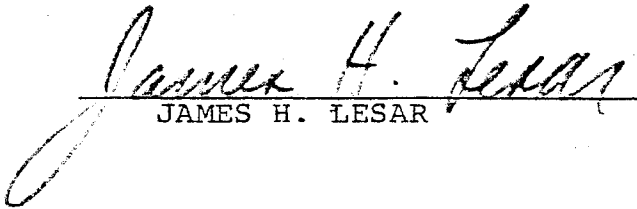




CERTIFICATE OF SERVICE

I hereby certify that I have this 1st day of November, 1977 served a copy of the foregoing Motion for Waiver of All Search Fees and Copying Costs on Mr. John Dugan, Assistant United States Attorney, United States Courthouse, Washington, D.C. 20001.

  
\_\_\_\_\_  
JAMES H. LESAR

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

.....  
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:
  
HAROLD WEISBERG, :
  
:
  
Plaintiff, :
  
:
  
v. : Civil Action No. 75-1996
  
:
  
:
  
U.S. DEPARTMENT OF JUSTICE, :
  
:
  
Defendant :
  
:
  
.....

MEMORANDUM OF POINTS AND AUTHORITIES

INTRODUCTION

Section (a) (4) (A) of the Freedom of Information Act provides:

Documents shall be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

A Department of Justice regulation implements this provision by authorizing departmental officials to make a determination that search and copying fees "are not in the public interest because furnishing the information primarily benefits the general public." 28 C.F.R. §16.9(a).

On November 4, 1976 plaintiff's counsel wrote the then Deputy Attorney General, Mr. Harold Tyler, Jr., and requested that he make this determination. (Exhibit 1) Nearly eight months later the office of the Deputy Attorney General, in the person of Mr

on his appeal. (Exhibit 2. Shea letter of May 26, 1976)

When plaintiff objected to further stalling on his fee waiver request, this Court ordered the Deputy Attorney General to decide the issue within ten days. By letter dated July 12, 1976 Mr. Quinlan Shea granted a reduction in copying charges, specifying that Mr. Weisberg would be charged at the rate of \$.06 per page, and that this rate would apply both retroactively and prospectively. (Exhibit 3)

For the reasons state below, plaintiff renews his November 30, 1976 motion for a waiver of all search fees and copying charges.

I. THE RELEASE OF KING ASSASSINATION RECORDS TO MR. WEISBERG CAN BE CONSIDERED AS PRIMARILY BENEFITING THE GENERAL PUBLIC

In the July 15, 1976 affidavit which Mr. Quinlan Shea submitted in this cause, he stated:

The assassination of Dr. King is certainly a case of sustained public interest. Notwithstanding the fact that the crime occurred only a relatively few years ago, the historical importance of the fact of the assassination is obvious. (Shea affidavit, ¶12)

There is, therefore, no dispute as to the importance of the records which Mr. Weisberg is obtaining through this Freedom of Information Act lawsuit. The provisions of 5 U.S.C. §552(a)(4)(A) would seem to require that only one other issue be addressed: whether the release of these records to Mr. Weisberg "can be considered as primarily benefiting the general public."

In his November 4, 1976 letter to Deputy Attorney General Tyler, plaintiff's counsel requested that he be informed of any standards which had been established for determining whether or not

The Department of Justice has not requested that plaintiff submit affidavits in support of his fee waiver request, nor has it informed him of any standards which it employs in determining whether to grant fee waiver requests.

In support of his renewed motion for a waiver of all search fees and copying costs, plaintiff submits three affidavits by persons who have personal knowledge of Mr. Weisberg's prolonged efforts to serve the public interest by informing the public about the assassination of Dr. Martin Luther King, Jr., the investigation of that crime by the FBI, and the bizarre circumstances surrounding the conviction of James Earl Ray as the assassin. Additional affidavits in support of Mr. Weisberg's fee waiver request could be obtained. However, these three set forth facts sufficient to require a waiver of all search fees and copying costs in this case.

The first of the three affidavits is that of Howard Roffman, a young lawyer now serving as law clerk to the Honorable Bryan Simpson, Circuit Judge, Fifth Circuit Court of Appeals. By the time he was 23, Mr. Roffman had authored two books. One, Presumed Guilty (Associated University Presses, Inc., 1975; A.S. Barnes and Co., Inc., 1976), deals with the Warren Commission's allegations that Lee Harvey Oswald assassinated President John F. Kennedy and analyses in particular, and with great clarity, the ballistics and medical evidence pertaining to that murder. His second book is Understanding the Cold War.

Mr. Roffman's affidavit (Exhibit 4) states that he has known Mr. Weisberg since 1969. Mr. Roffman was only 16 years old at that time, but Mr. Weisberg was aware that he had done serious research on the Kennedy assassination and invited him to spend the weekend

man Affidavit, ¶5) After that, Mr. Roffman and Mr. Weisberg became close personal friends and associates. Because of his close relationship with Mr. Weisberg, including numerous working stays at the Weisberg home, Mr. Roffman states in paragraph three of his affidavit:

I am in a unique position to certify that Harold Weisberg's research into the assassination of President John F. Kennedy and Dr. King have been for the direct benefit of the public and, more particularly, all interested, responsible researchers, historians, and media representatives, and not for his personal financial gain.

Mr. Roffman also notes that he observed that Mr. Weisberg followed a policy of openness toward all researchers willing to come to his home: "Reporters, historians, students--all were welcome to use the valuable research materials contained in Mr. Weisberg's files and to use his home as a place to do their research." (Roffman Affidavit, ¶12) He further states that:

. . . Mr. Weisberg has, to my personal knowledge, devoted countless hours to using his research for the benefit of the press and members of Congress. He is often called upon for background information and detail that is unavailable from any other source. He is asked to do this for free, usually even without credit or mention in public, and I have never known him to refuse. For example, I have been working with Mr. Weisberg at his home when he would receive an urgent call from Fred Graham (then with the New York Times) or George Lardner (of the Washington Post), wanting to know the "scoop" behind a breaking story; Mr. Weisberg would interrupt his own work for hours at a time to help these men, asking nothing in return except that the public be better informed. (Roffman Affidavit, ¶13)

This establishes Mr. Weisberg's willingness to assist those who inform the public through mass circulation newspapers and that

who seek to inform the public extends even to authors whose works are in competition with his own. In fact, Mr. Roffman emphatically states that he could not have written his own book on the Kennedy assassination, Presumed Guilty, "without the research assistance I received from Mr. Weisberg," and that Weisberg helped him even though he knew that Roffman was writing a book "which would inevitably compete with his own books on the Kennedy assassination."

(Roffman Affidavit, ¶¶3, 6)

The second affidavit submitted in support of Weisberg's fee waiver request is by Mr. Leslie H. Whitten, who shares the byline with Jack Anderson on the Washington Merry-Go-Round, the world's most widely syndicated news column. Mr. Whitten relates his relationship with Mr. Weisberg and states:

4. That while I disagree vigorously with his theories on many aspects of these assassinations, I have found his research invaluable and even vital in pursuing the news; that he is reliable and accurate and his assessments of the importance of the documents he has provided me and I have turned up on my own have been extraordinary; that I have found him uniquely reliable among the so-called "critics."

5. That Weisberg, on dozens of occasions, has cut through government red tape, using his library of documents to do so, saving time, making available material that would take months to locate in the maze of government files; that he is foremost organized, credible breaker of government monopoly on such information; that he is contemptuous of cover-ups even when the documents seem to counter his own theories.

6. That the information from Weisberg on which I have based numerous stories, and bulwarked stories already in the works, gave them more strata of meaning; \* \* \*

7. That he has steered me away from seve-

To this glowing endorsement Mr. Whitten adds that Weisberg "has done these useful works without charge, and indeed, has even sometimes paid the duplication costs from his own pocket," and that his files are available to Whitten and other reporters "at all times when he is home . . . ." (Whitten Affidavit, ¶8)

The third affidavit is by Professor David R. Wrone, professor of history at the University of Wisconsin-Stevens Point. Professor Wrone states that he is familiar with Mr. Weisberg's work on the assassination of Dr. King and adds his opinion as a scholar versed in the subject that:

10. Mr. Weisberg's work on the assassination of Dr. King is the only significant work available for the person seriously interested in the evolution of this subject and its relationship to the fundamental institutions of American society. There is simply no way to approach this subject other than through Mr. Weisberg's prodigious efforts.

17. Mr. Weisberg's scholarship is magisterial in its command of the documentary base and clear on the fundamental points at issue. He cannot be compared with the other authors on the King assassination from the perspective of scholarship and objectivity. His work on this topic stands in a totally different light from all others. He works from an objective base, seeking not merely to discover who killed Dr. King or to reap commercial profits but to discover who killed Dr. King or to reap commercial profits but to establish what the evidence is and what it means not only in terms of the crime itself, but also in terms of the larger significance it holds for the workings of our basic institutions.

Professor Wrone's affidavit also states that the University of Wisconsin-Stevens Point is in the process of establishing a Weisberg archive on its campus which will enable scholars, students, journalists and the general public to utilize the incomparable ma-



The Roffman, Whitten, and Wrone affidavits establish beyond any question that it is profoundly in the public interest for Mr. Weisberg to be furnished copies of government records pertaining to the King assassination without having to pay duplication fees. Moreover, the evidence that Mr. Weisberg in fact serves the public interest by providing the public with information it should have is evidenced in numerous newspaper articles which rely on him to evaluate developments in this area. Of the many articles which have used Weisberg in this role, two are attached hereto as exhibits, one from the Washington Post of April 3, 1977, the other from the New York Times of June 6, 1977. (Exhibits 7 and 8)

II. THE DEPARTMENT OF JUSTICE HAS ABUSED ITS DISCRETION IN REFUSING TO GRANT A COMPLETE WAIVER OF ALL SEARCH FEES AND COPYING COSTS

Under 5 U.S.C. §552(a)(4)(B), this court has jurisdiction to review a violation of any portion of the Freedom of Information Act. American Mail Line v. Gulick, 441 F. 2d 696 (D.C. Cir. 1969). This review includes alleged violations of the fee waiver provisions of §552(a)(4)(A). Alan L. Fitzgibbon v. Central Intelligence Agency, et al., Civil Action 76-700 (D.D.C. Memorandum and Order of Judge Aubrey Robinson, Jr. filed October 29, 1976), citing Dialpulse Corporation of America v. Food and Drug Administration of the Department of Health, Education and Welfare, 500 F. 2d 75 (2d Cir. 1974). This court also has jurisdiction to review the fee waiver decision under 5 U.S.C. §702, which provides judicial review for persons adversely affected by agency action. Fellner v. Department of Justice, No. 75-C-430, Slip Opinion, p. 6 (W.D. Wisc. April 28, 1976).

The issue before this court is whether the government's decision not to grant a complete waiver of all search fees and copying costs in this action was "arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law." 5 U.S.C. §706.

If, on the basis of known facts, one were to pick a case in which such an abuse of discretion would be most likely to occur, it would have to be a case involving this plaintiff. Records recently obtained from the government show that various federal agencies have repeatedly violated the law where Mr. Weisberg's Freedom of Information Act requests are concerned. For example, an October 29, 1969 memorandum from Al Rosen to Cartha DeLoach, the number three man in the FBI hierarchy, notes that in April, 1969 Weisberg had requested information on Dr. King's assassination and that "It was approved that his letter not be acknowledged." (Exhibit 9) That this anti-Weisberg obsession extended to the Department of Justice as well is reflected in a June 24, 1970 memorandum from T. E. Bishop to Cartha DeLoach: "[Bill] King [of the Information Office, Department of Justice] advised that in view of the fact that the Department did not wish Weisberg to make a profit from his possession of the documents and, accordingly, has decided to make similar copies available to the press and others who might desire them." (Exhibit 10)

In yet another flagrant example, the Secret Service transferred to the National Archives its copy of the "Memorandum of Transfer" on President Kennedy's assassination and the Archives then withheld it from Mr. Weisberg, even though the Secret Service admitted in its correspondence with the Archives that it had no

In this case the Department of Justice official who made the determination to allow only a partial reduction in the copying costs, Mr. Quinlan Shea, Jr., had previously executed an affidavit opposing any expedited treatment of this case which suggests that the anti-Weisberg loathing present in some government circles has personally rubbed off on him and imbued him with a prejudice which makes it impossible for him to make a fair and measured determination of whether Mr. Weisberg is entitled to a fee waiver under the provisions of the Freedom of Information Act. The impairment of Mr. Shea's judgment is made obvious by the attempt in his July 15, 1976 affidavit to belittle the state of Mr. Weisberg's health and his status as an authority on Dr. King's assassination. This reveals itself in such phrases as: "Even assuming that Mr. Weisberg is either an authority or expert on the King assassination," and "the alleged state of Mr. Weisberg's health." (July 15, 1976 affidavit of Quinlan Shea, Jr., ¶15) When the attorney who has represented James Earl Ray longer than any other represents Mr. Weisberg in this case as well, for Mr. Shea to refer slightingly to Mr. Weisberg's status as the investigator for James Earl Ray as "self-professed" is, to say the least, outre.

Mr. Shea's determination, made belatedly and under pressure, only to grant/a partial reduction in copying costs (and no waiver of search fees) is further undermined by the fact that it apparently rests on the fact that Mr. Weisberg "chose . . . to request personal copies of these materials" rather than travel to Washington, D.C. to read the copies of documents which Director Kelley decided to place in an FBI reading room for public inspection. (Exhibit 3)

much fewer than the enormous number of records he has received during the course of this lawsuit. These documents have been accepted by him not for personal use but so he can make them available to scholars, journalists, and the public through an archive to be established at the University of Wisconsin-Stevens Point. The record is quite clear that Mr. Weisberg has aided the public understanding of the issues and facts of Dr. King's assassination. It is also clear that he has not personally profited from this, but has in fact suffered considerably.

Secondly, the availability of King assassination records in an FBI reading room is a meaningless public relations gesture, one of the kind which government agencies sometimes indulge in as an excuse which enables them to avoid coming to grips with a problem which confronts them. If anything, the decision to place King assassination records in a public reading room is consistent with the previous Department of Justice effort to undercut Mr. Weisberg by making available to others the records which he forced out into the public through lengthy, costly, and emotionally exhausting Freedom of Information Act lawsuits.

More important, however, is the simple fact that making the records available to Weisberg reaches far more people and far better serves the public interest than does a foolish decision to waste money by making a set of the Headquarters' Murkin files open to public inspection by placing them in some FBI "reading room." The affidavits of Professor Wrone and Les Whitten demonstrate the impracticality of this idea. As Les Whitten asserts:

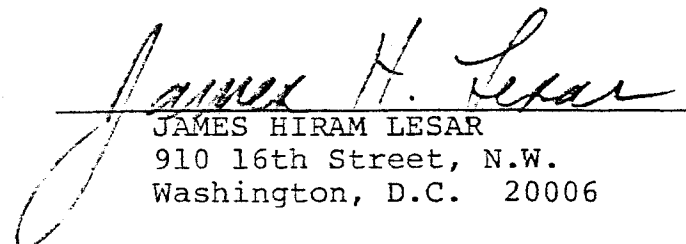
9. That the press absolutely cannot rely on government agencies and conventional li-

are to be dealt with properly; that, therefore, you simply have to have someone like Weissberg (sic) to find the key documents from the 25,000 in the King case and the--I'm guessing--millions scattered in various files on the Kennedy cases.

10. That any money spent to help Weissberg build up his files would be far better spent than in a government operation, and infinitely cheaper; through giving Weissberg (sic) the records free (the government really should give him a stipend and an assistant) the public will be served well as his work makes for better, more accurate, less inflammatory information being disseminated; his contribution so far in killing off kook theories and encouraging sound investigations is measureless.

Professor Wrone's affidavit, particularly paragraphs 19-21, further shows the impracticality of attempting to serve the public interest through the establishment of a government-selected compilation of records on file in an FBI reading room. In order to properly serve scholars and the public well, a variety of services, facilities, and personnel are required which are not present in Washington, D.C. with the FBI's reading room collection of records on the King assassination.

For these reasons, the decision to deny Weissberg a waiver of all search fees and copying costs was not rationally based on relevant factors and does constitute an abuse of the agency's discretion.

  
JAMES HIRAM LESAR  
910 16th Street, N.W.  
Washington, D.C. 20006



JAMES H. LESAR  
ATTORNEY AT LAW  
1231 FOURTH STREET, S. W.  
WASHINGTON, D. C. 20024  
TELEPHONE (202) 484-8023

November 4, 1976

Mr. Harold R. Tyler, Jr.  
Deputy Attorney General  
U. S. Department of Justice  
Washington, D. C. 20530

Re: Weisberg v. Dept. of Justice, No. 75-1996

Dear Mr. Tyler:

As you are aware, I represent Mr. Harold Weisberg in his Freedom of Information Act lawsuit for records pertaining to the assassination of Dr. Martin Luther King, Jr.

The Freedom of Information Act provides:

Documents shall be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public." 5 U.S.C. §552(a)(4)(A).

Under Department of Justice regulations you are authorized to make a determination that search and copying charges "are not in the public interest because furnishing the information primarily benefits the general public." I hereby request that you make that determination with respect to records made available to Mr. Weisberg as the result of his requests for King assassination materials.

There can be no doubt but that the information sought by Mr. Weisberg "can be considered as primarily benefiting the general public." Mr. Weisberg is the author of Frame-Up: The Martin Luther King/James Earl Ray Case. In Frame-Up Mr. Weisberg published

any discussion of them except through Mr. Weisberg's book.

Mr. Weisberg has completed approximately two-thirds of a manuscript for a second book on the assassination of Dr. King. The uncompleted part of this book awaits compliance with Mr. Weisberg's Freedom of Information requests. When compliance has been achieved and the manuscript is completed, it will contain copies of some of the Department of Justice records obtained as a result of this lawsuit and an analysis of these and other documents to which he has gained access. In this manner Mr. Weisberg will again provide the general public with access to information and records not provided by other writers and therefore not readily available to it.

Mr. Weisberg is a recognized authority on the assassination of Dr. King. At the request of the House Select Committee on Assassinations, Mr. Weisberg has conferred with its chief counsel, Mr. Richard Sprague, and some members of the Committee staff, in order to advise them on the conduct of their probe into Dr. King's assassination.

Mr. Weisberg's work on Dr. King's assassination and the conviction of James Earl Ray raises fundamental questions about the integrity of American institutions. I believe that it is very important that the truth or falsity of Mr. Weisberg's charges be discussed and resolved on the basis of all the information which can legitimately be made public. Yet this will not be possible unless the Department of Justice waives the search and copying charges in this case. Mr. Weisberg simply does not have the money to pay the copying charges, let alone the search fees, for the great volume of documents which fall within the scope of his requests.

I have only sketched the reasons why release of these documents to Mr. Weisberg will be "primarily" of benefit to the general public. There are still other ways in which the release of these documents without charge can be considered to benefit the general public. For example, Mr. Weisberg intends to leave his files on the assassinations of Dr. King and President Kennedy to a scholarly institution as an historical archive. The University of Wisconsin, in particular, has already expressed a desire to be the repository for this archive. The documents obtained as a result of this lawsuit will be a part of this archive and will thus be made available to other scholars for study.

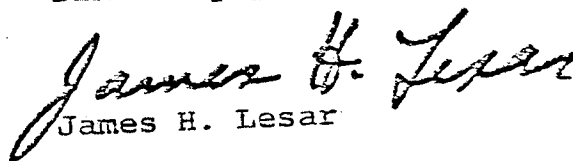
The United States Court of Appeals for the District of Columbia has recently recognized that Mr. Weisberg's Freedom of Information Act lawsuit for the results of scientific testing



done in the investigation of President Kennedy's murder seeks to obtain information of interest not only to Mr. Weisberg but "to the nation" as well. Mr. Weisberg's present suit for King assassination records also serves the national interest. The charge made by Mr. Weisberg is that Dr. King, a political leader of considerable importance, was assassinated by someone other than the man convicted of the crime, and that those who were responsible for his murder have escaped detection, prosecution, and punishment. This is a very serious charge. It is obviously in the national interest that it be discussed fully and knowledgeably on the basis of all the information which can legitimately be made available to the public. Mr. Weisberg is the instrumentality through which this may be accomplished. Yet this can only be if the Department of Justice makes it possible by waiving the search and copying fees.

Should you so require, I will provide you with affidavits by myself, Mr. Weisberg, and others in support of this request for a waiver of the search and copying charges for these documents. If you do wish supporting affidavits I would appreciate it if you would inform me of this as soon as possible. I would also like you to indicate what standards, if any, you have established for determining whether or not a request for waiver should be granted.

Sincerely yours,

  
James H. Lesar

cc: John Dugan, Esq.  
Judge June Green



OFFICE OF THE DEPUTY ATTORNEY GENERAL  
WASHINGTON, D.C. 20530

MAY 28 1977

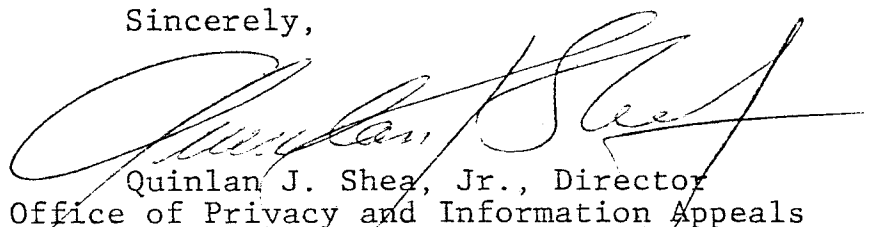
Mr. James H. Lesar  
1231 4th Street, S.W.  
Washington, D. C. 20024

Dear Mr. Lesar:

This responds to your inquiry as to the current status of your pending request for a fee waiver in conjunction with the request of your client, Mr. Harold Weisberg, for access to materials pertaining to the assassination of Dr. Martin Luther King, Jr.

The fee waiver request, together with all other matters pertaining to your client's pending appeal for access to the records themselves, will be determined when the final action is taken on the appeal. Interim payments by your client will in no way operate to prejudice full and fair consideration of the request for a fee waiver at that time. As you know, the appeal itself is being handled by Doug Mitchell of my staff [739-2866]. If you have any further questions, do not hesitate to contact him directly.

Sincerely,

  
Quinlan J. Shea, Jr., Director  
Office of Privacy and Information Appeals



OFFICE OF THE DEPUTY ATTORNEY GENERAL  
WASHINGTON, D.C. 20530

James H. Lesar, Esquire  
910 Sixteenth Street, N.W.  
Suite 600  
Washington, D. C. 20006

JUL 12 1977

Dear Mr. Lesar:

You appealed from the denial of your request for a waiver of reproduction fees assessed your client, Mr. Harold Weisberg, in connection with his request for records pertaining to the assassination of Dr. Martin Luther King, Jr. Deputy Attorney General Flaherty has asked me to act for him on this appeal.

The investigation of the assassination of Dr. King is a matter of great public interest and historical importance. Director Kelley acknowledged this fact very early in the processing of these records, when he decided to place all releasable materials in a public reading room, thereby making them available for public inspection at no cost. Mr. Weisberg chose, however, to request personal copies of these materials and, as a result, was charged the standard reproduction fee of \$.10 per copy. I am aware, on the other hand, of your client's extensive study of and long-standing interest in the assassination of Dr. King. After careful consideration of this matter, I have determined that a partial fee waiver is appropriate.

Your client will be charged reproduction fees for this material at the rate of only \$.06 per page. This decision of mine is both prospective and retroactive, in that it applies to all Bureau records pertaining to the investigation of the King assassination that have been or may hereafter be released to him. To whatever extent that this will require a refund of fees already paid, the matter will be handled directly by the F.B.I.

Sincerely,

Peter F. Flaherty  
Deputy Attorney General

Exhibit 4

Roffman Affidavit

C.A. 75-1996

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

.....  
Harold Weisberg, :  
Plaintiff :  
vs. : Civil Action No. 75-1996  
United States Department of Justice, :  
Defendant :  
.....

AFFIDAVIT OF HOWARD ROFFMAN

1. My name is Howard Roffman. I live at 5885 Edenfield Road, Apt. B-29, Jacksonville, Florida 32211.

2. This affidavit concerns Harold Weisberg's entitlement to remission of costs in this Freedom of Information Act lawsuit which he has brought against the United States Department of Justice to obtain records relating to the assassination of Dr. Martin Luther King.

3. I am in a unique position to certify that Harold Weisberg's research into the assassinations of President John F. Kennedy and Dr. King have been for the direct benefit of the public and, more particularly, all interested, responsible researchers, historians, and media representatives, and not for his personal financial gain.

4. I am the author of a book on the assassination of President Kennedy entitled Presumed Guilty. I could not have written that book without the research assistance I received from Mr. Weisberg.

5. Mr. Weisberg and I first came in contact in 1969, when I was sixteen years old and a junior in high school. Mr. Weisberg knew that

visit his home in Frederick at least three times a year, often staying more than a week at a time. I always had unsupervised access to all of Mr. Weisberg's files and was free to copy whatever papers or documents I pleased. Mr. Weisberg faithfully kept me up to date on the latest releases of information that he obtained from the Government, often providing copies for my files.

7. Mr. Weisberg's sharing of his research with me took place at a time when he knew that I was writing a book which would inevitably compete with his own books on the Kennedy assassination (which he had published at his own expense). Still, he encouraged my work out of the belief that I would write a scholarly work in an area where there is a regrettable lack of scholarship. I clearly came to know that Mr. Weisberg's commitment to the advancement of honest, responsible research and writing on the subject of political assassination in America not only outweighed but obliterated any profit motives he might have as a competing author.

8. When, as an undergraduate at the University of Pennsylvania, I undertook a history research project into President Kennedy's policy toward Southeast Asia, Mr. Weisberg opened his own research files on that subject to me, fed and housed me in his home at no charge to me while I worked, and finally sent me off with two cartons full of his own files.

9. When I left Philadelphia, Pa., in September 1974 to attend law school in Gainesville, Florida, I was limited in my ability to visit Mr. Weisberg (I went to his house for only one week during my time in law school), but we continued our correspondence and he

11. I am currently serving as law clerk to the Honorable Bryan Simpson, Circuit Judge, Fifth Circuit Court of Appeals. My work in this capacity is so time consuming that I am virtually unable to continue my former degree of research into the Kennedy assassination. Thus, my contribution to Mr. Weisberg's research is now limited to the small amount of documents I am able to secure administratively from various government agencies through the Freedom of Information Act. Still, the volume of material Mr. Weisberg sends to me --the fruits of his research--has actually increased because of his improved copying facilities.

12. In my close association with Mr. Weisberg, I saw that he followed a policy of openness toward all researchers willing to come to his home. Reporters, historians, students -- all were welcome to use the valuable research materials contained in Mr. Weisberg's files and to use his home as a place to do their research. In fact, I often became concerned that some people had abused the trust that Mr. Weisberg placed in them and had mistreated his files. I quickly learned that, because of his openness, Mr. Weisberg was willing to put up with much more than I would in allowing others to use my files.

13. In addition to this open policy about his files, Mr. Weisberg has, to my personal knowledge, devoted countless hours to using his research for the benefit of the press and members of Congress. He is often called upon for background information and detail that is unavailable from any other source. He is asked to do this for free, usually even without credit or mention in public, and I have never known him to refuse. For example, I have been working with Mr. Weisberg at his home when he would receive an urgent call from Fred Graham (then

14. To my personal knowledge, Mr. Weisberg's desire that as many people as possible share the fruits of his research is evidenced by his efforts to deposit his files with a reputable University library. I have read Mr. Weisberg's correspondence relevant to these efforts and was present when he discussed plans to donate his files to the University of Wisconsin at Stevens Point. The discussions involved Mr. Weisberg, a professor of history at the school, Dr. David Wrone, and a University Chancellor, and took place in November of 1976 in Stevens Point.

15. Although such information is personal in nature, I think the Court should be aware of it in deciding the issue to which this affidavit is addressed: I know for a fact that Mr. Weisberg has not financially profited from his work on assassinations and that he has not undertaken this work out of a desire to "strike it rich." In my frequent stays at the Weisberg home, I was struck by the modesty of their lifestyle and the tremendous sacrifices of material goods that both Mr. Weisberg and his wife have made to enable Mr. Weisberg's research to continue. In my experience I have never witnessed such dedication to work and principle that resulted in so great a deprivation of material, financial comforts which some have come to regard as necessities. I cannot emphasize how much Mr. Weisberg's dedication and sacrifice has inspired me.

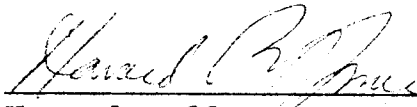
16. Mr. Weisberg's efforts in the present case indicate to me his unselfish motives.

17. Mr. Weisberg's book on the King assassination was published six years ago and is no longer commercially available. I cannot conceive



18. While these other authors have time to travel extensively to promote their books (for example, Mark Lane and William Bradford Huie), they apparently do not have time to assist the legal efforts undertaken by Mr. Weisberg to make public information about the crime through which they are trying to sell books.

19. I assume that since the Government is in Court over disclosure of these King records, it has made whatever disclosures it has on less than a purely voluntary basis. Hence, someone had to use the Freedom of Information Act to force disclosure of information about this most important event in American history. Such disclosure serves the public and in this case cannot serve the personal financial interests of the man who forced disclosure, Mr. Weisberg.

  
Howard Roffman

DUVAL COUNTY, FLORIDA

Before me this 12th Day of October 1977 affiant Howard Roffman has appeared and signed this affidavit, having first sworn that the statements made therein are true.

~~My commission expires~~ \_\_\_\_\_

WESLEY R. THIES, CLERK UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA JACKSONVILLE, FLORIDA

BY: 

NOTARY/PUBLIC

Deputy Clerk

Exhibit 5

Whitten Affidavit

C.A. 75-1996

AFFIDAVIT

I, Leslie H. Whitten, the undersigned, residing at 114 Eastmoor Drive, Silver Spring, Md., 20901, do swear and attest:

1. That I am a newspaper reporter and share the byline with Jack Anderson on the Washington Merry-Go-Round, the world's most widely syndicated news column; that I have worked fulltime with Anderson for eight years; that prior to that I have worked as a newsman, inter alia, with the Hearst Newspapers, as assistant bureau chief in Washington, The Washington Post, United Press International, International News Service; that I have been a newsman for 26 years; that I have won awards from the Washington Newspaper Guild, the California Health Association, the Disabled American Veterans, the Humane Society of the United States, the American Civil Liberties Union, among others.

2. That I have written voluminously for newspapers of general circulation about the two Kennedy assassinations, the Martin Luther King, Jr. assassination; that I have pursued many avenues related to both assassinations, including investigations of various CIA, FBI and other activities; grand jury probes, both state and federal; trials, hearings and diverse other offshoots of the events; that I have written extensively about other matters as an investigative reporter.

3. That beginning with the publication of Harold Weisberg's White Wash in 1966, I have had the occasion to consult with Weisberg on stories, theories and avenues to pursue in my work on the King, two Kennedy assassinations and a host of related matters.

4. That while I disagree vigorously with his theories on many aspects of these assassinations, I have found his research invaluable and even vital in pursuing the news; that he is reliable and accurate and his assessments of the importance of documents he has provided me and I have turned up on my own have been extraordinary; that I have found him uniquely reliable among the so-called "critics."

5. That Weisberg, on dozens of occasions, has cut through government red

such information; that he is contemptuous of cover-ups even when the documents seem to counter his own theories.

6. That the information from Weissberg on which I have based numerous stories, and bulwarked stories already in the works, gave them more strata of meaning; that our office of 12 other reporters have called on Weissberg for help of the same nature and has been given it; that he has helped, sometimes to my annoyance, my competitors with excellent stories (though always with the same fairhandedness with which he has helped our office.)

7. That he has steered me away from several pitfalls; that several stories looked plausible, but turned out under Weissberg's counseling to be false; that without such counseling and documentation, I would have printed false stories; that on occasions, which I hope are rare, we have gone with stories that we might not have had Weissberg not been out of pocket at the time and thus unreachable for a check; that, finally, I seldom if ever write a piece touching on the assassinations without bouncing it off Weissberg.

8. That Weissberg has done these useful works without charge, and indeed, has even sometimes paid the duplication costs from his own pocket; that the providing of these documents have been afforded to other reporters as well, to my certain knowledge; that his files are available to us at all times when he is home and that he cheerfully (with the exception of a rare grump from time to time) guided us to the best available documentation.

9. That the press absolutely cannot rely on government agencies and conventional libraries for information on the Kennedy and King assassinations and related probes; that Weissberg's very independence and the integrity of his files are essential if the issues are to be dealt with properly; that, therefore, you simply have to have someone like Weissberg to find the key documents from the 25,000 in the King case and the -- I'm guessing -- millions scattered in various files on the Kennedy cases.

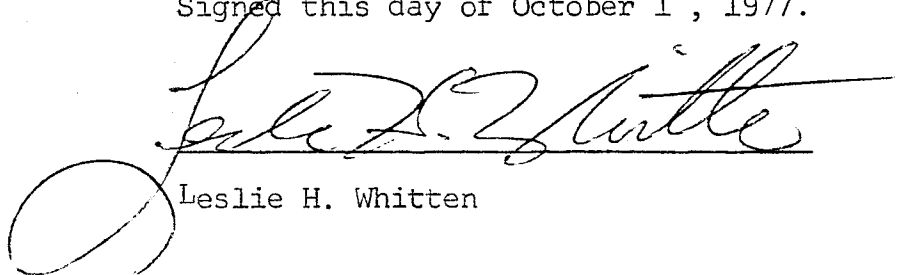
10. That any money spent to help Weissberg build up his files would be far better spent than in a government operation, and infinitely cheaper; through giving Weissberg the records free (the government really should give

11. That Weissberg helps keep the government honest, helps head off the coverups, the selected leaking, the favrications that have often characterize individuals in government. To often they have special axes to grind and special interests to protect, including their own jobs.

12. That to have the maximum number of documents in Weissberg's hand is the best way to ensure that scholars will have a record of proven worth; that his decision to donate them to the University of Wisconsin is a worthy idea.

13. That government assistance to duplicate the entire Weissberg files twice, one copy being kept on the East Coast, preferably in Washington, and one on the West Coast, perhaps San Francisco, would federal money splendidly spent, for present media people and historians and for future ones.

Signed this day of October 1, 1977.

  
Leslie H. Whitten

District of  
Columbia

Sworn and subscribed before me this 17<sup>th</sup> Day of  
October, 1977



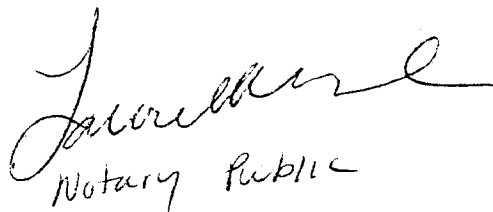
  
Notary Public

Exhibit 6

Wrone Affidavit

C.A. 75-1996



6. I have lectured widely on the assassinations of President Kennedy and Dr. Martin Luther King, Jr. and appeared on numerous radio and television shows. I have served as a consultant for local media regarding national shows and have written articles and reviewed books on these subjects. I am author of a critical bibliography which examines and categorizes scores of books which have been published on the assassination of President John F. Kennedy: The Assassination of President John Fitzgerald Kennedy: An Annotated Bibliography (State Historical Society of Wisconsin, 1973).

7. In November, 1976 I directed a symposium on the integrity of basic institutions and the assassinations of President Kennedy and Dr. King. The lectures delivered at this symposium were televised for educational use and are now being circulated in video and audio form in colleges and high schools. Attached hereto is a brochure which lists the materials which are available from the University of Wisconsin-Stevens Point Office of Educational Services and Innovative Programs. (See Exhibit A)

8. I have an extensive familiarity with the literature on the assassination of Dr. Martin Luther King, Jr. I have read the voluminous court records of the several cases related to the conviction of James Earl Ray and his attempts to overturn that conviction and obtain a trial on the charge that he murdered Dr. King. I have also read the publications on this subject by the Department of Justice and committees of Congress, as well as the secondary accounts.

9. In the course of my study of the King assassination materials, I have become quite familiar with the work of Harold Weisberg on this subject and now consider myself an authority on his contribution. In the near future I intend to publish scholarly articles in journals and deliver lectures to learned societies on his work.

10. Mr. Weisberg's work on the assassination of Dr. King is the only



11. The University of Wisconsin at Stevens Point has a deep interest in the acquisition, maintenance, and dissemination of Mr. Weisberg's files, especially those on the assassination of Dr. Martin Luther King, Jr., both in terms of the immediate future and for future generations. The University plans to establish a Weisberg Archive where the records which Mr. Weisberg has accumulated and analyzed can be properly maintained and made accessible to scholars and the general public through a professional staff knowledgeable in the subject matter.

12. I am familiar with the volume and kinds of records Mr. Weisberg has on Dr. King's assassination (and also President Kennedy's) and the quality of his analysis of them. I have, in fact, made several visits to his home in Frederick, Maryland for the purpose of discussing his work with him and obtaining records from him. Mr. Weisberg's files on both the Kennedy and King assassinations are invaluable, unique, and in many respects cannot be duplicated from any other source. This, of course, explains the interest of the University of Wisconsin-Stevens Point in obtaining them.

13. The establishment of a Weisberg Archive, particularly where King assassination materials are concerned, will also facilitate the use of fellowships and grants to black students interested in this subject.

14. The University of Wisconsin-Stevens Point has already begun to draw upon a small portion of the materials which will ultimately comprise the Weisberg Archive. It has already developed a video tape series suitable for public broadcasting stations and for high school and college classes of some of the unique materials which Mr. Weisberg has donated to the University. These video tape materials can be purchased or rented by the public.

15. The University plans to continue developing and disseminating Mr. Weisberg's materials as they are deposited and made available. This will be done, first, through electronic media presentation in slides, video tapes, documentary handbooks, guides, indexes, and course aides. Additional plans

16. Mr. Weisberg's work on political assassinations and the workings of our basic institutions--law enforcement agencies, the courts, the press, the intelligence agencies--and the establishment of an archive on it at Stevens Point are in the public interest. Mr. Weisberg's accomplishments are unique in character--they relate to far more of enduring public interest than just political assassinations--and are without precedent in scale. In total volume his materials exceed the nucleus collection on the frontier formed by Lyman C. Draper in the nineteenth century which established the State Historical Society of Wisconsin and the holdings of several other famed manuscript libraries gathered in America that are seen as part of our national treasure. The quality of the materials and his analysis of them is excellent. He possesses photographs, maps, taped interviews, letters, and other records that can be found in no other place.

17. Mr. Weisberg's scholarship is magisterial in its command of the documentary base and clear on the fundamental points at issue. He cannot be compared with the other authors on the King assassination from the perspective of scholarship and objectivity. His work on this topic stands in a totally different light from all others. He works from an objective base, seeking not merely to discover who killed Dr. King or to reap commercial profits but to establish what the evidence is and what it means not only in terms of the crime itself, but also in terms of the larger significance it holds for the workings of our basic institutions.

18. It is this last point which is of fundamental importance. Mr. Weisberg's work focuses on the performance and nonperformance of basic social institutions--the law, the press, publishers, Congress, the Department of Justice, and others--during a time of crisis. In so doing he reveals deep flaws which caused these institutions to malfunction in a manner which thwarted justice and hurt the ends of the nation.

accessible to members of the general public at its headquarters in Washington, D.C. This does not significantly assist the public interest in evaluating the facts of the King assassination or the FBI's investigation to it. The initial problem is, of course, that the selection of records contained in this file will be made by the FBI, which itself has been severely criticized in connection with its investigation of the King murder. In addition, these records will be largely inaccessible to all except casual tourists. Few scholars have funds sufficient to enable them to travel to Washington, D.C. and stay there long enough to peruse the more than 20,000 pages of documents contained in the FBI's Central Headquarters file on the King assassination. Moreover, scholars and citizens would not know where to begin studying this enormous volume of documents without extensive advance preparation. What is required is a scholar who can use the resources of a university system to assist those who wish to do work in this area.

20. Even the costs of duplication imposed by government agencies can impose a serious burden upon scholarship. A University archive such as the Weisberg Archive which is being established at Stevens Point can provide better and more economical service for duplicating records, including not only xeroxing but also making slides, photographs, and tapes. Moreover, it can offer a full range of other essential services, providing books, reference works, maps, newspapers, journals, and the like. It can also coordinate scholarly efforts in an area in such a manner that it will lead to increased dissemination to the public of knowledge about such an area through the publication of books, articles, dissertations, and so forth.

21. The crucial aspect of any archival collection, however, is that there must be a knowledgeable person associated with it and residing where it is located who can develop the material and guide students and scholars. This is the main reason for establishing a Weisberg Archive at the University

For the reasons which I have outlined above, the public interest will be served if the records which Mr. Weisberg has and is continuing to obtain are deposited at the Weisberg Archive in Stevens Point. More to the point, the public interest will be better served if records on Dr. King's assassination are made accessible to journalists, scholars, and the general public through the archive at Stevens Point than if they are only accessible through the FBI and other components of the Department of Justice in Washington, D.C.

23. Even were this not true, the caliber and importance of Mr. Weisberg's work on the King assassination are such that making all government records available to him without cost is more than justifiable. The simple fact is that Mr. Weisberg uses the records he obtains to serve-- not his personal interest--the public interest by informing journalists and scholars, and through them, the general public.

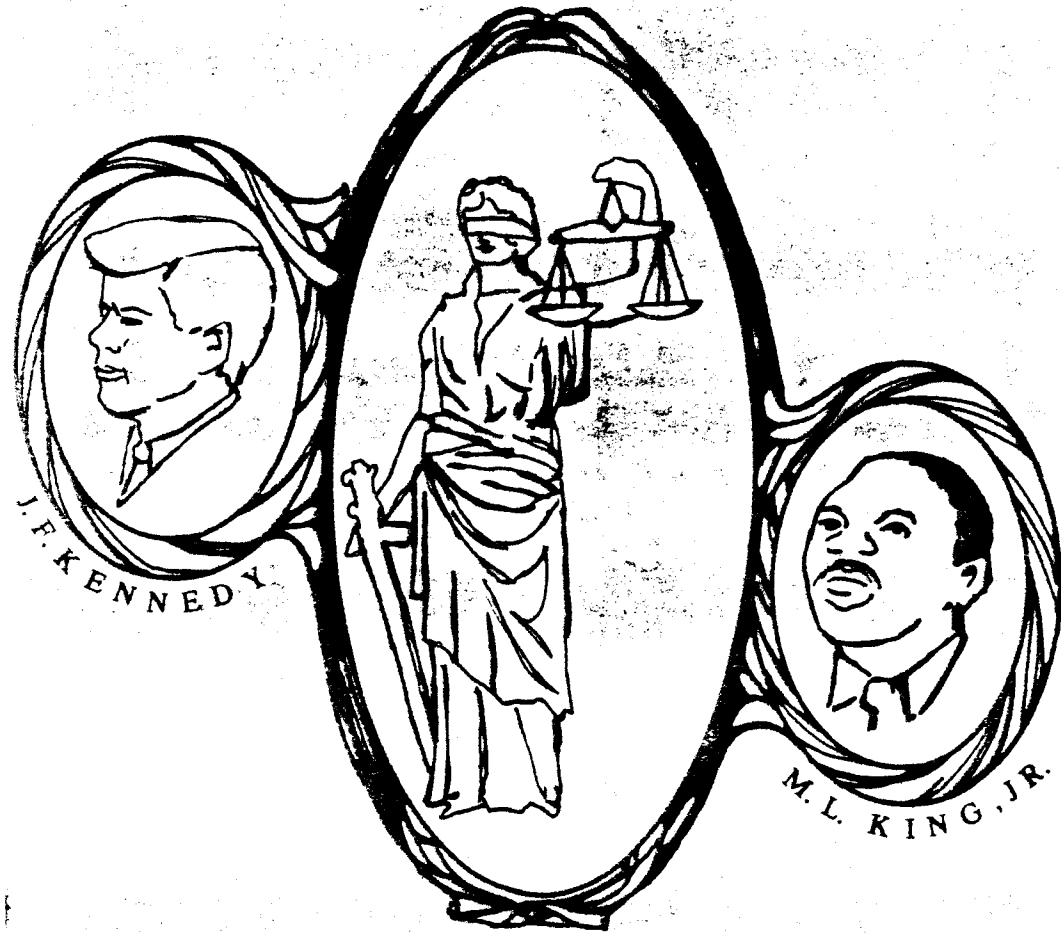
*Professor David R. Wrone*  
PROFESSOR DAVID R. WRONE

PORTAGE COUNTY, WISCONSIN

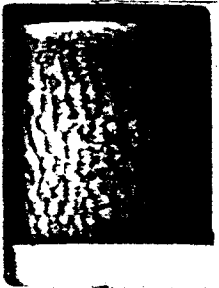
Subscribed and sworn to before me this 24<sup>th</sup> day of October, 1977.

*Carol J. Scipio*  
NOTARY PUBLIC IN AND FOR  
PORTAGE COUNTY, WISCONSIN

My commission expires 7/12/81.



**EQUAL JUSTICE FOR ALL**



PRESIDENT JOHN F. KENNEDY/DR. MARTIN LUTHER KING, JR.

ASSASSINATION MATERIALS

The materials listed in this brochure were developed from a symposium held on the University of Wisconsin-Stevens Point campus in November of 1976. The symposium was directed by Dr. David R. Wrone, Professor of History at the University of Wisconsin-Stevens Point and a nationally recognized authority on the President John F. Kennedy assassination.

Other symposium participants included: Harold Weisberg, author, former Senate investigator, editor, investigative reporter, OSS intelligence, political analyst and the man regarded by many as having done the definitive investigation, research and writing on the President John F. Kennedy/Dr. Martin Luther King, Jr. assassinations and their official inquests; James H. Lesar, Washington attorney, who has specialized in numerous freedom of information suits regarding the President John F. Kennedy/Dr. Martin Luther King, Jr. assassinations, and is an authority on the legal aspects of the investigation of the Dr. Martin Luther King, Jr. assassination; and Howard Roffman, attorney, recognized authority on the President John F. Kennedy assassination and its investigations, and author of Presumed Guilty, one of the key source books for an understanding of the Warren Commission investigation.

The President John F. Kennedy/Dr. Martin Luther King, Jr. assassination materials present the research of four scholars over the past 14 years, and emphasize the legal obstacles barring the path to the public's access to information. Several of the video-cassettes contain rare photographs never before made public.

UNIVERSITY OF WISCONSIN-STEVENS POINT  
OFFICE OF EDUCATIONAL SERVICES AND INNOVATIVE PROGRAMS

August 1977

I. ASSASSINATION SYMPOSIUM VIDEOCASSETTES		PURCHASE PRICE
<u>MARTIN LUTHER KING, JR. MATERIALS</u>		
One 30 minute videocassette and one 30 minute videocassette.....		\$175.00
1) <u>David R. Wrone</u> - One 60 minute videocassette. "Dr. Martin Luther King, Jr. and the Transformation of the Civil Rights Movement."		\$40.00
2) <u>James H. Lesar</u> - One 60 minute videocassette. "The Assassination of Dr. Martin Luther King, Jr. and the System of Justice--Reality and the Idea."		\$40.00
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One 30 minute videocassettes & two 30 minute videocassettes.....		\$400.00
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2) <u>James H. Lesar</u> - One 60 minute videocassette. "The Assassination of President John F. Kennedy and the Impact on the Legal System."		\$40.00
3) <u>Harold Weisberg</u> - One 60 minute videocassette. "The Assassination of President John F. Kennedy and the Impact on the Legal System, the Freedom of Information." Part I.		\$30.00
4) <u>Harold Weisberg</u> - One 60 minute videocassette. "Recent Developments: Schweiker Report, Abzug Report, FBI Revelations." Part I.		\$40.00
5) <u>Howard Roffman</u> - One 60 minute videocassette. "Lee Harvey Oswald and the Failure of American Justice." Part I.		\$40.00
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2) <u>Harold Weisberg</u> - One C-90 audiocassette. "Recent Developments: Court Cases, House of Representatives Inquiry."		\$5.00

Materials may be purchased or rented individually or in "package" form. Videocassettes are available on a five-day rental basis at a cost of \$10 per cassette. Audio cassettes are available on a purchase basis only.

When ordering, refer to tape number and title. Requests must be accompanied by check, money order, or purchase order. Checks and money orders payable to the University of Wisconsin-Stevens Point.

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# New York Times

— NEW YORK, MONDAY, JUNE 6, 1977 —

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## House Inquiry Reported Fruitless On Kennedy-King Assassinations

By WENDALL RAWLS Jr.

Special to The New York Times

WASHINGTON, June 5—The House Select Committee on Assassinations, which has been in operation for eight months, has come up with virtually no new information or evidence relating to the death of President Kennedy or of the Rev. Dr. Martin Luther King Jr. and has discovered that much of the so-called "new information" on which Congress based its decision to reopen the investigations is in error, according to a well-placed committee source.

"We certainly have come up with nothing earthshaking," the source said, "and much that witnesses tell us is in conflict with what they supposedly told people who have written books about the assassinations and who have provided the basic leads for the committee to pursue."

An examination by The New York Times has determined that it was Mark Lane, the author and lecturer, who

provided, on the basis of his published works, most of the "new leads."

Moreover, according to several officials familiar with the genesis and scope of the committee's investigation—and Mr. Lane himself—Mr. Lane was the primary force behind the formation of the committee and the architect of the direction that the investigation should take.

Mr. Lane, a former New York State legislator better known for his book "Rush to Judgment," criticizing the official investigations of the Kennedy assassination, was unsuccessful for two years in his attempts to get Congress to reopen an investigation into the death of Mr. Kennedy in Dallas.

But early last year he began looking into Dr. King's death and persuaded the civil rights leader's widow, Coretta King,

Continued on Page 20, Column 1

to solicit support from the Congressional Black Caucus for a reinvestigation of both assassinations.

Shortly after such an investigating committee was formed, Mr. Lane and the comedian Dick Gregory began work on a book about Dr. King and the assassination in Memphis. Mr. Lane refused to say how much they received from the publisher as an advance against royalties, but it was reported to have been \$100,000.

The book, entitled "Code Name Zorro," was recently published—at about the time that the committee, according to minutes of one of its executive sessions,

Sprague, had delayed the active investigation phase of the committee's work until the "past two or three weeks."

This was true, the source said, even though the committee issued a report March 28 asserting that it was already pursuing "new leads" and had processed "new information."

Just as the committee almost collapsed in controversy a few weeks ago, much of the new evidence appears to be falling apart. The lack of credible new evidence has been cited to explain why the committee has been unable to obtain a new chief counsel to replace Mr. Sprague. Arthur Goldberg, the former Supreme Court Justice, and Archibald Cox, the former Watergate special prosecutor, have both declined the post.

The report of March 28 said, "much of the new evidence is of a highly sensitive nature and cannot be publicly disclosed at this time," but it gave representative examples which illustrate the leads the committee is currently pursuing.

### An Unnamed Witness

In one of the examples, apparently designed to show that the Warren Commission was remiss in its conclusion that Lee Harvey Oswald had never seen Jack Ruby before Nov. 22, 1963, the report said the "committee staff has spoken with 'an unnamed witness' who has never been previously interviewed" and who stated that in November 1963, before the assassination of President Kennedy, the witness was introduced to Oswald by Jack Ruby.

According to Harold Weisberg, a former Senate investigator who has investigated the Kennedy assassination for the last

Information Act, the unnamed "witness" is a former nightclub dancer who performed under the name Cochise.

According to Mr. Weisberg, Cochise is now married to a clergyman and living in Texas. Mr. Weisberg observes that "Cochise" says "she was introduced by one man, now dead, to another man, also dead, and there is no way to prove or disprove it."

The report cites another unnamed "witness" who was "an F.B.I. security code clerk in the New Orleans field office from 1961 to 1966" and who says that the F.B.I. sent a teletype message to all its offices five days before the Kennedy assassination warning of a reported conspiracy by a "militant-revolutionary group" to kill the President on his proposed trip to Dallas on Nov. 22 and 23.

That witness, according to Mr. Weisberg, is William Walters, who served as an F.B.I. clerk while in college and who has said the same thing on a CBS television show and to another Congressional committee 18 months ago.

Mr. Weisberg, who favors a thorough reinvestigation of the assassinations and does not believe that either death happened as official versions contend, maintains that the committee claims new and relevant information and leads that are neither new nor relevant and seemed to have been pursued "because of their public relations attractiveness."

Public opinion polls have shown that the vast majority of Americans do not believe that Oswald or James Earl Ray acted alone.

#### Other Ray Interviews Cited

At a public hearing, the committee staff said that it planned to investigate a letter purportedly written by Oswald to a "Mr. Hunt," asking that "we discuss the matter fully before any steps are taken by me or anybody else."

Nothing in the letter says that the recipient was the late Texas oil magnate, H.L. Hunt, or E. Howard Hunt Jr., the Watergate conspirator. Mr. Weisberg asks, "What liberal politician or oil-company hater would oppose checking into that letter, of which I have had a copy for two years and which has been available to the public for 18 months?"

As regards the assassination of Dr. King, the committee reported on March 28 that the "most important current development is the willingness of James Earl Ray, who pleaded guilty to the murder, to talk to the committee."

The report does not say that Mr. Ray has been interviewed by at least four newspapers, the Tom Snyder "Tomorrow" television show and a French television show, or that he testified for two days under cross-examination at an evidentiary hearing in October 1974 and testified in a civil lawsuit he brought against the author of a book about him.

The report said further that the committee had "uncovered other areas of possible assistance to Ray" and cited "bank records" as showing that Mr. Ray's safety deposit box in a Birmingham, Ala., bank "was closed by someone living in Baton Rouge, La.," while Mr. Ray allegedly was in Los Angeles.

hired by Mr. Ray's lawyer as an investigator for several years, Mr. Ray closed the safety deposit box by returning the key in a letter that he mailed from Baton Rouge while on a trip from Los Angeles to New Orleans.

The committee said that it was examining information provided by Mr. Lane that would implicate the Memphis Police Department and the F.B.I. as assisting Dr. King's assassin "just before and immediately after the murder."

The evidence that the committee cites is that a black policeman was relieved of his assignment at a surveillance post on the day of the King murder. The report does not mention that 12 members of a police tactical squad were at that same point at the time of the assassination.

#### 'One of Biggest Issues'

One of the committee members, Representative Yvonne Brathwaite Burke, Democrat of California, said "one of the biggest issues" the committee was investigating was how and why Dr. King was "lured" out onto the balcony of the Lorraine Motel where he was shot.

The fact is that the only exit from Dr. King's room was onto the balcony.

Mrs. Burke, as chairman of the Congressional Black Caucus in 1976, was one of the more influential people applying pressure on the House Democratic leadership to form a committee to investigate the assassinations.

Former Representative Thomas Downing, Democrat of Virginia, who was the first chairman of the Select Committee on Assassinations, said that his original resolution calling for an investigating committee limited it to a re-examination of the Kennedy assassination. He said that Mr. Lane "was constantly around the office" providing information and leads that would show the need of a committee to investigate the death.

Mr. Downing's bill was killed in the House Rules Committee, and it appeared that efforts to reopen the Kennedy investigation had run their course. Mr. Lane, however, did not cease his efforts. In his own version, backed up by other sources, he said in a telephone interview from Chicago:

"I moved to Washington in January 1975 and established the Citizens' Commission of Inquiry for the purpose of trying to get Congress to reinvestigate the Kennedy assassination. It was funded by the \$70,000 to \$80,000 a year I made in traveling and lecturing.

"After the effort was defeated last March [1975] in the Rules Committee,

Abby Mann, [creator of the television series "Kojak"] told me about a two-hour program he was putting together on the life of Dr. King. He wanted to do a little on the death, and he wanted me to help him."

So, Mr. Lane said, he went to Memphis and interviewed some people on tape recordings and concluded that the F.B.I. was involved in the murder.

"We went to see Mrs. Coretta King, and I told her about all the evidence we had uncovered," Mr. Lane said, "and she said it confirmed her suspicion about the F.B.I."

Then, Mr. Lane called former Representative Andrew Young, Democrat of Georgia, who is now the United States chief delegate at the United Nations, and told him about the "new evidence." An hour later, Mr. Lane met in Mr. Young's Capitol Hill office with Walter Fauntroy, Democratic Delegate of the District of Columbia, and Mrs. Burke.

Subsequently, Mr. Lane and Mrs. King met with the Black Caucus. In August, the caucus accompanied Mrs. King to a meeting with Carl Albert, who was then Speaker of the House, and his heir apparent, Representative Thomas P. O'Neill Jr., Democrat of Massachusetts.

The leadership was reminded of the influence that black voters would have on the outcome of the Presidential election, Mr. Lane said, and Mr. Albert was persuaded of the need for a Congressional investigation of both assassinations.

The leadership wanted to wait until the new Congress before naming such a committee, but Mrs. King was insistent. The leadership relented, and in September the committee was formed. Numerous sources in Congress said that without pressure from the Black Caucus no committee would have been approved by the House.

Not only was Mr. Lane instrumental in getting a committee named, but he was also perhaps most instrumental in getting Mr. Sprague named chief counsel. He was the first person to get in touch with Mr. Sprague, and he lobbied diligently in his behalf with both the committee members and their staffs.

Within a few months, however, a bitter feud between Mr. Sprague and the chairman, Mr. Gonzalez, led to the resignation of both from the committee.

The committee still has no permanent staff director or chief counsel to guide the \$2.5 million investigation. After eight months, it is about where it was at the beginning—checking "new leads," gathering "new evidence" and searching for a chief counsel.

# Washington Post

SUNDAY, APRIL 3, 1977

Phone (202) 223-6000

Classified 223-63  
Circulation 223-4

## Assassin Probe's 'Preview' Provides Little New Light

By George Lardner Jr.  
Washington Post Staff Writer

If the latest official report of the House Assassinations Committee could be labeled neatly, "Twice Told Tales" might do.

In preparation for last week's show-down vote continuing the congressional inquiry into the murders of President Kennedy and the Rev. Martin Luther King Jr., the besieged 12-member committee decided to offer a public preview of its investigations thus far.

Most of the material in the 14-page status report was uncorroborated and had a vaguely familiar ring.

The report raises serious questions about both the accuracy of the committee's work and its inclination to present twice-told tales as though they were fresh leads too sensitive to disclose with any particularity.

After announcing that the 67-member staff is assiduously pursuing "new leads" in the Kennedy assassination, for instance, the report confides:

"Recently, an FBI informant advised the Committee that he had seen an FBI agent and Lee Harvey Oswald meeting together on numerous occasions in various New Orleans bars. The informant states that he had previously denied seeing Oswald and the agent together because he was threatened by the agent. The agent has denied the informant's charge."

In this case, the committee appears to be just getting around to what mil-

### News Analysis

lions of Americans saw and heard on Nov. 26, 1975, on a CBS-TV program entitled "The American Assassins."

While the cameras rolled, New Orleans bar operator Orest Pena openly asserted, and FBI Agent Warren DeBrueys openly denied, that DeBrueys and Oswald often met in the city's French Quarter, especially at a Greek restaurant.

Pena's story had changed quite a bit

See INQUIRY, A9, Col. 1  
from his Warren Commission testimony that he had seen Oswald in the company of a Latin-looking man in August of 1963 at Pena's own Habana Bar and Lounge, where Oswald distinguished himself first by ordering lemonade and later by getting sick.

Pena's CBS appearance is dismissed with a vulgarity by Harold Weisberg, who has written a series of books on the Kennedy and King assassinations and who has become an outspoken

nate President Kennedy on his proposed trip to Dallas on November 22, 1963. . . . The FBI has denied sending such a teletype."

This story originally popped to public attention on another television program back in 1968 featuring Jim Garrison, then the district attorney of New Orleans. According to an Oct. 21, 1975, hearing before the House Subcommittee on Constitutional Rights, moreover, the code clerk, William Walter, had not only added new twists to the story over the years, but also did poorly on a polygraph test provided under the auspices of the Dallas Times Herald in 1975 when the story surfaced again. (In the words of an FBI official, "there were indications of deception on the part of Mr. Walter" but "the results were inconclusive because of the limited number of questions . . .")

Item—The committee is "intensively" investigating an alleged conspiracy against King stemming "from a report by a now-deceased undercover informant of a southern police department. Immediately prior to Dr. King's death," the report states, "he told his superiors that he had recently overheard a conversation between members of two organizations, in which it was said that when Dr. King returned to Memphis they would be forced to kill him."

The fact is that the informant, the late Willie Somerset, did not tell his superiors (Miami police and Dade County prosecuting authorities) about the purported conversation until nearly three weeks after King was killed.

judge, told The Washington Post in a telephone interview that he has strong reservations about Somerset's report because "the story was not given to us until after King's death. I think that makes it a lot different."

Item—Solemnly stating that its investigation has "uncovered other areas of possible assistance" to James Earl Ray (now serving a 99-year prison term for King's murder), the committee declares: "According to bank records, Ray's safety deposit box in Birmingham was closed by someone living in Baton Rouge. At the time of the closing, however, Ray was living in Los Angeles."

Weisberg, who has done investigative work for Ray and spoken with him, charges that "what they say here is false."

"The bank deposit box was closed by a letter from Ray postmarked Baton Rouge. The bank closed the box and threw the letter away. I think he wrote the letter in Los Angeles and mailed it in Baton Rouge on his way to New Orleans."

None of this should be taken to mean that there are not many questions to be answered if the House inquiry is to be conducted. But as George McMillan, author of a book about Ray called "The Making of an Assassin," puts it:

"I really don't think they should take things that have been cleared up and talk about them so provocatively when they should know better."

The itemization is far from complete. In one especially questionable sentence, the committee has an FBI ballistics expert testifying at Ray's guilty plea hearing (he didn't) about whether the fatal bullet (he said in an affidavit, it was too distorted) came from the rifle "allegedly" purchased by Ray.

Declares James Lesar, Ray's erstwhile attorney who says he still represents him: "Of all the things that are not in dispute, it is that Ray purchased the rifle . . . They don't know the facts [of either assassination] yet. So they're not even in a position to judge the credibility of the people who come to them."

In still another dubious excursion, the committee has now labeled a man who not long ago emerged from a psychiatric ward, George de Mohrenschildt, as a "crucial witness" although he had just committed suicide. Neither the Assassinations Committee nor its staff ever interviewed the man, a White Russian who had befriended the Oswalds in Texas in 1962.

In fact, House investigators possess little more than a Dutch television film tape and one tape cassette "allegedly" containing a conversation between de Mohrenschildt and Dutch journalist Willem Oltmans.

In a spate of interviews since de Mohrenschildt's death Tuesday after

baroque kill-Kennedy conspiracy, which also seems to have included anti-Castro Cubans and a trucking firm executive.

Curiously, by Oltmans' account, de Mohrenschildt did not come up with the story until February—more than 13 years after the assassination but only a few weeks after his release Dec. 30 from the psychiatric unit of Parkland Memorial Hospital. And although Oltmans quoted de Mohrenschildt as saying Oswald took instructions from him, that is somewhat difficult to square with the fact that the de Mohrenschildts were in Haiti at the time of the Kennedy assassination and had been there for about five months. They told the Warren Commission they last saw the Oswalds in April of 1963 and, the commission found, "they never saw either of the Oswalds again."

Charges Weisberg: "There's not one thing they've come up with that has established relevance. They've been in business six months, they've had a staff of 73 people, and they can't even read accurately from other people's work. I have never seen a more total confession of bankruptcy."

However that may be, the committee is clearly following the "scenario" laid out at a secret March 17 meeting when its since-resigned chief counsel, Richard A. Sprague, warned the members that the potentially significant items compiled thus far were much "too raw and uncorroborated for us to be stating publicly."

Rep. Samuel L. Devine (R-Ohio) responded by suggesting that the committee might take some of the "literally hundreds of undeveloped leads" on hand and make them public in bowdlerized fashion.

That way, Devine suggested, the committee could "let people know that, My God, they are onto something that is new stuff. . . ."

According to one well-placed source, with Sprague gone the pressures to find a conspiracy are bound to increase. This source says Sprague, as an investigator, was actually "a moderating influence."

OPTIONAL FORM NO. 10  
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5010-106

UNITED STATES GOVERNMENT

Attachment 1

Memorandum

- Tolson
- DeLoach
- Mohr
- Bishop
- Casper
- Callahan
- Conrad
- Felt
- Gale
- Rosen
- Sullivan
- Tavel
- Trotter
- Tele. Room
- Holmes
- Gandy

TO : Mr. DeLoach

FROM : A. Rosen

SUBJECT: MURKIN

DATE: October 20, 1969

- 1 - Mr. DeLoach
- 1 - Mr. Rosen
- 1 - Mr. Malley
- 1 - Mr. McGowan
- 1 - Mr. McDonough
- 1 - Mr. Bishop
- 1 - Mr. W. C. Sullivan

This is the case involving the murder of Martin Luther King, Jr.

Weisberg is apparently identical with Harold Weisberg an individual who has been most critical of the Bureau in the past.

by letter in April, 1969, requested information on the King murder case for a forthcoming book. It was approved that his letter not be acknowledged. (100-35138) Weisberg

68-100

OPTIONAL FORM NO. 10  
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UNITED STATES GOVERNMENT

# Memorandum

TO : Mr. DeLoach

DATE: 6/24/70

FROM : T. E. Bishop

SUBJECT: ASSASSINATION OF DR. MARTIN LUTHER KING

Tolson \_\_\_\_\_  
 DeLoach \_\_\_\_\_  
 Mohr \_\_\_\_\_  
 Bishop \_\_\_\_\_  
 Casper \_\_\_\_\_  
 Callahan \_\_\_\_\_  
 Conrad \_\_\_\_\_  
 Felt \_\_\_\_\_  
 Gale \_\_\_\_\_  
 Rosen \_\_\_\_\_  
 Sullivan \_\_\_\_\_  
 Tavel \_\_\_\_\_  
 Trotter \_\_\_\_\_  
 Tele. Room \_\_\_\_\_  
 Holmes \_\_\_\_\_  
 Gandy \_\_\_\_\_

*[Handwritten signatures and initials are present over the routing slip]*

By way of background, on 4/27/70 Assistant Attorney General William Ruckelshaus, Civil Division, Department of Justice, advised the Director that Harold Weisberg, the author of the books "Whitewash I" and "Whitewash II," has filed a civil action against the Department of Justice and Department of State demanding copies of all the papers which were employed in the extradition in the James Earl Ray matter. These documents were used in the extradition proceedings against James Earl Ray in England and were thereafter returned to the State Department and were transferred to the Department of Justice. Included in the documents were a considerable number of affidavits of FBI Agents, affidavits covering fingerprints, ballistics' examinations, etc. Ruckelshaus asked if the release of these documents to Weisberg would in any way prejudice the work of the FBI. It is noted that Weisberg is an author who has been extremely critical of the FBI, the Secret Service and other police agencies in books which he has written about the assassination of President Kennedy.

By memorandum of April 30th the Director advised Ruckelshaus that the determination as to the release of the pertinent documents is within the province of the Department of Justice and the FBI interposes no objection. It was suggested, however, that the Civil Division communicate with the Civil Rights Division of the Department on this matter since Federal process was still outstanding against Ray charging a violation of a Federal Civil Rights Statute.

The Bureau is in possession of a copy of a letter dated May, 1970, from Jerris Leonard, Assistant Attorney General, Civil Rights Division, to Ruckelshaus stating that any release of any information in the files pertaining

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Memorandum to Mr. DeLoach  
Re: Assassination of Dr. Martin Luther King  
Current Developments

On 6/24/70 Bill King in the Information Office, Department of Justice, advised that the Department subsequently decided that it would not be possible for the Government to successfully defend the civil action by Weisberg against the Department for the release of the documents in question. Accordingly, copies of these documents were furnished to Weisberg. King advised that in view of the fact that the Department had released the documents to Weisberg the Department did not wish Weisberg to make a profit from his possession of the documents and, accordingly, has decided to make similar copies available to the press and others who might desire them. King stated that the documents to be released consist of approximately 200 pages of copies of affidavits, autopsy reports, affidavits with regard to fingerprint examinations and ballistics tests, and copies of other documents which serve to link Ray with the assassination of Martin Luther King. At Bishop's request King furnished the attached set of the documents being released. King stated that these documents will be released to the press at 3 p.m. on 6/24/70.

The General Investigative Division has been orally advised of the above information.

RECOMMENDATION

None. For information.

*✓*  
*Re: DeLoach*  
*TJB*  
*WBS*  
Did you get a written  
instruction from DeLoach  
confirming conversation  
King had with you?  
*✓*

Exhibit 11

CO-2-34,030

November 13, 1970

Mr. James B. Rhoads  
Archivist of the United States  
National Archives and Records Service  
Washington, D. C. 20408

Dear Mr. Rhoads:

In connection with the civil action Weisberg vs The National Archives, Civil Action 2589-70, Mr. Weisberg called at this office recently and displayed a copy of the proceedings in the case. He stated that since the Government's answer reflected that the Archives should not have been a party to some of the requests being made by Weisberg, he was notifying us that under the Freedom of Information Act he was requesting a copy of the Memorandum of Transfer to the Archives dated April 26, 1965, covering material then in the possession of the Secret Service, which memorandum reflected that Mrs. Evelyn Lincoln had receipted for the material set out in the Memorandum of Transfer.

There may be some validity in Mr. Weisberg's contention that since this paper is in the possession of the Secret Service, we are the proper people for him to sue or to subpoena to produce the item. However, since another Government agency has declined to furnish him a copy of the item, we are seeking advice as to what action we should take if a suit is brought seeking to force us to produce the document, or if a subpoena is received to produce the document for his examination.

The position of the Secret Service is that we have no grounds upon which to refuse making the item available to Mr. Weisberg if he should invoke the provisions of the Freedom of Information Act.