Statement of HAROLD WEISBERG to be read into record by counsel on September 16, 1976.

It is now seven and a half years since I filed requests for most of the information sought in the Complaint and Amended Complaint in C.A. 75-1996. The Department actually wrote me in 1969 that no useful purpose would be served by its responding to my inquiries. Since then, in every possible way, it has circumvented and violated the Act. It had few requests in 1969. There were no backlogs deterring compliance. And there was no compliance.

Instead, there has been incredible dishonesty, stonewalling, obfuscations of all kinds and an assortment of dirty legal tricks that, unless ended and I believe where justified punished, render laws meaningless and reduce the courts to rubber stamps.

The dishonesties are so great that the Department has yet to admit my requests are seven and a half years old. If it did, it could not present contrived statistics which I have already proven mean the opposite of what the Department represented to this Court that they mean.

I have one request more than 10 years old. It has gone to the Supreme Court. The Congress has amended the Act with it in mind and with specificity about it. There is a complete defense against my Complaint in that matter swearing to a court that what I seek does not exist. The Department refuses to so swear, as the Act requires as an alternative to compliance, and simultaneously refuses to comply. This case is on remand for more than a month. We do not even know if the Department will go to the Supreme Court. This means we have to do an enormous amount of additional work, wasting much time, incurring still greater costs, jeopardizing my preparations in other matters before other courts and making it totally impossible for me to continue my writing.

There are several dozens of information requests that in the years following have not been complied with. Yet with a straight face the government actually claims good faith and due diligence before this Court.

It is shameless. It is immune, for who prosecutes the prosecutor? It represents part of a continuing campaign to use raw power

and immunity to negate the law it does not like and to grind down private litigants who persist in practicing the most basic concepts of representative society.

Mere delay serves the illicit purposes the Act was to have ended.

Exposures in court, even of felonies, mean nothing. The suppressions, the stonewalling and the dishonesties that frustrate the law do not end.

There is no limit to these dishonesties. As a minor example, the Director of the FBI wrote me on February 13, 1976, that the Bureau was then running more than three months behind. Yet as recently as last week the Department assured this Court that probably beginning next month they can get to my more recent requests that from Director Kelley's letter should have been processed in February or March.

The fact is that I identified 29 requests that have not been complied with for up to a decade. The Department's violations are deliberate. I have filed many DJ 118 forms when they were required, accompanying them with checks that were cashed and for which I received nothing. In two cases, representing the true Departmental attitude toward the Act and my requests, these checks were shredded, then taped together and in that form were actually cashed. Cashing them reduced my capabilities by that much.

There also is no end to the contrivances that prevent my making timely response. I have complained repeatedly, verbally and in writing to which there has never been response, about these shabby tricks. They have ranged from misusing the processes of this Court to defame me entirely without basis to the filing of two sets of records to which six affidavits were attached, delayed to when the Department knew I would be without counsel for much more than the 10 days permitted for my response.

Whether or not that Response and Motion to Stay were overdue, delayed until it was known I would be without counsel, both had been promised much earlier, as much else also had been. In each case it prevented my perfecting the record. In each case it also meant a great deal of unnecessary work for me. I can produce what in each case I prepared for counsel too late for use at the next status call.

As one example - and I have given counsel a list of many - I cite the affidavit of Quinlan Shea attached to the Motion to Stay that itself was not filed until the day before the Department knew my counsel was going 15,000 miles away for four weeks/

After the status call of last week, I came upon Mr. Lesar and AUSA Dugan discussing an earlier promise for the filing of an affidavit by Mr. Shea. AUSA Dugan denied this. I told him I had recently reviewed the transcripts and he had stated that the affidavit had been delayed and would be filed by the following Tuesday. He denied this still again, speaking to us in a loud and insulting manner.

At the opening of the status call of July 1, the transcript shows that in the second paragraph of his remarks AUSA Dugan told the Court and us that "I had expected to receive an affidavit in response to the Court's comments. My counterpart in the Department of Justice was sick yesterday and apparently didn't transmit it to me."

These comments were last made three weeks earlier.

Obviously, it is impossible to transmit what does not exist. All doubt is removed on the next page of the transcript where AUSA Dugan indicated "I will file that by Tuesday." That Tuesday was July 6. The Shea affidavit attached to the Motion to Stay is dated two weeks after the July 1 promise. It then was withheld, as has happened to me before, until it was filed August 10. This precluded my proper response and in itself required still another large waste of my time with my counsel 15,000 miles away.

The Shea affidavit is, I believe, falsely sworn. I had to and I did prepare a long response Mr. Lesar had no time to read prior to the status call of September 8 because it was impossible for me to give it and other preparations to him until that morning. They total 40 to 50 thousand words. When Mr. Lesar did not have time to read them, he could

not approve them for filing as I intended and believe is necessary to make a full record in this case.

There was time for my pointing out only the fraudulent representations in the contrived statistics, part of which Mr. Lesar used in cross-examining FBI Agent Smith. AUSA Dugan did not even inform us of the witnesses he intended presenting so not only was Mr. Lesar foreclosed from preparing, I was foreclosed from making preparations for him. Mr. Smith's affidavit also was withheld, from May 28 until August 10, 1976. It reached Mr. Lesar and me just as Mr. Lesar was about to leave the country. The radical difference between the irrelevant claims of that affidavit and what SA Smith admitted under cross-examination suggest motive.

The realities all this imposes upon me makes a mockery of the Act and any concept of freedom of information. I had to prepare affidavits in response to six Departmental affidavits that I have no hesitancy in describing as deceptive and misleading at their closest to fidelity and deliberately falsely sworn in what I believe is perjury. From long experience I expected perjury. I warned AUSA Dugan that if he filed falsely sworn affidavits I would respond by making an issue of it before this Court. This was when he announced at the February 11 status call that he would produce affidavits that would moot the case. We discussed this and other matters that represent other deliberate trickery after that status call. I then also warned AUSA Dugan that if he did this he could, in effect, be suborning perjury, whether or not actionably. I believe he has done this and on more than one occasion if I am correct in the belief that compliance is a material question before this Court.

Mr. Lesar and I are well aware of the burdens imposed on the courts by official opposition to the Act. We know the burdens imposed on us by that opposition in seven cases before courts of all levels. We have disagreed on what will be less burdensome to this Court.

It was and is my view that, without a facing of all the issues, all the dishonesties of varying degrees, all the deceptions and misrepresentations, there will be no end to long, drawn-out cases like this one and no end to the deliberate burdening of the courts. Meanwhile, the Department thereby continues to hide what is embarrassing to it.

In this case it has added motive. It is now in its fourth

internal reinvestigation of the King assassination. It wants to be able to continue to control what can be known about it and what will be believed. By stalling this case it can, as it always has, attain maximum attention for its own version. History teaches it will be another whitewash. With any other intent, the first of the so-called reinvestigations would have sufficed.

We have not pressed our Vaughn motion, for example, because of the great amount of work that will mean for this Court.

In return, we have been faced with the most deliberate noncompliance and what I believe is perjury. There is no doubt in my mind of the falseness of the swearings by SA Thomas Wiseman, already proven, and by at least Stephen Horn. I believe this is true of Mr. Shea and his misuse of his own statistics.

I do not see how this lessens the burden deliberately imposed on this Court by the Department. I do see how it nullifies the Act and mocks any concept of the independent functioning of courts of law, this Court in particular.

There is no doubt in my mind that it is and is intended to be ruinous to me. I am a writer. There is much writing I want to do, much I believe will not be done unless I do it. In this specific case, seven years after my initial requests and a year after that of April 15, 1975, I had to lay aside a book two-thirds written. The amount of work extorted from me by the Department is that great. What I have written for counsel and for his consideration as affidavits to be presented to this Court is larger than many books. None of this was necessary save for the Department's determination not to comply with the law, its determination to suppress that which is embarrassing to it in this historically important case in which it has suppressed evidence for eight years.

After failing to object to an evidentiary hearing for which we have very little time when my counsel and I are separated by some distance, the Department contrived another subterfuge, another delay, another obfuscation and a deliberate additional irrelevancy. Friday evening Mr. Lesar informed me that AUSA Dugan proposes instead of an evidentiary hearing that the Court and we be taken on a conducted tour of the FBI to see how it handles such cases. I regard this as totally irrelevant. The issue for me and I believe before this Court is this specific case, not charades and musical chairs. A year and a half after

my request of April 15, 1975, the Department has yet to swear to compliance with it. The Department's own statistics show that my request of December 23 should have been processed by now. However, most of this is more than a year and a year and a half old. It goes back to March of 1969.

The Department has other contrivances I have protested from the first. It rewrites my requests and limits them as I have not. The sole question is not the FBI and there is no showing of any backlog anywhere else in the Department. Now the Department pretends that my request is in effect limited to the FBI and in actuality limited to whatever it means by the central index of FBI HQ. This is false. It is knowingly false. And now that we have elicited from SA Smith the sworn statement that most of the relevant records are not in Washington at all, the purpose of this Departmental fabrication is, transparently, noncompliance.

Unless it is prevented, the Department will haggle endlessly over whether the requests are limited to the FBI and to whatever may remain in headquarters. It has already laid the foundation for other devices for noncompliance and more legal haggling in frivolous withholdings by maskings. Arguing over them alone could take years. Only a subject expert can make real interpretations.

It can't lose. Each delay extends the suppressions.

Each inefficiency becomes a new statistic, each statistic a fresh tear. It has contrived to so overburden itself that this in itself has become a separate nullification of the Act.

To all of this there must be an end, if not for this Court, certainly for me. The Department has added to its defamations of me sneering references under oath, alleged to be first-person, about the state of my health and of my professional competences and knowledge. I do not regard suffering acute thrombophlebitis with irreversible damage as a fit subject for official jesting. If I have not already demonstrated my knowledge in this matter, I am prepared to demonstrate it further. I believe I have in the affidavits I have prepared for Mr. Lesar.

With further stalling in prospect after seven and a half years - and compliance presented no mechanical problems then - I see an outrage against the law and a deliberate denial of my rights under it.

This case is typical in my experience. There is neither shame

all of this.

So I am asking this Court to conduct an inquiry in which all participants are under oath and under the penalties of falsw swearing.

I begin with the offering of myself to this end. Had Mr. Lesar not been 15,000 miles away, he would have been able to read what I have already prepared on this.

There seems to be no means by which these questions can be resolved and these abuses ended except by a judicial inquiry by this Court in which all parties are under oath and under a certainty of penalty where warranted.

I have no reluctance to confront all eight government affiants in this matter.

It is my request of this Court that it hold such a judicial inquiry at the first possible moment, even if this precludes my proper preparation for it.

If I am not granted proper relief, then Congress enacts laws to no end and courts exist for no purpose when the executive branch has something to hide and is determined to hide it. What I have lived through is the compounding of the most horrible and subversive of crimes by official suppression.

From these abuses, from what I regard as genuine subversion of a system of laws and of a system of society, I believe now only the courts can grant relief.

I ask relief now of this Court.