

affidavit

My name is Harold Weisberg. I reside at Route 12, Frederick, Md. I am the plaintiff in C.A.75-1996 and several other cases currently in the courts as well as in a number of earlier "Freedom of Information" Act cases, cases under 5 U.S.C.552.

1. From the time of the assassination of President John Kennedy I have devoted myself to a study of that and subsequent political assassinations, the investigations of them and their consequences. This includes a study of the functioning of the basic institutions of our society.

2. I believe I am alone in having devoted more than full time to an inquiry of this nature. While there are others interested in this subject, or aspects of the subject, I believe no other person has obtained as much once-withheld evidence and made it public or accumulated as extensive an archive. Those of my files that are in cabinets fill approximately 20 file cabinets.

3. My prior experiences provide what I believe is a unique background for the kind and extent of inquiry I have undertaken. I have been a reporter, an investigative reporter, a Senate investigator, an intelligence analyst. In the case of James Earl Ray, accused assassin of Dr. Martin Luther King, Jr., I was the defense investigator during ~~that~~ his habeas corpus petition his efforts to obtain a trial. I conducted the investigation ~~that~~ that led the sixth circuit court of appeals to order an evidentiary hearing. I also conducted the investigation preparatory to that hearing and arranged for the testimony of those witnesses whose testimony was directed at the allegations relating to the crime itself as well as performing other functions in assistance to counsel.

5. In C.A.75-226, the current form of a case that is first of those cited in the Congressional debates as requiring the 1974 amendments to 5 U.S.C.552, the Department of Justice assured that court that my knowledge of the assassination of President Kennedy and the investigation of it is greater than that of anyone now employed by the FBI.

6. The foregoing two paragraphs set forth what I believe are other unique credentials in the field of my inquiry.

7. For more than a decade there has been interest in my records for deposit in institutions of higher learning as a permanent, public and non-official repository of information about these traumatic and historically-significant events. The first such request I can recall was from the late Arthur Price, who wanted my records for deposit ~~under the name~~ at Yale University under the auspices of the Arthur Price Foundation. The most recent was from the University of Oregon.

8. Prior to the request from the University of Oregon I began to deposit ~~all~~ my records with the University of Wisconsin, through the Stevens Point branch, on the staff of whose History Department there is ~~is~~ the foremost bibliographer in the field. In response to the request of the University of Oregon I wrote and detailed the arrangements, which will include all my working papers and manuscripts as well as all other records, I received the reply attached as Exhibit A.

9. About five years ago I received the initial request from Wisconsin through the representative of the Wisconsin Historical Society.

10. Most of my life I have enjoyed exceptionally good health. In April 1975 I was taken ill with pneumonia and pleurisy. That October I was hospitalized with what was diagnosed as acute thrombophlebitis in both legs and thighs.

11. Because of these illnesses and my age, I am now 64, I then commenced efforts to formalize the arrangements under which my records will be preserved and available. My estate is to be administered by two lawyers whose earlier education included a history specialty, Mr. James H. Lesar and Mr. Howard Roffman.

12. Because of my medical and financial condition my files are not as well ordered as I would like. Some of the filing exceeds my present capabilities and I lack the resources for the hiring of an assistant..

13. However, beginning last year I have been transferring records to the university archive. Within the past two months approximately nine file drawers of earlier records of historical value were packaged and shipped with the assistance of the professor of history who will be in immediate charge of this archive. Dr. David Wrone. I expect him to return during the coming month for the selection and packaging of further of my records.

14. As the words of the acquisitions librarian of the University of Oregon reflect, the archive of my records is established under conditions that exceed normal scholarly standards, for access. When all records have been transferred all my records will be included, even rough drafts of all manuscripts, and the sole restriction then will be the preservation of the rights of others. I have attached no restriction of privacy relating to myself.

15. The large store of records I have obtained and the knowledge I have acquired from them and the work I do are consulted regularly by others and have been for more than a decade. Those seeking these consultations range from students to Pulitzer Prize winners among the press. It includes Members and committees of both Houses of the Congress. It includes the staffs of Members performing services necessary to the legislative process. It includes the electronic media and those preparing documentaries for both radio and television ~~uses~~ presentation. With all media those who consult <sup>me</sup> are from all over the world. In the coming academic year a doctoral thesis and a graduate honors thesis are to be based on my records, including what is <sup>at issue and</sup> sought in another current FOIA action. As I examine the records being provided in this instant cause I am ~~am~~ setting aside copies relevant to the work of an honored, syndicated reporter who was indicated the aspects of his interest.

16. Howard Roffman was just graduated from the University of Florida Law School at Gainesville standing second in his class. He ~~is becoming~~ <sup>has been appointed</sup> clerk to a federal appeals court judge. He has been coming to my home since he was in high school following his own independent scholarly interests with free access to all my records. He was then preparing and since has had published his own work on the assassination of President Kennedy. He is not by any means the only student who has been <sup>house</sup> our guest ~~for long periods of time~~ while having free ~~during which these students have had~~ access to my files. Nor is he the only writer.

17. Of the media those who consult my files and my knowledge most frequently are representatives of the print press. That in many cases their papers and they disagree with my beliefs makes no difference in their ~~consult~~ seeking consultation or my providing what they seek. Examples are both the Washington Post and the New York Times.

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Over the years a number of reporters of both newspapers have had access to my files and have obtained copies of records of interest to them. Since the creations of the House Select Committee on Assassinations there has been new controversy, leading to new an commonly irresponsible and baseless allegation that confuse both the subject and the people as well as legislators. Both newspapers are among those who have used my records and my knowledge in reporting that was syndicated from coast to coast.

18. With the impairment of my health and the limitations it imposes on me I have extended working relationships with reporters so that more information may become available. One ~~relationship~~ illustration of this is Les Payne, minority-affairs specialist of the ~~Newspaper~~ Newspaper Newsday and its news syndicate. When it was not possible for me to follow up on information I developed I made this information available to <sup>and su</sup> Mr. Payne, suggested sources and means of carrying this work forward so that more and accurate information might be available. As one result Mr. Payne did obtain and publish new information relating to the assassination of Dr. King. His publisher syndicated this new information from coast to coast and also made it available to the newspaper wire services, which distributed the information even more widely. A selection of records I have obtained in this instant cause relating to Mr. Payne's area of interest and work await his next visit.

19. Plagiarism and crass commercialization of these tragedies is not uncommon. Much of my time and use of my records is devoted to enabling the press to correct such purposeful errors.

20. When James Earl Ray broke out of prison on June 10, 1977 I had just reached Dallas, Texas to obtain information required in another FOIA case. Although my wife informed only representatives of major media elements how to reach me because of my health, there were so many consultations it was not possible for me to get to bed until after 2 a.m. the first two nights. There were consultations of such intensity because of the interest in the news development that from the staffs of one newspaper in each of the cities of New York, Washington and Chicago with nine reporters I can recall.

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21. Combined with the extensively-promoted plagiarisms and commercializing fabrications noted above widespread allegation that the FBI had conspired to get "ay out of jail reached such proportions that I finally accepted the invitation of the ABC TV network to appear on its Good Morning America show as a subject expert. Although I have sued the DEI regularly under FOIA and although its refusal of compliance with my FOIA requests on this subject are responsible for this instant cause being before this Court I nonetheless drew upon my records and the knowledge obtained from them to defend the FBI against charges of having conspired to assassinate Dr. King and of having conspired to seek the murder of James Earl Ray. This required that I terminate the work for which I had gone to Dallas without completing it. I cite this as an illustration of the unique position in which I am in this intensively controversial field in which much that reaches the public is paranoia inscribed on a field of schizophrenia.

22. When the Senate established what became known as the Church committee I was consulted by members and staff personnel. My records were made available then, as they earlier and later were also to the House of Representatives.

23. When the Church committee established the Schweiker subcommittee Senator Schweiker arranged for the rescheduling of the medical appointment at which I learned I was suffering thrombophlebitis so I could spend that morning with him and his legislative assistant. I then offered unlimited access to all my files and records of various kinds and sources. This included unpublished and once-suppressed official records included in my latest book, then in the hands of the printer. If Senator Schweiker had accepted my offer it would have destroyed the book being printed. I engaged in this consultation despite great pain and an inability to walk without assistance.

24. While my work and my FOIA efforts seek to establish what can be established about the body of the crime in both the assassinations of both the President and Dr. King there appears to be no Congressional willingness to take this traditional path of inquiry.

25. Shortly after this consultation with Senator Schweiker a committee of the House from with FOIA jurisdiction wanted information and consultation with me. Its staff director asked to be able to transport me the 50 or more miles to the hospital. Its research

~~Director~~ director subsequently visited my home and left with copies of those records of particular interest in that Congressional inquiry.

26. Similarly the staffs of other Members have sought and obtained lengthy consultations and copies of records. This/ includes the staff of former Congressman Downing, first chairman of the current House assassinations investigation. Prior to and after the establishing of this committee position papers and evidence were asked of me.

27. Of special relevance in this instant cause committee counsel visited me last October and left with all the <sup>copies</sup> <sup>official</sup> records he felt he could handle, a large box of them. The committee had not obtained copies of these records by its own means.

28. It has been my practise for a decade to publish as many facsimiles of formerly withheld records I obtained as my capabilities permitted. On other occasions when my efforts under FOIA were successful I have held press conferences and given away the records I obtained, often after great effort and costs that for me were and are burdensome.

29. One example of this is the press conference I held the end of April 1975 when I was in New York to address a symposium at a law school. In order to make the information I planned to release available to the public I held that press conference even though I then had pneumonia and pleurisy. What I then distributed in the form of xeroxes to about 50 reporters of all media included the to-then <sup>top</sup> secret transcripts of the Warren Commission executive session of January 22, 1964 and the records of <sup>certain</sup> scientific tests in the JFK assassination that to then I had obtained from the FBI. The efforts required with the transcript began in 1967 or 1968, those with the scientific-test records in 1966. When in 1974 through C.A.2052-73 I obtained another such executive session transcript of almost 100 pages I published it in facsimile in a book most of which is of facsimiles of other formerly-withheld official records. This is not a commercial-type book. Of its 224 pages my explanatory exts is of but 30 pages.

30. I held a press conference to give away and explain the first records provided to me in this instant cause. CBS-TV had made a request for some but not all of the records I then obtained. At and after the press conference copies of these records were made available

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to all who wanted copies. Those I recall included CBS, which was then researching a TV "special," NBC and a number of newspapers.

31. The foregoing are illustrations of the non-commercial work upon which I am and have been engaged, work that has not been of commercial profit and cannot be.

32. Throughout all the period of this work I have been without regular income. I was in debt when I commenced, not with independent means.

33. To be able to do this work my wife and I live modestly. Our automobile is almost 13 years old. The only new clothing I have bought in years is wash-and-wear trousers and underwear as my weight has changed as a consequence of illness. The suit I have worn when

~~34.~~ I have been in court was given to me by another when style changed.

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34. Infrequently I receive nominal contributions from members of the public who are interested in this work. They have all been deposited in the account from which Mr. Lesar has paid the FBI's charges in this matter. Infrequently I am paid for public appearances. All such monies have gone to this FOIA work. Aside from the few modestly-sized contributions and Mr. Lesar's work I have and have had no subsidy or/support. I have no fee-for-service arrangement with any of the press.

35. While I would welcome foundation support and it would enable me to do <sup>more</sup> ~~work~~ work and to work with more efficiency I have had no such support, have none now and now would not be able to seek it except at the cost of work I would have to give up doing to make the effort.

36. Official resistance to compliance with the Act, official decisions to violate the Act with regard to me and my work and a wide assortment of other official improprieties ranging ~~from~~ upward in seriousness to what I believe is felonious ~~had a~~ <sup>even</sup> have impeded my work and made the costs of it/more burdensome to me. In this instant cause we have obtained a number of records bearing on this. First it was ordered that my first and subsequent requests be ignored, in deliberate violation of the Act. Then false and defamatory records were prepared and distributed in secret with the visible intent of denying my rights under the Act. When I obtained a summary judgement in this district six years ago there was then the official effort to deny me the normal use of the results of that litigation and then to deny me even the possibility of recovering what that effort had cost. We have presented to this Court the position urged upon the FBI by the Civil Rights Division. Translated into plain English it is "First tell/ him to go to hell and then contrive some legal excuse for it." This represent still another conscious and deliberate decision to violate the Act and to deny me my rights. In pursuance of this policy the Department has presented to this Court a series of false and misleading representations. My proofs that these representations, including those made under oath, are false remains without even pro forma denial. While in the present I am the victim of these improper acts of such long and continuing duration they have been and they forever



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now will be an interference with ~~precisely~~ precisely the kind of public service visualized by the Congress in this Act. I am, I believe, possessed of unique knowledge on this subject. With my advancing age and impaired health each impediment reduces what I may do by that much. In turn this means that the records I may obtain will be fewer and the notations of meaning I may add are also reduced. Each violation of my rights and intrusion into them amounts now to a deliberate intent to reduce the value to the public of the records I have assigned to a public archive available to all the people. <sup>437</sup> The refusal to ~~me~~ remit all costs and fees further limits what I may be able to do and obtain and make publicly available.

38. That the Department has from the first intended to bleed me financially and thus interfere with my work is illustrated by its approach in this instant cause. Rather than complying with my requests from the sources it knew and I proved were the best sources it deliberately misrepresented to this Court that full and complete compliance was possible from what it described as the FBI Headquarters file. It persisted in this false insistence after we proved from its own expert witnesses that most relevant records are not in Washington. While the FBI HQ file is an exceptionally valuable historical record and I will deposit it intact in the archive described above I have been forced to pay for about 20,000 copies of records ~~xxxxxxkxxxxxx~~ the Department knew would not <sup>provide compliance</sup> comply with my requests. Were these costs to be returned to me know the damage done to me by not having them to use for other ~~xxx~~ parts of this would remain and now will remain permanently. Moreover, if by some remote possibility those FBI experts who have reviewed these FBI HQ records had never in their lives seen another record, these files abound in references to relevant records not included in them and in some case specify the reasons for not sending them to Washington.

39. What this now means is an even more extensive review than the review conducted by the FBI alone to now. Compared by the number of Sections, the number of pages being unknown to me, there are approximately twice as many relevant Sections in the Memphis Field Office alone. Included among these Memphis Section not duplicated in the FBI HQ file are 35 entire Sections relating to two items of my requests. The subject designations of these 35 Sections are identical with two items of my requests. To state this in a different statistical

the defrauding of the public to which I have already dedicated the totality of my records, I refer this Court to the first calendar call following the first and farcical delivery of what was sworn to this Court as full compliance with the artificially separate April 15, 1975 request. From those records the names of witnesses used at the March 10, 1969 guilty-plea hearing proffer of evidence was withheld. Prior to that hearing the numbers of millions of times those names had been published is beyond estimate. In one use in a single one of the multitudinous sources about 10 percent of the American people had access to these never-secret names. But to this day those records have not been replaced and I remain personally defrauded of the cost of those records and the search fees charged.

44. From the southern tip of California to the northern reaches of Maine, from Florida to the northwestern extreme of the State of Washington and to Americans resident in other countries such records as I seek in this instant cause have always been available without charge or fee. The records I obtain are and have been available to all, including those who under other conditions would be regarded as competitors. They are available to still more people through the access of the press to them and from my providing of copies to the press. They will be available in perpetuity through unpaid and non-commercial archival arrangements already made. I believe that under these circumstances and others set forth in the foregoing Paragraphs I have more than met the requirements of the Act and of relevant Court decisions for the remission of all costs and charges of any kind.