

## Affidavit of Graeme Sephton, PE, RCDD

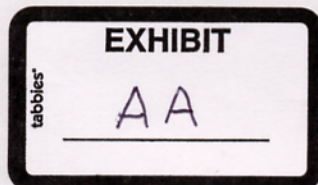
**Graeme Sephton**  
**623 Wendell Rd**  
**Shutesbury, MA 01072**

I, Graeme Sephton, hereby affirm and state the following:

1. I am a registered professional electrical and telecommunications engineer with experience of radar systems and radar data interpretation. The attached CV is true and accurate.
2. I have made **seven FOIA requests** to the NTSB for Flight 800 investigative records since mid-1998. The NTSB has consistently contravened the FOIA statute and their own Title 49 based regulations with non-responses, excessively delayed responses, illicit withholding, and in at least one case a **false Affidavit filed with the court.** **Examples of the NTSB's practice of flouting the FOIA statute with respect to the Flight 800 accident investigation appear below.**

### **NTSB wrongful withholding of Radar Data:**

3. In 1999 I obtained unpublished radar data from the NTSB that revealed for the first time, many large, fast, still unidentified surface vessels in the vicinity and near the time of the explosion of TWA Flight 800, heading towards an activated military warning area, W105.
4. When I filed a FOIA request on 10/5/99 to the NTSB to obtain all of the numeric digital radar data, the NTSB referred me to the FAA as the originating agency for radar data.
5. The FAA's FOIA response informed me that it had sent unconverted radar data on magnetic tapes to the NTSB covering the period 6:15 PM EDT until exactly 11:00 PM EDT of the evening of 7/17/96.
6. I was actually seeking from the NTSB the digital numeric data specifically created by the NTSB which they produced by a computer conversion process of the FAA's magnetic tape data. My FOIA request explicitly asked for "XY location or distance/ azimuth digital numeric data." I did not want the unconverted FAA magnetic tape data from the NTSB.
7. On the basis of their referral to the FAA, the NTSB denied my request. I therefore appealed the NTSB nondisclosure on 1/21/2000.
8. On 07/17/00 I filed a FOIA lawsuit in the Western District of Massachusetts against the NTSB for withholding of the data; Case 00cv 30120-FHF.

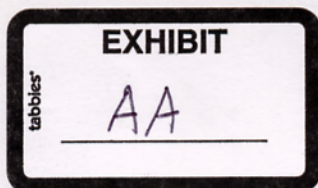




9. Eventually, the NTSB relented and submitted a motion to the court with an Affidavit stating that it was sending me all the converted unedited data on 2 CDs. The Judge then ruled on the remaining matters and granted the NTSB summary judgment.
10. However, **the NTSB's Affidavit was false! The CD released by the NTSB did not contain all the unedited radar data that the Affidavit attested was being released.** It appears I will have to initiate a second legal action to just to get the Affidavit honored.
11. The NTSB's sworn-to purported release of all the unedited radar data I was seeking was a **sham** and effectively misled the court and this plaintiff.
12. It should be noted that the feigned release by the NTSB of the radar data sought effectively acknowledged that they had unlawfully withheld the data, in contravention of the provisions of the FOIA and Title 49 statutes.
13. The false Affidavit to the court is attached.

**NTSB wrongful withholding of Cockpit Voice Recorder data Analysis:**

14. The NTSB reported that "a very loud sound" was captured by the cockpit voice recorder. This loud sound was consistent with being caused by some sort of explosion.
15. As part of an analysis exercise contracted by the NTSB and performed in Bruntingthorpe, England, this loud sound audio data was sent to the University of Southampton.
16. Sophisticated analysis of such multi-channel sound recordings makes it possible to determine in what direction and at what distance the explosion originated. (This is based on the fact that an explosion is a point source event, but different frequencies travel at different velocities to the various microphones and thereby provide three dimensional information about the explosion source.)
17. I sent a FOIA request to the NTSB for the Bruntingthorpe "reports and data" analysis dated 10/20/1999. Eventually, six months later on 4/17/2002, Ms. Melba Moye of the NTSB responded to my request, denying my request and releasing nothing.
18. I appealed on the basis that the loud sound audio data was a readily segregable portion of the Bruntingthorpe data which did not fall under any of their stated withholding justifications. In appealing, I offered to narrow my appeal/request to just the loud sound audio data.
19. The NTSB's Daniel Campbell responded to my administrative appeal on 8/15/2002. He stated that releasing the audio data I requested **"would reveal ... the (NTSB's) deliberative process."**





20. Such an assertion is patently absurd; the audio data is just data. A loud sound on a cockpit voice recording can reveal nothing about the NTSB's deliberative processes. The Southampton University analysis of the sound is a numeric calculation based on mathematical models and mathematical laws that have nothing to do with the NTSB's deliberative processes.

**NTSB wrongful withholding of records of St. Louis Airport Police Department (SLAPD) Canine Explosives Training Exercise:**

21. The NTSB Flight 800 accident reports mention a canine training exercise performed by Patrolman Burnett of the SLAPD using live explosives some weeks prior to this aircraft flying as Flight 800.

22. According to the NTSB, an interview with Patrolman Burnett provided evidence that he had accidentally spilled various explosives within the aircraft and had not cleaned them up afterwards.

23. This spillage was claimed to be the source of the numerous positive explosive residue results from tests on the Flight 800 wreckage. I therefore filed an FOIA request to the NTSB, dated 6/3/2000, to obtain the NTSB's interview records of Patrolman Burnett. In July 2000, the NTSB assigned my request an NTSB file number 00-420. The NTSB has failed to provide any other response up to the present day regarding this request.

**NTSB apparent wrongful withholding of records of Medical Forensic Data:**

24. The NTSB was responsible for producing a Medical Forensic Report, (NTSB Exhibit 19) and is obligated to do extensive survivability analyses.

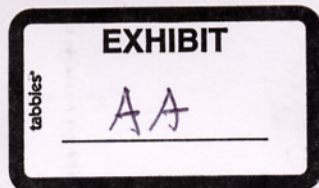
25. That Medical Forensic Report stated that 89 of the accident victims had foreign objects removed during autopsy, which were taken by the FBI for extensive analysis. I therefore filed a FOIA request to the NTSB, dated 6/24/1998, to obtain any analysis of these objects or records of their origins.

26. The NTSB responded on 7/15/1998 claiming that the NTSB has "no written documents containing analysis of the foreign objects." This statement is suspect, as it reflects a gross departure from the NTSB's standard investigative practice of analyzing such objects to ascertain their origin for to assess accident survivability.

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

DATED: 7/31/2003

Graeme Sephton  
Graeme Sephton





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**DECLARATION OF THE  
NATIONAL TRANSPORTATION SAFETY BOARD**

I, James Cash, declare as follows under the penalties of perjury.

1. I am employed as the Chief, Vehicles Recorder Division in the Office of Research and Engineering of the National Transportation Safety Board (NTSB). I have held this position since May 2001. From 1999 to May 2001, I was the Chief Technical Advisor in the Officer of Research and Engineering. I have been employed with the NTSB since 1983. My principal role is to supervise and/or perform the read-out of vehicle recording devices, including cockpit voice recorders, flight data recorders, railroad event recorders and Marine data recorders.

2. The purpose of this declaration is to provide a description of the data contained on the attached compact disks ("CDs"), which are being produced to Graeme Sephton in July 2001.

3. In connection with its investigation of the crash of TWA Flight 800, the NTSB obtained data from the Federal Aviation Administration ("FAA") for a time period of three hours, from approximately 7:00 p.m. to 10:00 p.m. on the night of the crash. The FAA radar data collected by the NTSB came from the New York Terminal Radar Approach Control (NYTRACON). NYTRACON has four (4) radar sites that are located at airports in the New York City area. These airports include JFK Airport; Newark, New Jersey airport; Islip, New York airport in White Plains, New York; and Stewart Field airport in Newburg, New York. The NYTRACON data is

**EXHIBIT**

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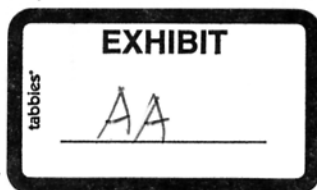
the largest collection of radar data, and the principal data used in the drafting of the "Airplane Performance Study".

4. The NTSB utilized a data reduction process to convert the FAA data into a binary format (NTSB binary files) compatible with NTSB reduction software. The NTSB next extracted a subset of the FAA data into a numeric format ("numeric files"). Part of this extracted subset are the data that support the "Airplane Performance Study".

5. CD#1 contains both the NTSB binary files and the extracted numeric files for a selected time period, a selected target altitude range and a limited degree range within the 360-degree rotation of the radar antennae. The data on this CD was copied from the VAX mainframe computer. The VAX mainframe computer was used because a large amount of space and processing capability was necessary.

6. CD#2 contains the NTSB binary files and the numeric files for the entire data file time period, all altitudes, and all radar targets for the 360-degree rotation of the radar antennae. The data on this CD was copied from the VAX mainframe computer.

7. In the course of its investigation, the NTSB further refined, analyzed and manipulated the extracted data referenced in paragraph 4. The data analysis supporting the Airplane Performance Study for NTSB investigation number DCA96MA070, is part of the public docket available through the NTSB's website at



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www.NTSB.gov. The remaining data analysis, which is described in paragraphs 11-15 of the Declaration of Charles Pereira, dated October 18, 2000, is being withheld from release pursuant to the deliberative process privilege.

8. The data contained on the CDs and the data analyses referred to in paragraph 6 above comprise all of the NTSB radar data relating to the NTSB's investigation of the crash of TWA Flight 800.

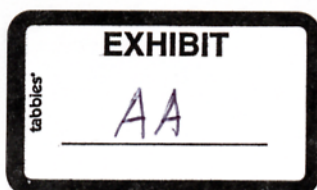
9. On information and belief, the NTSB produced data contained on the CD#1 before the plaintiff filed his Freedom of Information Act ("FOIA") request. However, the NTSB did not maintain a record of the specific data it provided to the plaintiff prior the formal FOIA request, and, therefore, is unable to verify what data was provided on an informal basis.

10. To confirm the parameters of the data provided on CD#1, in July 2001, the NTSB binary files were processed through the data reduction program again, which created additional data. These data are contained on CD#2.

Signed under the pains and penalties of perjury this

27 day of July, 2001.

James A. Cash  
James Cash  
Chief, Vehicles Recorder Division



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