said I certainly could have forgotten a time or two smoking marijuana since I never kept a diary. However, I had no recollections of any other occasions. However, based on the assurances of the polygrapher and just to be safe, I settled with the number 7.

7. No further drug admissions were made. No other drug usage incidents existed.



8. By letter dated November 4, 1998, from Charles S. Prouty, Chief, Bureau Applicant Recruiting and Selection Section, Administrative Services Division, FBI, I was notified that my conditional offer of appointment had been rescinded because the results of my polygraph examination were not within acceptable parameters. Following my request, I was permitted to undergo a second polygraph examination on or about February 12, 1999. However, by letter dated February 26, 1999, from Patrick M. Maloy, Chief, Special Agent and Support Applicant Unit, Administrative Services Division, FBI, I was again notified that the results of the polygraph examination were not within acceptable parameters.

9. The FBI's interpretation of my polygraph results is entirely inaccurate and unfounded. If the FBI had pursued a background investigation of my, it would have revealed that my past drug usage was well within the acceptable parameters and that I truthfully provided the information.

10. Throughout my professional career, I have had to submit to numerous drug tests. I was administered random drug tests throughout my military experience in the United States Army from 1986-89, including a brief time period when I was in the National Guard in Florida. I also submitted to two drug tests in 1994 to attain my current full-time and part time positions. In April 2000, I submitted to a drug test as an applicant with the Bureau of Alcohol, Tobacco and Firearms ("ATF"). I have never failed a drug test.

#### **STIGMATIZATION CAUSED BY FAILED POLYGRAPH EXAMINATIONS**

11. The failed FBI polygraphs have foreclosed my opportunities for federal employment as a criminal investigator. In March 1999, I applied for a position with the ATF, and I was granted an interview in November 1999. At that time I was questioned about my past drug usage. I provided the same answers I previously provided to the FBI during its application process. I was notified I passed the interview in April 2000, and I was then scheduled for a physical and drug test. After both tests were completed and processed, I was scheduled to undergo a polygraph examination on May 31, 2000.

12. I attended the polygraph examination with high hopes of passing and clearing up the past problems I encountered with the FBI's test. My pre-polygraph interview was conducted by ATF polygrapher Vince Noble. As with my earlier polygraph examinations, I answered all questions truthfully. I also revealed the two alleged failed polygraphs with the FBI and detailed my past drug usage. Additionally, I also discussed my participation in the current lawsuit so that there would be no surprises if this was revealed later. I was told by Mr. Noble that the lawsuit was irrelevant and would not harm me in any way. In fact, to put me at ease he stated he had filed a lawsuit against the federal government. I did not attempt to deceive anyone and was hoping for a fair opportunity.

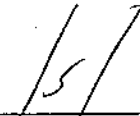
13. After completing the pre-polygraph interview, I was seated in the lobby while the polygrapher was apparently preparing the questions for my polygraph examination. After a few moments passed, Mr. Noble came to get me and I was again taken into the polygraph room. Upon sitting down he indicated that he and his supervisor, Special Agent Eduardo Fernandez, had called ATF headquarters in Washington, D.C. regarding my failed polygraphs with the FBI. I was explicitly told that headquarters instructed Mr. Noble to terminate my polygraph proceedings at that moment pending further investigation. When I asked what they needed to investigate, they told me that they were investigating what I had told the FBI versus what I had told them. I stated that I was prepared to take the polygraph at that moment and why not utilize their honesty machine to save us all a lot of time. However, no polygraph test was administered.

14. I was informed that a decision would be made by ATF headquarters in Washington. As of this writing, I have yet to received any kind of response. All attempts to find out the status of my application have been handled with the same answers, "the legal team is reviewing your case and a decision will be forthcoming". It appears clear to me that my past alleged polygraph failures have negatively stigmatized me in my pursuit for employment with the ATF.

I do solemnly affirm under the penalties of perjury and upon personal knowledge that

I do solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true to the best of my knowledge.

Date: September 28, 2000

  
\_\_\_\_\_  
John Doe#2

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

ERIC CRODDY et al.,

Plaintiffs

v.

Civil Action No. 00-0651 (EGS)

FEDERAL BUREAU OF INVESTIGATION et al.,

Defendants

\* \* \* \* \*

DECLARATION OF JOHN DOE#3

JOHN DOE#3, pursuant to 28 U.S.C. § 1746, hereby declares as follows:

1. I am a person over eighteen (18) years of age and competent to testify. I make this declaration on personal knowledge and in support of the plaintiffs' Opposition to Defendants' Motion to Dismiss and Cross-Motion for Discovery.

2. I am a plaintiff in this action. My identity is known to this Court and the defendants.

THE POLYGRAPH RESULTS INACCURATELY INDICATE THAT MY PAST DRUG USE HISTORY IS OUTSIDE THE ACCEPTABLE PARAMETERS OF THE DEA AND FBI'S HIRING POLICIES AND PRACTICES

3. I last used marijuana more than 14 years ago when I was sixteen years old. I know this because I was at a party to celebrate my sixteenth birthday and the fact that I had just acquired a new car. I ended up at a party where marijuana was being smoked by various kids at the party. I recall being passed a "joint" and I reluctantly took a single puff. As far as I could tell, it really had no effect on me. Later that same night, I again took a single puff off a joint when the party relocated elsewhere. The effects from it never hit me and I remembered thinking "what's the big deal?".

4. I recall the next occasion was approximately three months later while attending a junior prom. I was in a limousine and a person passed me a "joint". Unfortunately, I used poor judgment and decided to take a "puff". I did this a second time that same evening while riding home from the event in the same limo. When I was sixteen there were many social situations where marijuana was being used, as was typical in the early 1980s. Since I was not a "user", I declined many other offers to use marijuana. However, I do vaguely recall that were three or four other occasions where I took single "puffs" off a joint.

5. I can definitively recall that I ceased all experimentation with marijuana prior to New Years Eve 1986. I recall that I was at a New Years Eve party and marijuana was being smoked. I was offered a "puff" from a "joint" and unequivocally declined, recalling that I made a conscious decision that I would no longer submit to the peer pressures of smoking marijuana. That decision was almost like a New Years Resolution to me. My parents had always vociferously warned me of the dangers of drugs and alcohol. I felt ashamed and embarrassed that I had tried marijuana at all. I decided at that point that I would never be pressured into any further drug experimentation.

6. I never again have in any way, style or fashion, used marijuana or any other illegal drug. I would also adamantly point out that, other than the above incidents, I have never experimented with any other illegal drugs. I find it astonishing and insulting that someone with my background - a current law enforcement officer, a former undercover narcotics officer and a former DEA Special Agent Trainee - has to defend the few times I experimented with marijuana more than a decade ago when I was sixteen, and distinguish between whether puffing a joint more than once but on the same night constitutes one or two occasions.

7. On or about November 13, 1995, I underwent a polygraph examination by Special Agent Jimmy Fox from the Atlanta Division of the Drug Enforcement Administration ("DEA"). During the pre-interview, I explained that I was not entirely comfortable with the exact number of times I had experimented with marijuana, as so many years had passed. Although I was assured as a result of my interview that no problems would arise, I was accused of lying on the drug usage questions during the polygraph examination. On or about December 24, 1995, I received a letter from the DEA stating I would not be hired. There is no doubt in my mind that this decision was based on my polygraph results, particularly because I have reviewed documents from my DEA file.

8. In 1996, I was also polygraphed by the Federal Bureau of Investigation ("FBI") for a position as a support employee with the Special Surveillance Group ("SSG"). Soon after starting the test, I was told I had failed the questions on drugs. Approximately two months later, in or around May or June 1996, I received a letter from the FBI stating that I had failed the polygraph.

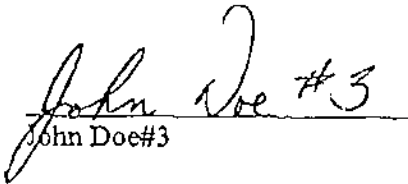
#### STIGMATIZATION CAUSED BY FAILED POLYGRAPHS

9. I am in the process of applying for employment as a federal law enforcement officer with the United States Secret Service. During the application process I will be required - and even if not, it would be prudent - to reveal the fact that I failed prior DEA and FBI polygraph examinations on the drug usage questions. Additionally, the records of my failed DEA and FBI polygraph examinations will be provided to other law enforcement agencies by the DEA and FBI. Since I did not lie to these agencies, the fact

that they will inform prospective employers (i.e., United States Secret Service) that I failed the polygraph will stigmatize me.

I do solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true to the best of my knowledge.

Date: September 28, 2000

  
John Doe#3

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ERIC CRODDY et al.,

Plaintiffs

v.

FEDERAL BUREAU OF  
INVESTIGATION et al.,

Defendants

Civil Action No. 00-0651 (EGS)

\* \* \* \* \*

DECLARATION OF JOHN DOE#4

JOHN DOE#4, pursuant to 28 U.S.C. § 1746, hereby declares as follows:

1. I am a person over eighteen (18) years of age and competent to testify. I make this declaration on personal knowledge and in support of the plaintiffs' Opposition to Defendants' Motion to Dismiss and Cross-Motion for Discovery.
2. I am a plaintiff in this action. My identity is known to this Court and the defendants.

**THE POLYGRAPH RESULTS INACCURATELY INDICATE THAT MY PAST DRUG USE HISTORY IS OUTSIDE THE ACCEPTABLE PARAMETERS OF THE HIRING POLICIES AND PRACTICES OF THE FEDERAL BUREAU OF INVESTIGATION AND SECRET SERVICE**

3. I experimented with marijuana for a period of about 5-6 months during my freshman year in college (October 1986 - March 1987). While I am not certain of the exact amount of times that I did smoke marijuana, since this occurred more than one decade ago, I am certain that it is within the guidelines set forth by the Federal Bureau of Investigation ("FBI") and United States Secret Service ("USSS"). I stated on my employment applications with both the FBI and USSS that the number of times was around seven (7). I was asked several times during the application process if I wanted to change the number, but I was comfortable with my answer as being as accurate as I honestly could be. Other than this usage, I have never used any illegal narcotics or abused



prescription drugs.

4. During the polygraph exam with the USSS I nevertheless and reluctantly modified my answer at the urging of, and with reassurances by, the polygraph examiner. During the initial round of testing, Special Agent Hutzell based his questions on the information indicated on my application (around 7 times). He stated that I was being deceptive and that I was having trouble with the drug question. At this point he suggested that maybe I smoked less than ten (10) times, which is true, and adjusted the question regarding drugs to "less than 10 times" during the second round of testing.

5. Again, Special Agent Hutzell said I was having trouble and being deceptive in my answers. He accused me of being a drug user and perhaps of even dealing drugs. I emphatically denied his accusations. Special Agent Hutzell then moved close to me and said the following (paraphrased): "At this point we've reached a point in the road where you can either run into a roadblock or a barrier. I can help you out with the roadblocks, but there's nothing I can do about a barrier. If there's something you want to tell me, then you should think about it now." He suggested that I change the number of times I smoked pot to "under 15", which is still consistent with what I originally stated (around 7 times). I did so and then he ended the testing saying my results were inconclusive but that it did not look good.

6. I also "failed" the FBI's polygraph exam, although that test was much shorter, far less confrontational, and had its questions posed in a different fashion. For example, the polygraph examiner asked the drug question based on the established FBI guidelines ("Are you within the drug use guidelines established by the FBI?").

7. I have passed every drug test that I have ever taken (about four). The tests were for the military when I was applying to flight school through the U.S. Air Force and New Hampshire Air National Guard.

**STIGMATIZATION CAUSED BY THE POLYGRAPH RESULTS**

8. The FBI was informed of my having failed the USSS polygraph exam, and I believe this was taken into account when the FBI rescinded my conditional job offer.

9. I am also in the process of applying for employment as a federal law enforcement officer. At some point during the application process I will have to reveal the fact that I supposedly failed polygraph examinations with both the FBI and USSS. Both of these agencies will also reveal to other agencies that I failed the tests. As a result, my chances of attaining employment in the law enforcement arena will be significantly diminished, if not eliminated altogether.

I do solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true to the best of my knowledge.

Date: September 28, 2000

John Doe #4  
John Doe#4



UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ERIC CRODDY et al.,

Plaintiffs

v.

FEDERAL BUREAU OF
INVESTIGATION et al.,

Defendants

Civil Action No. 00-0651 (EGS)

\* \* \* \* \*

DECLARATION OF JOHN DOE "E"

JOHN DOE "E", pursuant to 28 U.S.C. § 1746, hereby declares as follows:

1. I am a person over eighteen (18) years of age and competent to testify. I make this declaration on personal knowledge and in support of the plaintiffs' Opposition to Defendants' Motion to Dismiss and Cross-Motion for Discovery.

2. My identity is known to the government.

3. In 1983, I entered active duty in the U.S. Army as an interrogator with a secret clearance based on a National Agency Check. After completing training at the Military Intelligence school at Ft. Huachuca, Arizona and Arabic language training at the Defense Language Institute in Monterey, California, I served as a strategic debriefer in the Federal Republic of Germany, where I debriefed refugees coming from the Middle East.

4. After completing my enlistment in 1987, I went through the Army ROTC program and was commissioned as a second lieutenant in the Army Reserve, Military Intelligence branch, in 1989. After a Special Background Investigation, I received a top secret clearance and was authorized SCI access. In 1991, during the Gulf War, I was mobilized and detached to the Federal Bureau of Investigation. I performed counterintelligence duties at the Washington Metropolitan Field Office at Buzzard Point and at the Los Angeles Field Office.

5. In 1993, after the World Trade Center bombing, I was again mobilized and detached to the FBI and performed counterintelligence duties at the New York Metropolitan Field Office.

6. In early 1995, favorably impressed by my two tours of duty with the FBI, I applied to become an FBI Special Agent. After passing the initial entry tests and scoring well on an Arabic language test, I received a phone call from Supervisory Special Agent Sue Chainer on May 10, 1995. She wanted to hire me as soon as possible as a contract linguist pending agent hire. I agreed to begin working 20 hours a week, and she told me that she would arrange a polygraph examination for me. On May 11, 1995, the chief recruiter at the Los Angeles Field Office, Special Agent Mike Hilliard, called me to schedule an interview for agent hire on June 9, 1995 at the FBI's San Francisco Field Office.

7. On May 15, 1995, I reported to the Los Angeles Field Office for a pre-employment polygraph examination. In the pre-test phase, my polygrapher, SA Jack Trimarco, falsely represented to me that the FBI had a new polygraph technique without control questions. He then proceeded to administer a probable-lie control question test. One of the probable-lie control questions SA Trimarco used was, "Did you ever drive while under the influence of alcohol?" or something very similar, but I had never driven under the influence of alcohol.

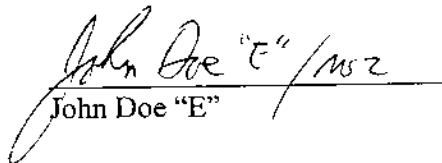
8. After the in-test phase, SA Trimarco falsely accused me of deception in denying having released classified information to unauthorized persons and having had unauthorized contacts with representatives of a foreign intelligence agency. The FBI peremptorily terminated my application for employment based on the polygrapher's opinion, and SSA Chainer's offer to hire me as a contract linguist was withdrawn.

9. Without my knowledge, the FBI reported this information to the U.S. Army. I know this because in two January 1999 interviews, U.S. Army Intelligence Special Agent David DeStefano explicitly mentioned it to me. In fact, the purpose of his visit was specifically to investigate the information the FBI reported to the Army. On

December 13, 2000, the U.S. Army Central Personnel Clearance Facility sent me a letter notifying me of its intention to revoke my SCI access and my security clearance. The accompanying Statement of Reasons twists information that I provided to FBI Special Agent Trimarco during my pre-employment polygraph examination to portray me as a disloyal subversive. I am challenging the Army's decision.

I do solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true to the best of my knowledge.

Date: February 2, 2001

  
John Doe "E"