Affidavit draft 1996

1. My name is/.....

2. I have read "Defendant's Response to Court's Oral Order Requiring Production of Certain Documents," received by me from AUSA John Dugan on December 30, 1976.

3. I have personal knowledge of all that is referred to in this Response, as I do of the substance of the representations in it.

4. While Defendant claims this Response is in belated prompt reaction to this Court's verbal order of September 8,1976 it in fact is required of Defendant because of events subsequent thereto, including specifically a number of letters I have written to various od fedendant's employees, including the Director and several agents of the FBI. These letters, including one relating to these indicies of long ago, remain without directr or indirect response.

5. The referred-tin indices were provided us without separation and without identification. My request to be informed where/one each begins and ends and how each is identified remains without so much as simple, polite acknolwedgement.

6. Contrary to the representations of this Response by the time of this Court's verbal order and the time of the false representations to this Court about ulterior motive attributed to my counsel and me having to do with a fanciful and imagined reason for our seeking these indices under ciscovery the time for defendant's response to my FOIA request of December 23, 1975, also had exceeded the time in which defendant had complied with other requests. This is to say that by the times defendant now cites there should have been compliance with all my requests. My testimony and cocumentary evidence establishing this has not been addressed, leave alone questioned or rebutted. It is unchallened fact.

7. In paragraph 2 on Page 1 defendant states that these indices "cover all facets of the investigation." In fact these indices cober only a minuscle fraction of the revelant files established as being in defendantgs possesss.

8. Limiting this to defendant's misrepresentations these indices vover only 25 volumes. Defendant admits that the FBI HQ file, which defendant false represents as holding all relevant records I have asked for and from which there can be full compliance,

totals 88 volumes, more than three times these 25 numbered volumes.

9. Moreover defendant misleads this Court in seeking to lead it to believe that these indices are to the files of FBI HQ. They are in fact to colsolidated reports compiled field offices, in various FBI ~~HQs~~ as I have already established in ths instant cause, against without refutation or even the raising of a question.

10. It is not possible to bring this matter to either "full disclosure" or ~~it~~ "its logical conclusion" in the manner or by the means defendant suggestes, here still limiting himself to my April 2x 15, 1975 request. It is without question that the time for my rquest of more than a year ago also has passed. Yet the only references in defendant's paragroah 2 are to the April 15,1975 request.

11. Neither here not ~~w~~ anw anywhere else is there reference to a single FBI field office file nor to any other defendant's other components nor to any of the extensive files that are relevant and are in the possession of defendant's other components and the FBI's field offices.

12. There had not been compliance by any of the other of defendant's components. Subsequent to my uncontested - even unquestioned - sworn testimony in which I so stated under oath and offered proofs I have received not a single additional piece of paper from any of the other of defendant's other components or from a single field office of the FBI.

13. Therefore it is completely and knowlingly impossible for there to be either "full disclosure" or the intent by defendant "to bring this litigation tos its logical conclusion" unless defendant means court-sanctioned non-compliance is the "logical conclusion."

14. In the third paragraph, which is at the top of Page 2, defendant claims these indices "were recently located by a representative of the FBI in the possession of the... Civil Rights Division.

15. The Civil Rights Division is one of defendant's components. I testified that the affidavit of its Stephen Horn of five month ago was knowing and intendedly false in attesting to full compliance not only by that division but from any and all files known

by that affiqnt to be anwywhere in defendant's possession.

16. It now is admitted that these indices are within my April 15,1875 request and that they were in the possewwion of the Civil Rights Division.

17. My motion for the production of these indices was filed May 5, 1976.

18. That motion was based upon records supplied by the Civil Rights Division. Without the records of the Civil Rights Division I would not have known until much later of these indices or the involvement or possession of the Civil Rights Division with them.

18. It was not until two months after I file d this motion that Mr. Horn swore to his personal and exhaustive search and to compliance, after hex was on notice about rhese indices.

19. In addition SAs Tom Wiseman and John Kilty of the FBI had earlier sowrn to maving caused a full search and to full compliance with my April 15,1975 request whereas these indices by themselves- not just as proper discovery material - were compiled by the FBI and by content are clearly within my April 15, 1975 request.

20 My initial requests with which there was no compliancec- not even response although it has since been admitted they were made - are now almost more than six years old. There is no description of any record anywehere in this Response that is of a record not included in my 1939 requests.

21. Aside from these 1969 requests all descriptions are of records that fall within both my 1975 requests yet we had to resprt to discovery to obtain these incidces although full compliance had been sworn to by a large number of defendant's representatives prior to the dleayhvery of these indices.

22.The last paragraph on page 2 begins, "Necessary excisions from these abstracts were made pursuant to exemptions (b)(7)(C) and (b)(7)(D)" in the knowingly spurious claim to privacy. This claim is made with respect to FBI agents and to others. In both cases it is meretricious.

23. This Court has held that the privacy claim cannot be extended to these agents. Co urt decisions have also held this. I have placed into the record in this instant case FBI Director Kelley's own statement that in cases of this nature there is no such claim

with regard to FBI agents. As of the last records I have received in this matter these names continue to be masked. Were these withholdings that are denial to be ended immediately and were proper copies to be provided it would require an extensive amount of totally unnecessary but I believe official intended work for me to substitute the copies from which there is not improper withholding for those from which there is withholding. This is true with regard to those who are not FBI agents and for whom there can be no honest citation of any claim to privacy.

23. The first time I met D SA Wiseman and he handed me records from which there was extensive obliteration of public information that is clearly within my April 15, 1975 request I luaghed in his face over this, if not impolitely, and filled in the materual that was withheld.

24. Thereafter I did similarly on a number of occasions and my counsel, when he questioned defendant's agents on cross examination, did it exactly the same thing, filled in the withheld material from what is in very widely and publicly known,

24. At no time since have I received a single corrected record from which there is not this improper withholdingnthat, incredibly with this record, in this response defendant still persists in representing as essential.

26. Were the example cited in the first full paragroah of page 3 faithful to fact, as it is not, it would still not address the continued withholding as it relates to the scientific tests and photographs, to cire a convenient illustration. There is no real question of privacy related to either of these items of the April 15,1975 request.

27 Defendant was forced to contrive theses claims forwhich it was too dangerous to provide an agfidavit in support of them for various reasons the most obvious of which is that nowhere and in no way does defendant forecast compliance and defendant has need for perpetuating non-complinace so that the endless flow of offific official leaks and public deceptions and misleading of Congressional committees can continue.

28. In the past seven weeks there have been four major such leaks and deceptions and misrepresentations all based opon records I have sought under FOIA and not obtained from the defendant in this and other requests going back for a long period of years.

29. In each and every case the official leaks were misinformation from officials.

30. In each and every case if my requests had been responded to as required by the Act I would have been able to refuste all these public deceptions that jave been arranged to attract maximum public attention.

31/ prvious experience told me that the kinds of efforts at non-compliance that characterize this instant case and have been eminently successful in it would be made. Therefore, beginning on Feburary 11, 1976, I made a series of offers to make it possible for defendant not to face these problems that need not exist and do exist only because defendant has manufactured them. Of this the most convenient example is by seeing to it that of all defendant's employees so large a number of whom are familiar with this case not a single one is assigned to processing it.

3w. This also is one of the means by which defendant is deliberately wasting public moneys and fabricating false and misleading statistics with which to inpose upon the courts and to use as a basis for weakening the demanding a Act of the Congress.

33. A alrge percentage of the public information that from the first in this instant case was and to this day continues to be withheld, at the waste of time and money, is and for years has been public.

34. Defendant knows this and cpntinues the method that assures the needless waste of time and momey and means continued and deliberate non-compliance and the vitiation of the Act.

34 My most recent offers to defendant that would greatly reduce if not entirely eliminate this unnecessary problem was that I would tell respondent's agents the public sources they could consult to ascertain whether or not the obliterated material was or was not known. I offered to do this by phone or in the laternative to make a special trip to Washington to answer questions and cite sources. I even suggested that instead of obliteraing information, with all the time that and review of it, if there ever is a proper reqview would require, merely to mark the information with paperclips so that I could be asked questions and cite sources if the information is not secret or if the names are known.

35. Telling me a name and nothing more tells me nothing so there can be no violation of privacy in this.

36. Where theere is relevance to the facts of the case and the request there is almost no possibilijy of unknown and unpublic names.

37. I suggested that clerical employees could easily consolidate the indexes of the basic books on this subject and there could be close to instant access to what is public.

38. This suggestion was not accepted, as none of those I made to save the government time and money and speed compliance were accepted, because as my long and costly experience shows whatever the representations of the government, speed or full complinace is never one in these matter.

39. I have therefore made arrange,ents two two recent college graduates to card all the indexes of all the standard works and then type them so they can be used by more than one analyst. When I have received this I will give it to defendant.

40 By that time there will be at the least thousands of pages of records from which there has been imporoper wiholding. At my age this means permanent withholding, as defendant knows and I believe intends.

41 All representations to such matters in defendant's Response are unreal.

42 As one example of the lack of genuineness in such representations I take the case of two sets of police who were caught in personal involvements with both the Ku Klux Klan. It simply is not possible that FBI agents did not know these involvements and subsequent official actions were not well publicized, in one case including by indictments. Yet those names are withheld.I have no interest in thos names and I do not now ask for them. This issultartates, however, one of the many means by which defendant stonewalls while praying piertjes and protesting purity to this Court, albeit not under oath in this instance.

43. This response is another illustration of the persistencein non-compliance and the misrepresentation of complinace to this Court. It all allegations in this Response completely accurate and faithful and if I had already been provided each and every record in thos 88 volumes, non-complinace would be the rulem. These records represent a tiny fraction of those within the requests and to defendant's knowledge are not those most responsive to the requests.