

Before the
Federal Communications Commission
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION

In the Matter of

Donna R. Searcy
Secretary

Jimmy Shillington FOIA Control No. 91-136

Request for Inspection
of Records.

MEMORANDUM OPINION AND ORDER

Adopted: January 21, 1992; Released: January 31, 1992

By the Commission:

1. The Commission has before it for consideration an Application for Review filed by Jimmy Shillington, seeking review of a ruling entered by the Chief, Field Operation Bureau (FOB), which denied, in part, Mr. Shillington's Freedom of Information Act (FOIA) request. See 5 U.S.C. § 552(b). In his initial request, Mr. Shillington sought access to Commission records compiled in the course of an investigation of a now dismissed complaint against his business firm, Quality Transportation Company, for alleged operation on unauthorized radio frequencies.

2. FOB granted his request in large part but withheld the names of the complainant and an informant as confidential and, thus, exempt from disclosure. FOB stated that the complainant had explicitly requested confidentiality and that the informant had cooperated in a law enforcement proceeding under circumstances from which an assurance of confidentiality could reasonably be inferred. See *United Technologies Corp. v. NLRB*, 777 F.2d 90, 94 (2d Cir. 1986); see also *Schmerler v. FBI*, 900 F.2d 333, 336 (D.C. Cir. 1990). On appeal, Mr. Shillington contends that the Commission has no further use of any information from these individuals and, therefore, the Commission could release their identities without compromising its investigatory efforts.

3. FOB properly withheld the identities of its confidential sources. Exemption 7(D) of the FOIA permits the Commission to withhold the identity of informants, notwithstanding the completion of the law enforcement proceeding. See *Schmerler v. FBI*, 900 F.2d at 336. To disregard the confidential status of our sources in this case could inhibit our investigatory efforts in other matters and hamper the production of information in the future. See *Id.*

4. Accordingly, for the reasons set forth herein, IT IS ORDERED That the Application for Review filed by Jimmy Shillington IS DENIED. The Requestor may seek judicial review of this decision pursuant to 5 U.S.C. § 552(a)(4)(B).

5. The officials responsible for this action are the following Commissioners: Alfred C. Sikes, Chairman, James H. Quello, Sherrie P. Marshall, Andrew C. Barrett, Ervin S. Duggan.