

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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: HAROLD WEISBERG, :
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: Plaintiff, :
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: V. : Civil Action No. 75-1448
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: GENERAL SERVICES ADMINISTRATION, :
: :
: Defendant. :
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AFFIDAVIT

My name is Harold Weisberg. I reside at 7627 Old Receiver Road (Route 12), Frederick, Maryland. I am the plaintiff in this instant cause.

1. The CIA represents that it disclosed the two Warren Commission executive session transcripts to me - at the very time the brief was due at the appeals court - because the content was included in a considerable amount of information it declassified for and disclosed to the House Select Committee on Assassinations. The CIA represents that for these reasons it could no longer withhold them.

2. If these representations were true, as my prior affidavits state they are not, then there is much other information the CIA should have disclosed to me under information requests going back for a decade. In fact, I have not received a single piece of paper from the CIA since its alleged declassifications and disclosures. I have not even received a letter indicating that records were being processed and would be disclosed to me in response to a number of requests to which information given to the House committee is pertinent.

3. The CIA has disclosed to other requesters information that is within my earlier requests but it has not provided me with that information, not even after it was disclosed to others.

4. That the CIA has disclosed information to others does not mean that I can or will get it without suing for it, as the two preceding paragraphs reflect. For years I have obtained nothing from the CIA except under compulsion.

5. In my C.A. 77-1997, in which I sought information pertaining to the assassination of Dr. Martin Luther King, Jr., I received nothing from the CIA until.

after I filed suit. It did not act on referrals by the FBI (also pertinent in another case) until after I filed suit. Even then it did not produce records until the time of a calendar call.

6. The most recent of my experiences referred to in Paragraphs 2-4 above, that the CIA does not provide me with copies of what it discloses to others, is included in my January 29, 1980, affidavit, in which I refer to Mark Allen's suit for a single CIA record. Allen also received nothing but typical CIA stonewalling until he was before the appeals court. The CIA then made partial disclosure of that one record. Examination of what it disclosed, as my uncontradicted affidavit states, reveals that the CIA withheld information that was in the public domain before the CIA withheld it. In the half year since that partial disclosure to Allen, the CIA has not provided me with any copy of what it disclosed to him, although that information is within several of my requests.

7. When the CIA stonewalled my broad request for information pertaining to the assassination of President Kennedy, about which I have published six books, and I desired certain information for further study and writing, I made a separate request for its information pertaining to Lee Harvey Oswald in Mexico. Under date of August 23, 1976, the CIA acknowledged receipt of that request. In that same letter it acknowledged that there was duplication between my request and Allen's. Nonetheless, in a half year, it has not provided me with the information it disclosed to Allen.

8. The CIA has disclosed information within my requests to others without disclosing it to me.

9. The CIA has not disputed my representation that it provided to one Edward J. Epstein information that I had requested earlier and it did not provide to me. After Epstein's publication I renewed my request and the CIA still did not comply. I then filed a separate request, limited to the records it had already processed and disclosed to Epstein, but the CIA still did not provide me with copies of that information, which it had already processed and disclosed.

10. Although the CIA refuses to provide me with what it disclosed to Epstein despite my prior request, that information now appears in another book, titled Conspiracy, by Anthony Summers.

11. In general, this is the CIA record with me. My oldest request that has not been complied with dates to the first of 1971. I renewed it after the amending of FOIA. The CIA assigned a new sequential number to it rather than treating it as the earlier request it is. That number is F-75-4927, meaning that it was then treated not as the 1971 request but as the 4927th request of 1975. However, in the ensuing five years the CIA still has not complied with that request. Its number for my broad request for information pertaining to the assassination of President Kennedy is F-76-6669. I have heard nothing from the CIA about this in many years. It is a request that includes what the CIA disclosed to the House committee. Similarly, my Yuri Nosenko request (F-75-4765) is pertinent in this instant cause. It seeks information the CIA represents it declassified and disclosed because of what it revealed to the committee. Contrary to its representations, I have received nothing from the CIA pursuant to that request. Other requests with which the CIA has not complied and which include information the CIA attests it has released because of its disclosures to the committee have its numbers F-76-219, F-76-405 and F-76-437.

12. The foregoing does not represent all my pertinent requests. I merely cite from a single CIA acknowledgment of some under date of August 5, 1976.

13. The CIA's record with me is clear: It does nothing without compulsion, not even when it indicates to a court that it will act promptly.

14. My request of the CIA for information pertaining to the assassination of Dr. King has its number F-76-382. Three months ago it acknowledged in another court that it has and withheld a record of but three pages, to which its attention had been drawn by referral back from the FBI. (The FBI's referral was three years earlier.) The CIA provided the FBI with an affidavit attesting that it was then processing those three pages. Since then I have heard nothing.

15. Unlike others who are better known, like Mark Lane, and those who combine in conspiracy-oriented organizations, I am not one who theorizes conspiracies. My work, which is the most extensive in the field, focuses on the functioning of government agencies in time of great stress. It is embarrassing to agencies that failed to function as well as the country could have expected them to perform. Because my work is at once embarrassing and at the same time accurate, I am singled out for special discrimination and special efforts are made to frustrate my work.

For example, I have several FBI records in which it is stated explicitly that I and my writing must be stopped, and that to this end my information requests would not be complied with. The FBI used the word "stop." I have a CIA record in which it acknowledges having records it did not provide to an official processing one of my information requests. Even when its own general counsel asked for records pertaining to me, the CIA denied having such records and then, inadvertently, provided me directly with a record that states on its face that it had been withheld from the CIA's general counsel. It also states where other withheld records are.

16. This practice is not limited to the CIA. Other agencies, embarrassed by my writing and unable to cite any serious error in it, have disclosed to others what I also requested without providing me with copies. These include the Department of Justice and its FBI, General Services Administration and its National Archives, and the Secret Service.

17. My uncontradicted affidavits state that this is not the only case in which withheld information was not provided until the matter was before the court of appeals. Subsequent to my prior affidavits, I received from a Department of Justice component a record in which the lawyers actually state that they should moot a case after oral argument before the appeals court by providing the information that had been withheld for years.

18. If the CIA's representations in this instant matter had been made in good faith, the CIA would have provided me with copies of the pertinent information it attests to having revealed, its basis for claiming it disclosed the two transcripts for reasons having nothing to do with this instant cause. But in fact, as I state above, I have received nothing from the CIA, not even a letter making a promise of later and belated compliance.

19. At the October 17, 1979, calendar call the Court reflected awareness of the actuality, that I am required to sue to get any compliance from the CIA, in its following statements:

There wasn't any doubt that there was a stonewall as far as Mr. Weisberg was concerned with respect to these transcripts. (page 12, lines 21-23)

I understand that, but that is just the point I am making: Mr. Weisberg had to sue. You were not going to give him any portion of it for that reason, isn't that correct? (page 13, lines 18-21)


That is exactly right, so Mr. Weisberg had to sue. He had to sue long before that. (page 14, lines 1-2)

I don't think you understand what I am saying. Point one is that from the very beginning, the government's position had never changed up until the time that it went before the House Subcommittee that he was not entitled to this information, and that is what this Court held. So then, in that sense, Mr. Weisberg had to sue because the government contended he wasn't entitled to any of them. That is point one, the litigation was necessary in that sense. (page 14, lines 8-16)

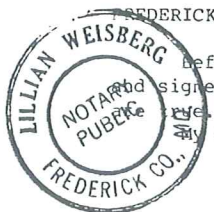
That is the second point you are making (to government counsel). Point one is that the litigation was necessary. You can't deny that. At no time did the government say they were going to give him any portion of those transcripts, at no time. (Government counsel agreed, "Correct," as she did also with what the Court then stated, "In that sense, it is correct ...") Now, there came a time, the government contends step two: that his action was not the primary motive for the government eventually giving him the two transcripts. That is the second point you make. ... Over a period of time, there wouldn't be any necessity. But the Act doesn't work that way. The Act doesn't say, Well, look, you can get a request and you can sit around and wait long enough so that the information is meaningless. So if we can stonewall somebody for ten or fifteen years, then we will give him the whole thing; but the Act doesn't work that way. There will come a time when all this stuff is just down the drain. The next generation won't care ... (page 14, line 24, to page 15, line 25)

That is not the way the Act works. Certainly, a lot of this stuff will be declassified. In the Year 2050, most of it; but the Act doesn't work that way. No. It is today that they are entitled to it under the existing statute. (page 16, lines 8-12)

Well, (to my counsel) you are never going to get anything but conclusory and vague affidavits out of them when they start talking about national security ... That is why we go through the process of waning it down and ultimately get into in camera inspections and, even then, they can snow you. (page 28, lines 13-18)



HAROLD WEISBERG



FREDERICK COUNTY, MARYLAND
Before me this 21st day of July 1980 Deponent Harold Weisberg has appeared and signed this affidavit, first having sworn that the statements made therein are true. My commission expires July 1, 1982.


NOTARY PUBLIC IN AND FOR
FREDERICK COUNTY, MARYLAND