

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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: HAROLD WEISBERG,
: :
: Plaintiff,
: :
: v. : Civil Action 75-1996
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: U. S. DEPARTMENT OF JUSTICE,
: :
: Defendant.
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.....

AFFIDAVIT

My name is Harold Weisberg. I reside at Route 12, Frederick, Maryland. I am the plaintiff in C.A. 75-1996.

1. In this affidavit I address the fact that compliance with my information request in this cause is impossible from the FBI's MURKIN files; that the FBI has records sought and not provided in this instant cause; that the FBI knew it had to search other files in order to comply with my information request and that it failed to search these other files; that when I called this to the FBI's attention it persisted in not searching these other files and remained in deliberate noncompliance; and that this deliberate noncompliance continued even after I provided the FBI with proofs of it.

2. Item 11 of my information request of December 23, 1975, is for "All tape recordings and logs, transcripts, notes, reports, memorandums or any other written record of or reflecting any surveillance of any kind whatsoever of" 23 named persons. After this listing of the persons the request specifies, "This is meant to include not only physical shadowing but also mail interception, interception by any telephonic, electronic, mechanical or other means, as well as conversations with third persons and the use of informants." (Emphasis added)

3. This Item is not limited to such surveillances by the FBI. Commonly, and specifically in this case, the FBI is the beneficiary of such surveillances performed by others.

4. Specifically in this case, the records that have been provided establish

They are connected with the FBI's investigation of the assassination of Dr. King or with the prosecution and defense of James Earl Ray. His two living brothers, John and Gerald (Jerry) Ray, and his sister and her husband, Carol and Albert Pepper, are included.

6. I am included. I was the investigator for the successful habeas corpus effort. I subsequently conducted the investigation for the two weeks of evidentiary hearing in federal district court in Memphis in October 1974.

7. The results of my investigations and the evidence adduced as a result of my work do not reflect favorably on the FBI and its investigation of the assassination of Dr. King.

8. Bernard Fensterwald, also listed, was then chief counsel for Mr. Ray. He is also director of the private group, the Committee to Investigate Assassinations (CT(A)), the subject of Item 12 of this information request.

9. I am also included in Item 12. Although I was never a member of the CTIA, I was "associated with it."

10. These Items relating to me are duplicated in my Privacy Act (PA) request of 1975. The FBI and the Department have not complied with my PA requests.

11. When the FBI stonewalled and did not respond to these Items, I was compelled to make separate requests of all 59 field offices with regard to myself. This was costly and burdensome. With regard to Mr. Fensterwald, I filed similar duplicating requests with a large number of field offices. I did this after consulting with him and receiving his best judgment in identifying those field offices where his public appearances and other activities were most likely to have interested the FBI.

12. Noncompliance was virtually total with regard to Mr. Fensterwald and me. It was incidental and limited with regard to James Earl Ray and his relatives.

13. FBI Headquarters (FBIHQ) provided nothing identifiable as in response to these Items.

14. That FBIHQ and all field offices did have such records relating to Mr. Fensterwald is shown by Exhibit 1, the March 10, 1978, letter from the San Francisco Field Office and a single attachment. FBIHQ sent the attachment to all field offices.

15. FBI markings added to the attachment indicate that Mr. Fensterwald was

17. In fact, only one other field office has provided a copy of this record.

18. All other field offices have denied having any relevant records.

19. Were privacy claims to be asserts, they would be spurious. The FBI holds that all who are critical of it in its investigations of political assassinations are public figures to whom privacy provisions do not apply. With regard to me, when the FBI refused to comply with my 1975 PA request prior to its JFK assassination releases that began on December 7, 1977, and when it did not respond to my letters, I asked Mr. Lesar to write the Attorney General to safeguard my PA rights. I am not aware of any response. I am aware, however, that the FBI did release false and defamatory, often fabricated, records relating to me. (The extreme to which this was carried is reflected by the vicious falsehood given to President John F. Kennedy, that my wife and I annually celebrated the Russian revolution.)

20. Exhibit 1 also reflects that the FBI's "66" files contain relevant records. I believe 66 represents "Administrative Matters." (I believe that the other file noted, 139, represents "Unauthorized Publication of Use of Communications - Wire Tapping.")

21. The language of Paragraph 2 of Exhibit 1 indicates that there was and would be such surveillance that would include Mr. Fensterwald: "The Department has instructed that procedures should be instituted to preclude the monitoring of the subjects, their attorneys, or the defense strategy conversations until such a time as prosecution has been completed ..." (Emphasis added)

22. Paragraph 3 also is indicative of the existence of such surveillance. It directs compliance with Paragraph 2 "by the instructions set forth in SAC (Special Agent in Charge) Letter 69-45, dated 8/13/69, and applied to all electronic surveillances now in operation as well as those installed while the above restrictions are in effect."

23. Handwritten notes added are "Carol - Note and adv(ise) Tarleton to add to list" and "Ross adv(ised) 7/26." The year of the date was eliminated in xeroxing.

24. With regard to myself, I know of such surveillances going back to World War II. I have informed the FBI and the Department of this and both remain in

noncompliance. Whether or not I was the "target" of surveillance is not clear.

Rogge, as I have informed the FBI. The verbal response of SA John Hartingh, who has not replied to my letters on this, is that I am not in the surveillance/^{index}today. This, if true, is also meaningless. This index is known not to be complete. SA Hartingh's nonresponsive response is limited to electronic surveillance. The request includes all forms of surveillance.

25. I have copies of official records establishing that as far back as the World War II period there was a mail cover on me and my wife and even our garbage then was stolen and examined by the government. Those are forms of surveillance.

26. I have copies of official records that leave little doubt that I also was picked up in that period in physical surveillances of others. An illustration of this is the fact that I drove the late Paul Robeson around in Washington on the day and night of a concert he gave. He, others and that concert were "covered" by the FBI. The FBI reported the license numbers of automobiles. On that occasion I provided Mr. Robeson's transportation beginning at the Washington airport.

27. James Earl Ray's relatives are included in my request and are known to have been subjected to shadowing and mail watches. In addition, there is little doubt that they also were the targets of electronic surveillances. From the MURKIN records I have obtained, these surveillances extended to others who knew them and/or James Earl Ray.

28. There is absolutely no doubt that James Earl Ray was subjected to mail interception and copying and to electronic surveillance. The FBI has filed no affidavit claiming that it has no such records.

29. On May 9 of this year, Carol and Albert Pepper described what is known as "rough shadowing" of them by the FBI. ("Rough shadowing" is meant to be known and to be intimidating.)

30. That was as recent as June of 1977, when James Earl Ray escaped from Brushy Mountain Penitentiary.

31. They told me that almost as soon as it was known that James Earl Ray had escaped, FBI cars were conspicuous on both sides of their home and that this also led to the presence of TV crews. All of this drew considerable and unwanted attention to the Pepper family. At the time of the FBI's conspicuous appearance, it was

32. The shadowing of Jerry Ray extended into his bed and his sex-life, beginning with mail surveillance on him. The FBI even made a PCI of the woman he was about to visit and with whom he did stay. It shadowed him during that trip. The records provided inadvertently establish this and the foregoing facts.

33. Even after I provided the FBI with the name of this woman, possible because the FBI had disclosed her name and put it in its reading room, the FBI has not responded to my repeated requests for unexpurgated records. My reasons were neither frivolous nor prurient. More than one woman was involved in that affair. As a result, confusion and defamation are possible from the withholding, not the releasing of unexpurgated records.

34. This typifies many of the FBI's withholdings of names, particularly where so many of the names are well-known and have been widely publicized. There is neither need for nor justification of such withholdings and all these withholdings can lead to defamations of the innocent. None of such withholdings protect privacy because there is no privacy to protect where the names and facts are known.

35. The shadowing and use of this informant on Jerry Ray by the FBI, which began at his Wheeling, Illinois, mailbox and extended to a Camden, New Jersey, bed, was known to the FBI agents who processed the MURKIN records and to those who reviewed the records provided. This is established by Exhibit 2, a June 11, 1968, "airtel" to the Director from the SAC, Newark, New Jersey.

36. Throughout the personal pronouns and the initials "PCI" are obliterated. The FBI grew careless on page 5. Here it is stated, "PCI said (three letters, "she," obliterated) could not recall noticing what kind of money order it was." For all six pages exemptions (b)(7)(C) and (D) are claimed, according to the worksheets.

37. The FBI's intent to withhold from even an official investigation what in fact is in its own public reading room is established by the note added to Exhibit 2: "1 xerox copy given to OPR 9-21-76 with identification of PCI excised throughout document. PEN/lmb."

38. The so-called Office of Professional Responsibility (OPR) was then engaged in what was supposed to be an internal investigation of the FBI's performance in its investigation of the King assassination.

'They gave him part of the money. He put the money in a safe deposit box, but when he left he drew it all out. It broke his heart to have to leave the white Mustang.'

40. From the FBI's own investigation it is impossible for Jerry Ray to have had any contact with or communication from James Earl Ray from the time Dr. King was killed to the time of this report. Jerry Ray therefore had no way of knowing what the FBI attributed to him.

41. Withholding the identity of the informant from the OPR eliminated any remote possibility that the OPR could establish the prejudicial and misleading nature of these FBI records.

42. (That the OPR did not interview her when her name was available in other FBI records it and I both examined is the OPR's own self-characterization.)

43. After his visit with her, Jerry Ray sent the FBI's informant a money order for \$40. (page 5) He wrote her, "Look inside. I am at the post office and didn't have any paper." He wrapped the money order in what he found in the post office, a "newsletter bearing the heading of 'THE ROYAL BANK OF CANADA MONTHLY NEWSLETTER.'" The FBI used this known irrelevancy as an excuse for one of its many extensive investigations of the irrelevant. It is by means of such enormous devotion to the irrelevant while it ignored the relevant and by the careful compilation of statistics tabulating its manhours and costs that the FBI was able to represent that it "left no stone unturned." Most of the records I have been provided deal with such irrelevancies.

44. Exhibit 2 is one of many records showing that the FBI does have the kinds of records requested in Item 11 of my information request relating to Jerry Ray. It has not provided such records.

45. Other proofs of physical surveillance include but are not limited to Exhibits 3 and 4. These are, respectively, the teletypes of the St. Louis Field Office to the Director and of the Director to the SACs at Chicago, Kansas City, St. Louis and Springfield. Both are dated May 1, 1968.

46. Exhibit 3 is captioned "PHYSICAL SURVEILLANCE." Its first words are "DISCRETE FISUR DISCLOSED JERRY RAY LEFT SL FIVE AM THIS DATE. CHICAGO ADVISED TELEPHONICALLY." ("FISUR" means physical surveillance. "SL" represents the St. Louis Field Office.)

He claimed exemptions (b)(7)(D) for Exhibit 3 and (b)(7)(C) and (D) for Exhibit 4.

49. If the name withheld in Exhibit 3 is that of the late John Eugene Gawron, as seems possible, his names and connections are well-known to the Ray family because he lived with their mother after she left their father and until she died and from other personal associations Gawron had with the Ray family.

50. "FULL COVERAGE" and other similar language used in Exhibit 5 and other records are FBI semantical references to surveillances, including electronic. All kinds of surveillances are covered by Item 11 of my information request. The claim to exemption (b)(7)(D) appears to be inappropriate.

51. SA Ralph Harp participated in all conferences my counsel and I have had the FBI beginning when SA John Hartingh became supervisor in this case. SA Harp thus has personal knowledge of my representations of improper withholding, including but not limited to the surveillance Item of my information request. In response to my complaints, protests and appeals relating to such withholdings, I have not received a single replacement of any record of the thousands of pages of records from which there are such improper withholdings. I also have not received the records requested in Item 11.

52. The "full coverage" means much more than what it includes, physical surveillance, is established by many other records in my possession. Some of these are included hereafter as other exhibits.

53. The FBI's bedroom interests extended to John Ray. This is established by a number of records, including Exhibit 5. It was not really relevant to the investigation of Dr. King to report that John Ray "spent a night at the MacArthur Hotel with the night barmaid of the Grapevine Inn, NAOMI REGAZZI (phonetic)."

54. Exhibit 5 was not provided to me by the FBI in response to my information request. I obtained it from John Ray.

55. The only obliterations from it are FBI administrative notations. Even the file and page numbers and the names of the interviewing agents - known to John Ray, of course - are withheld. This makes checking the MURKIN records for it an impossibility for me. Obviously, the FBI did not protect Ms. Raguzzi's privacy and reputation, although it withheld the names of its agents.

February 1968 and Jerry Ray, who then lived in Chicago, was also at that hotel during the same month, both were there at the same time and thus John Ray knew of James Earl Ray's escape from the Missouri State Penitentiary the preceding April. This misconception led to a rough time for John Ray in the secret sessions of that committee and to its threats of filing charges against him and seeking revocation of his parole. The facts are that the Ray brothers were at that hotel on different days and that when the FBI finally got around to investigating James Earl Ray's escape it did not even interview John Ray about that escape.

57. John Ray was subjected to FBI pressures to get him to "cooperate." The FBI's concept of cooperation was to tell it what it wanted to hear whether or not John Ray possessed or even could possess the information the FBI sought.

58. The fact is that neither John Ray nor any other relative had the kind of information the FBI wanted so desperately because its elaborate investigation was unproductive. One example of the kind of information sought from all the Rays is in Exhibit 6. Of John Ray this St. Louis teletype of April 26, 1968, states, "AGAIN DENIED CONTACT WITH SUBJECT SINCE ESCAPE OR KNOWLEDGE OF HIS WHEREABOUTS." (All the evidence, including the FBI's own evidence, is that James Earl Ray, an experienced if petty criminal, made no effort to contact any of his family after Dr. King was killed.)

59. Exhibit 6 is also one of a series of records showing that the FBI's pressures on John Ray and his sister, Carol Pepper, extended to the vindictive.

60. In this record, too, the withholding is by SA Harp, with the claim to exemption (b)(7)(D) only.

61. What is not obliterated in Paragraph 2 states: "EFFORTS DIRECTED TOWARD DEVELOPING LIQUOR PERMIT VIOLATION TO SERVE AS A LEVER TO FORCE COOPERATION ..."

62. After this, FBIHQ teletyped these orders on May 2, 1968: "ST. LOUIS WILL PROVIDE FULL COVERAGE AT THE GRAPEVINE TAVERN TO DETERMINE IF THE OWNER OR OPERATOR OF THE TAVERN IS POSSIBLY ENGAGED IN ANY ILLEGAL ACTIVITIES WHATSOEVER. ALONG THESE LINES YOU SHOULD IMMEDIATELY ASCERTAIN IF THE TAVERN IS POSSIBLY LICENSED AND IS CONFORMING WITH THE PRESENT LAWS AND REGULATIONS GOVERNING THEM." (Exhibit 7)

63. Following this order for surveillance, the results of which have not

"The Albert Pepper Stationery Company" in the name of another prisoner. There is no reason to believe that he transferred much money this way. The FBI failed to develop even a decent suspicion that he had. But it was desperate for any evidence of his having any nonconspiratorial means of financing himself for the year from the time of his escape from prison until Dr. King was killed and then for two more months of international flight.

65. FBIHQ was so desperate and so blinded by its failures in this sensational crime and the anxieties these failures generated that FBIHQ even rejected the recommendation of the Memphis Field Office, that it have Canadian passport records examined for indications that James Earl Ray received a Canadian passport. Instead FBIHQ wasted much time and money on a fruitless search of United States passport records. When the Canadian Mounties made the proper search and identified Ray's photograph on a false passport, the Mounties, not the FBI, began the effort that led to James Earl Ray's blundering into capture.

66. (In consequence, the FBI now withholds virtually all records provided by or relating to foreign police. It withholds published and well-known names as well as the names of the dead - even the names of ranking police officials who held reported press conferences. The claim to exemptions (b)(7)(C) and (D) for such withholdings does not serve the purposes of those exemptions. The claims are not in accord with the FOIA policy statements of the Attorney General and the Department. The privacy claim is ridiculous. It also is unnecessary. The spuriousness of the (D) claim is made obvious by the FBI's refusal to ask the Mounties for permission to release its records, already provided to and used by Memphis authorities. When I offered to abandon any request for Canadian Mounted Police information if the FBI would write it a letter asking for permission to release, the FBI indicated it would do this. When I inquired about the response, I was told the FBI would not ask the Mounties.)

67. Exhibit 7 is of a single paragraph of teletype text plus an added note. Following the quoted reference to the "Albert Pepper Stationery Company," there is an obliteration of almost seven lines. SA Harp claimed exemption (b)(7)(D) for this withholding and the withholding in the note added to the FBIHQ copy of this teletype.

order for one of the FBI's "black bag" jobs:

"IF GRAND JURY IS NOT IN SESSION TO SUBPOENA RECORDS. YOU SHOULD INSURE THAT REVIEW OF RECORDS CAN BE ACCOMPLISHED WITH FULL SECURITY AND THE BUREAU'S INTEREST WILL BE FULLY PROTECTED."

70. "Full security and the Bureau's interest will be fully protected" in plain English means don't get caught and don't embarrass the Bureau.

71. Without a subpoena there is only one means by which any "review" of records can be accomplished - a break-in. (See paragraphs 148 ff.)

72. The Peppers, not knowing that I had obtained this and similar records, confirm that their home was broken into and that nothing of value was stolen.

73. The SAC in St. Louis at that time, ^{reportedly} was J. Wallace LaPrade. Subsequently he was made SAC in New York City, where he achieved international fame for his supervision of many FBI political "black bag" jobs, some of which recently received extensive publicity.

74. I have received no records from FBIHQ, from the "Office of Origin" or from the St. Louis Field Office relating to this and/or other black-bag jobs or the other relevant parts of Item 11 of my information request.

75. However, whether by this means or by another and later subpoena or by both means, it does appear that the FBI did obtain the Peppers' bank records and that these were made available to George McMillan.

76. (This also relates to Item 20 of my information request with which there is total noncompliance. Item 20 asks for the information made available to other writers.)

77. Both Peppers and Jerry Ray have informed me that Mr. McMillan informed them that he had copies of the Pepper bank records.

78. Mr. McMillan's psychobiography titled "The Making of an Assassin" assumes the lone guilt of James Earl Ray, as his wife's book, "Marina and Lee," assumes the lone guilt of Lee Harvey Oswald. George McMillan's book was scheduled for publication not many weeks after the James Earl Ray guilty plea of March 1969. It then, according to Mr. McMillan, had been contracted for publication in eight countries. However, because of the problems coming from James Earl Ray's denial of having killed Dr. King and the widespread beliefs that he was not the assassin

79. On September 14, 1973, when Mr. McMillan was still pursuing the trivialities of a midwest "Tobacco Road," he disclosed to John Ray that he, McMillan, did have access to FBI records. (Exhibit 8); "Sometime before I write this section I am going to Memphis and look at the FBI file on the case; that's been made available to me."

80. I have read Mr. McMillan's psychobiography. It holds ample reason to believe that Mr. McMillan did have access to FBI records on the King assassination. If he did not, he is a mind-reader because he reports from those files what those prisoners whose allegations were liked by the FBI claimed to have known and told the FBI about James Earl Ray. Conversely, Mr. McMillan quotes none of the many other prisoners who are represented in the FBI records that I have examined as stating other than the FBI wanted to be known and believed.

81. Even after the McMillan publication of long statements by these same prisoners, the FBI continued to withhold their names from me, although I protested in person and appealed in writing.

82. (Whether or not the FBI fed and leaked to other writers, a subject of my information request, the FBI remains in noncompliance with my request despite the public acknowledgment by Jeremiah O'Leary that the information he used in an article he wrote for Readers Digest came from the FBI. I shall address this separately. Prior to my making this request, some of these other writers publicly credited the FBI with assisting them.)

83. Among the other FBI records I have obtained that deal with surveillance and the FBI's pressures on John Ray and Carol Pepper is Exhibit 9. It is the May 8, 1968, St. Louis teletype to FBIHQ. In it St. Louis reports continued surveillance on John Ray ("TAVERN BEING COVERED BY SOURCES AND SPOT CHECKS") and the possibility of persuading the State of Missouri to file criminal charges against Carol Pepper and John Ray. Again the intent is explicit, to use the threat of criminal prosecution "AS LEVER TO OBTAIN COOPERATION OF BOTH."

84. While there are a number of other FBI records relating to these FBI pressures and FBIHQ intent to have Carol Pepper and John Ray prosecuted, I do not attach them because Carol Pepper and John Ray were forced to close the Grapevine

(b)(7)(C) and (D).

86. Under claim to exemption (b)(7)(C), the only exemption claimed for it, SA Harp withheld what is obliterated in Exhibit 10. This includes the identification of a Ray in the first line. (Reference is to James Earl.) The ex-con's fairy tale, seized upon by the desperate FBI, which could not account for any nonconspiratorial financing of James Earl Ray, is established as a fiction in other FBI records I have and have read. However, even in its Swiss cheese-like condition, Exhibit 10 does reflect that the FBI did have access to bank records in St. Louis. The FBI does not represent that this access was under subpoena. The MURKIN files establish that the FBI has regular access to such records and other supposedly private records, like telephone records, without subpoena.

87. Someone in FBIHQ underscored this sentence on page 3, "(Carol Pepper) SAYS GRAPEVINE TAVERN BARELY MAKING EXPENSES AND MAY NOT CONTINUE."

88. The FBI's surveillances extended to the aging and ailing "Jerry Raynes, father" of the Rays. Exhibit 10 states that "SOURCES AND SPOT CHECKS DISCLOSED NO SIGNIFICANT ACTIVITY" by the father.

89. The FBI's surveillances continued into June. On June 11, 1968, three days after James Earl Ray was captured, Exhibit 11 reports "NO SIGNIFICANT ACTIVITY," according to its "SOURCES AND SPOT CHECKS." These surveillances related to the father and his two children in St. Louis, Carol Pepper and John Ray.

90. The FBI stamp added to the copy I obtained discloses FBI intent not to make full disclosure. Although the body of the teletype is of but two lines of typing and contains no information that falls within any exemption, the FBI's stamp is filled in to state that only a "Deleted Copy" was sent to John Ray in April 1976.

91. The entire Ray family was aware of the FBI's interests. They suspected the surveillances the records of which were requested in my Item 11. Exhibit 12 reflects this. (Exhibit 12 is an FBI report of 5/25/68, provided to John Ray under his PA request of the FBI. The obliterations, which include file and page numbers and the names of the agents who interviewed John Ray, are by the FBI.) This report quotes John Ray as stating "that he believed the telephone of the Grapevine Tavern is tapped and that the FBI and other law enforcement agencies had had

for tapping his phone," or that of any other Ray.

92. From other records I have examined in this and in other cases, I know that the FBI is sensitive about its surveillances and customarily denies almost all of them. This is one of the apparent reasons for its intense dislike of Mr. Fensterwald and Director Hoover's caustic comments about him. I have copies of records with these comments.

93. Until the election of 1968, Mr. Fensterwald was chief counsel of the Administrative Practices Subcommittee of the Senate Judiciary Committee. In this role he exposed FBI practices with regard to electronic surveillances. I am familiar with that work. It shows that the FBI regularly engaged in electronic surveillances without authorization and when its surveillances were productive or when it had other reasons for not continuing clandestine electronic surveillances it sought authorization for them.

94. In the many thousands of pages I have read in this case, I have seen no indication that the FBI sought the authorization of any court for any electronic surveillance against James Earl Ray, any member of his family or anyone else. But two months after Dr. King was killed, it did make such a request of the Attorney General.

95. Most of what follows comes from the MURKIN records I have received that reflect preparation for what appears to be widespread phone tapping.

96. What SA Harp withheld from Exhibit 13, the April 30, 1968, St. Louis memorandum to FBIHQ, is of this character. SA Harp claims exemptions (b)(7)(C) and (D). In the first sentence the kind of information the obtaining of which was recommended by the SAC is withheld: "In connection with investigation being conducted by the St. Louis Office in captioned case it is deemed advisable for this office to obtain (obliterated) information from (obliterated) as hereinafter listed." There follows eight such listings, all indicative of identifying the phones of those related to or believed to have been associated with James Earl Ray in the past. There are also two paragraphs that are withheld in full. St. Louis' request of the Director concludes, "Bureau authority is requested permitting St. Louis to obtain (obliterated) information as above described."

98. "Wire" information does fit the space. This interest in telephones is not withheld from other records. All those that follow immediately were processed by SA Harp. Except where otherwise indicated, he made claim to exemptions (b)(7)(C) and (D) for his withholdings.

99. Exhibit 14 is a Chicago Field Office teletype to FBIHQ of May 2, 1968. SA Harp withheld even the caption of Exhibit 14. SA Harp appears to have found not a single word reasonably segregable in all nine lines of the first paragraph. This is more than half of the message on page 1.

100. On page 2 the teletype reports the location of those telephones to which Jerry Ray had access. It is in connection with this information that SA Harp forgot to withhold the name of the woman Jerry Ray went to stay with, the one the FBI made into a PCI. The information that follows, in context information relating to telephones, again is withheld by SA Harp.

101. Chicago got into the phone act, asking all "OFFICES RECEIVING THIS TELE" to "FURNISH PHONE NUMBERS OF RELATIVES AND KNOWN ASSOCIATES." It also asked the Newark Field Office to supply the phone number of Jerry Ray's PCI bedmate. Chicago concluded by assuring FBIHQ that "BUREAU WILL BE ADVISED OF TELEPHONE COVERAGE EFFECTED."

102. Maybe the Bureau was so informed but in response to Item 11 of my information request I have not been.

103. Exhibit 15 is a St. Louis Field Office teletype of May 2, 1968, to FBIHQ and to the Memphis and Kansas City field offices. This message is in "urgent" response to a (withheld) recommendation by Memphis to the other two FBI offices, "REQUESTING KANSAS CITY AND ST. LOUIS RECOMMENDATIONS RE USE OF (obliterated)."

104. This is the only withholding from the four lines of the body of the message. It does not appear that the privacy exemption applies to it.

105. That Memphis recommended a means of obtaining information St. Louis said was not necessary is clear in the rest of the brief teletype. St. Louis referred to its "EXISTING SOURCES AND THOSE UNDER DEVELOPMENT."

106. In Exhibit 16, a May 3, 1968, teletype, the St. Louis Field Office made its own contribution to the special list of telephones. This list

lines. Unlike the eight listings preceding it, these three lines are totally withheld.

107. In Exhibit 17, a Springfield Field Office teletype of May 3, 1968, SA Harp's withholdings are so extensive it is not possible to determine with certainty the total number of telephone numbers added to the list. SA Harp appears to have found nothing reasonably segregable in the final 11 lines of this teletype on the subject of "FULL COVERAGE OF RELATIVES." All the Ray relatives are known and have been written about extensively, especially by George McMillan.

108. By an FBIHQ teletype of the same day, May 3 (Exhibit 18), St. Louis received authorization to obtain information even the description of which is withheld under claim to (b)(7)(C) or (D). SA Harp has withheld all but 12 words of the text of the FBIHQ's authorization of St. Louis' April 30 request. That request, Exhibit 13, lists phone numbers.

109. All that is not withheld from the text of Exhibit 18 reads: "YOU ARE AUTHORIZED TO OBTAIN (obliteration) INDICATED WHICH HAVE NOT BEEN PREVIOUSLY AUTHORIZED." The remaining text is withheld in its entirety.

110. An FBIHQ note adds that whatever "coverage" was authorized, with regard to the Grapevine Tavern that authorization had been given "by Butel 4/30/68."

111. FBIHQ's extreme interest in phones and the possibility of picking up information about James Earl Ray, of whom it had no real leads to trace, is reflected in Exhibit 19. This is FBIHQ's May 9, 1968, teletype to the St. Louis Field Office. FBIHQ ordered "ADVISE BY RETURN TEL RESULTS OF REINTERVIEW WITH (obliterated)." This FBIHQ note explains "that (obliterated), former prison buddy of subject Ray, allegedly received two calls from Ray since the assassination."

112. The report was false. The withholding of the name is not consistent with the Attorney General's widely publicized policy statement with regard to names and the privacy exemption. There is no defamation or intrusion into privacy that is possible from the disclosure of the name that is here withheld. (SA Harp makes no other claim to exemption with regard to Exhibit 19.)

113. Orders from FBIHQ to reply by return teletype are not common in this case. If there are other instances of it, I do not recall any.

114. That same day, May 9, Assistant Director Rosen wrote Associate Director

Tavern." (Exhibit 20)

115. "TESUR" is FBI lingo for phone tap. Microphone surveillance, in FBI lingo MISUR, is bugging. Bugging requires an illegal act, a break-in.

116. By date, Exhibit 20 is the earliest record I have received that bears the FBI's code name "JUNE." "JUNE" is a designation for such surveillances by the FBI. From the records of the OPR, "JUNE" includes mail.

117. I have asked for a search to be made of all such files. I have not been given the results of any such search. Instead, I was lied to by FBI SA John Hartingh and others, all of whom insisted that all FBI records are in what it calls its "Central Files."

118. Exhibit 20 was originally withheld from me in its entirety by SA Harp under claims to exemptions (b)(5) and (b)(7)(C). Both claims are a transparent attempt to withhold what would embarrass the FBI. There is no content relating to the Peppers and John Ray which was not public domain, which is not included in records that are not withheld or is any invasion of their privacy. The bugging and tapping were the only possible invasion of their privacy, and the FBI's top echelon was gung ho! for those.

119. This first "JUNE" record also discloses the total failure of the FBI's enormous effort up to that point in these words, "we have not been able to locate the subject nor have we located any person who can furnish us any information as to the subject's present whereabouts."

120. Assistant Director Rosen's alleged reason for the recommendation is contrary to all the FBI's information: "It has been determined that Carol Pepper ... and John Larry Ray ... are the closest relatives to him." In fact, James Earl Ray did not know how to get in touch with either. The only close relative whose address he then knew was Jerry Ray, who maintained a post office box so James Earl could write him from the Missouri State Penitentiary. (See Exhibit 10, page 3)

121. Although this record concludes, "Attached for approval is a memorandum to the Attorney General requesting authority for this coverage," nothing was attached to the copy provided to me. Exhibit 20 does, however, bear the Director's approval, "OK H." Moreover, the worksheets record only two pages to this Serial, 3764. With

21) has the number lower in the MURKIN file than Exhibit 20. What may be Exhibit 20 is said in Exhibit 21 to be attached to it. According to the worksheets, SA Harp originally withheld Exhibit 21 from me under claim to exemption (b)(5). The worksheets identify Serial 3763 as of two pages only. Yet it concludes, after the approval of "OK H," with a handwritten note reading "Please see attached." There are four arrows pointing to this note but there is no attachment/in what was provided to me. Without what I have been denied, a search of the "JUNE" and any related files, there is no certainty that Exhibit 20 is the record not attached to Exhibit 21.

123. The opening paragraph of Exhibit 21 "raises a question concerning the legality of any action taken against the subject of this case on the basis of information obtained from the microphones" to be installed "on certain properties of Albert and Carol Pepper." The concluding paragraph begins with the warning, "Be aware that since this search and seizure is unconstitutional as to the Peppers, they have at least a theoretical cause of action for damages against those who installed the devices by trespass." But the FBI top brass consoled itself over jeopardizing the prosecution of its only suspect in this terrible crime, about the illegal and unconstitutional acts it planned and about having to pay damages to the Peppers when sued and beaten in court. In a secret and suppressed expression of attitude and belief that is in complete accord with my extensive experiences with the FBI in FOIA litigation, six of the ranking Bureau officials, including the Director, signified agreement with the final words of the memorandum,

"in any such case the government of the United States should surely be willing to pick up the tab for any judgment against those who installed the microphones."

124. By this time the FBI was desperate and devoid of any real investigatory accomplishment. Yet here it admits that if its breaking and entering and bugging did produce any information, "It would not be admissible against the subject" or against the "Peppers on a charge of harboring."

125. The FBI's expectations are expressed in the note added to Exhibit 20 by Cartha DeLoach, Associate Director: "It is doubtful that A.G. will approve. These could be of great assistance."

126. If bugging and tapping the Peppers and John Ray when the FBI knew James

the phones he used or to plant a bug in his room was ever sought. Nor has there been any affidavit provided attesting that there were no such operations against Jerry Ray or any of the persons I list in Item 11 of my information request. That all the preliminaries were arranged with Jerry Ray is clear in the records released to me. These preliminaries ranged from identifying all the phones to which he had access to the FBI's establishing of a cooperative relationship with Jerry Ray's employer in whose property Jerry Ray also resided.

127. While the previously referred to May 9 draft of the letter to the Attorney General remains withheld from me and I have been denied any and all searches of his files and those of his deputy, both of which searches I have asked for repeatedly, Serial 3509 is the Director's actual request for permission to break into the Pepper and John Ray properties to plant bugs and to tap the phones at each place. It was originally withheld from me by SA Harp under claims to exemptions (b)(5) and (7)(C) and (D). It is dated four days later, May 13. (Attached as Exhibit 22) How it was filed with a number more than 250 earlier than Exhibits 20 and 21, which are, respectively, four and three days earlier, is unexplained. It is possible that the recording of the memoranda of earlier date was a delayed decision. (Exhibit 21 also is headed "JUNE.")

128. A marginal note on Exhibit 22 states "5-14-68 1 xerox Room 906 9 & D MJR." At that time the Department of Justice Internal Security Division was located in that building. I have received no copies of any records that were in the files of that Division.

129. What the FBI calls "national security" is alleged as a basis for withholding many records from me in this instant cause and in others. These illegal and unconstitutional acts were of "national security" character to it. This is expressed in paragraph 1 of Exhibit 20, which represents that bugging and tapping the Peppers and John Ray "could possibly be instrumental in reducing the stresses and tensions placed on our national security subsequent to the death of Martin Luther King, Jr."

130. By these concepts, beliefs and interpretations, there is virtually no record the withholding of which the FBI cannot justify to itself as in the interest of "national security."

later provided in part, the Department used this exemption to withhold the fact of the FBI's having planted agents inside Dr. King's headquarters and elsewhere in his organization. The Department still also withholds the names of those two men the FBI claimed were some kind of mysterious "Communist" influence on Dr. King. The names of Stanley Levison and Jack O'Dell are so well known they were featured in the National Broadcasting Company's special TV series titled "King." These men also have been identified in many news accounts and in books and magazine articles.

132. Another "JUNE" record that remains officially withheld from me is another of Director Hoover's irate letters to the Attorney General. This one, dated June 11, 1968, is attached as Exhibit 23. It falls within the records requested in my Item 11. It also is in the FBIHQ MURKIN files, from which it was not provided to me although this Court and I were assured that I would receive all nonimmune records from that file. I obtained it by other and not improper means after it was declassified on September 8, 1977.

133. Exhibit 23 also is recorded in the FBI's file 66-8160 as Serial 2987. This file has not been searched in compliance with Item 11 of my information request. Exhibit 23 is captioned "ELECTRONIC SURVEILLANCES." Although the subject of electronic surveillances is included in Item 11 and other Items of my information request, I have not been provided with any record identified or identifiable as coming from any "electronic surveillance" files.

134. Exhibit 23 refers to another relevant record within my request that I do not recall receiving (page 2, paragraph 2). The second page of this record the FBI did not give me (Exhibit 23) refers to earlier requests for permission to conduct electronic surveillances in connection with James Earl Ray. (Because he had been captured the request was withdrawn in this letter.) Mr. Hoover's letter refers to Exhibit 22 and to the "memorandum C. D. Brennan to Mr. W. C. Sullivan, same caption, dated 6/10/68, prepared by MJR:sss." This is the letter I do not recall receiving.

135. Mr. Hoover's June 11 letter concludes with another FBI representation of its concepts of "national security" in these words: "This memorandum is classified 'Top Secret' since unauthorized disclosure could result in exceptionally grave damage to U.S. intelligence interests."

four months after the document was created.

137. In common with many other records, Exhibit 23 lists the names of others whose files should have been searched for compliance and whose files have not been searched although I have requested such searches repeatedly. Here the names are of a Miss Holmes and Messrs. DeLoach, Rosen, Sullivan, Brennan and Rozamus. In the preceding exhibits coming from the withheld "JUNE" files, other names are those of Messrs. Malley, McGowan, Long, Conrad, Tolson and the Director. Some of these records were routed to the Department's Internal Security Division. I have had total non-compliance from those files. And as noted above, I also have had total noncompliance from the files of the Attorney General and his Deputy.

138. Bearing further on the FBI's "national security" and classification policies and practices, this letter, Exhibit 23, was originally classified "Confidential" although the Hoover text says "Top Secret." In a review that from the writing implement appears to have been by 3002, on 3/17/77, each of the individual paragraphs of page 1 was reclassified upward to "(TS)." Later the first paragraph had the "(TS)" stricken through and "C" added to replace it. From the second note added at the end, there appears to have been another review: "7306 TJS 3/21/77." The ultimate declassification was by 6855, whose initials appear to be JNN. Each of the dates of each review was subsequent to the time this record should have been provided to me under the representations made to this Court by the Department. As of today it has not been provided by the FBI or the Department.

139. That the FBI does hide its electronic surveillances and does conduct them after authorization has been withdrawn and even after renewed request for authorization has been refused by the Attorney General is established by Exhibit 24. This letter, from Mr. DeLoach to Mr. Tolson, is dated March 11, 1969, almost a year after Dr. King was killed.

140. Exhibit 24 is a record generated by the FBI's intense craving for favorable publicity. Cartha DeLoach suggests means of obtaining it. But Exhibit 24 also discloses the wiretapping of Dr. King's widow a year after he was killed. This is Mr. DeLoach's concluding sentence:

"We can do this without any attribution to the FBI and without anyone

Leadership Conference, Dr. Ralph Abernathy, or both. (One could have been incidental to the other.)

142. That there was no official approval for any such electronic surveillance, that approval had been withdrawn and that renewed FBI requests for approval had been refused are established in FBI records not provided to me but referred to throughout Part III of the Report of the Senate's Church Committee.

143. Exhibit 24 is relevant to other Items of my information request with which there is total noncompliance. These are Items 7 of my request of April 15, 1975, and Items 7, 11, 16 and 20 of my request of December 23, 1975.

144. The "friendly, capable author" selected to write a book to the FBI's liking is Gerold Frank, who later did exactly this. (Page 2) An alternative is the Reader's Digest, with which the FBI had already puffed itself through Jeremiah O'Leary. (Page 2)

145. A partly illegible handwritten note at the bottom of page 1 reads "? encl. to George ? McMillan." (See also Exhibit 8.) The date 8/7/75 is adjacent and appears to be in the same writing. There is also the note "See Informal Memo Jones to Bishop 3/20/69."

146. I have no recollection of having seen this "informal memo" in the records provided. The files of T. E. Bishop, who was one of the FBI's officially unofficial leakers to the press, are among those the FBI has refused to search for me in this instant cause. Messrs. Frank and McMillan are included in the aforementioned Items of my information request.

147. When I state that I have no recollection of having been provided a record, I do not depend entirely on memory. Memory can be fragile. It can be undependable when so many thousands of pages of records are involved. However, when it became apparent that the FBI was going to flood me with records not within my requests while not complying with the Items of my request, I began to set up files of copies of those records that were of particular interest to me. I have consulted each of these separate files. (These are of separate copies of the records that have been provided. I have preserved the originals of the records that have been provided exactly as I have received them, each Section in a separate file folder and in exactly the

with Mrs. Pepper on May 9 in person and on May 13 by phone. She has a means of remembering her first suspicion of each and a correlation for each.

149. At about the time James Earl Ray was identified, Albert Pepper had an automobile accident. The Peppers did not carry auto insurance. When the other party declined Mr. Pepper's offer of settlement, the Peppers feared being sued. They then withdrew their funds from the bank and hid this money in their home. It also happened that their dog was in heat, so Mrs. Pepper removed the dog from the home to the garage. Later the Peppers left their home. When they returned home, they discovered that a window had been broken out and the home entered. But their funds had not been stolen. They reported this to the local police, who conducted a perfunctory investigation and did nothing further.

150. Mrs. Pepper had a brother named Max. She also had a woman friend known as Max. She had a phone conversation with another woman friend in which they discussed the woman known as Max. Immediately after this phone conversation about Max the woman, FBI agents appeared at Mrs. Pepper's door and asked her about her brother Max. These questions appeared to Mrs. Pepper to be based on the recent phone conversation about the woman, not the brother.

151. Records relating to such surveillances on James Earl Ray, regardless of by whom, are included in my information request. There has been only limited and accidental compliance with these parts of my information request. The first record I have obtained reflecting the Department's involvement in these surveillances is Serial 4616, a Rosen to DeLoach memo of June 8, 1968, to which an addendum from DeLoach to the Director of the same date is attached. (Exhibit 25)

152. In the addendum that also reflects his insolence to the Attorney General, Mr. DeLoach informed the Director that "The Attorney General then told Lindenbaum to have several Bureau of Prison officials go to Memphis early Monday, June 10, 1968, for the purpose of taking a look at the county jail in Memphis so that proper security could be afforded ..."

153. While Mr. DeLoach's next paragraph does not relate to the surveillances of James Earl Ray, it does display the FBI's attitude toward making information available. Mr. DeLoach refused to comply with the request for information of the

154. When the FBI can and did withhold from the Attorney General himself and actually referred him to the FBI's press releases for his knowledge of so important a case, its withholdings in this instant cause become comprehensible as a matter of its arrogance, contempt for authority and authoritarian self-concepts.

155. Whatever reports were furnished to the Attorney General, I have no recollection of having seen as many as would be required by the two-a-day volume stated in OPR records. I also have received no compliance with regard to these reports from the files of the Attorney General or his Deputy. It has been months since I last reiterated this request of the Department.

156. Beginning with the records created subsequent to June 8, 1968, the names of the Bureau of Prisons officials who were sent to Memphis and who participated in what was called "security" arrangements were withheld. (In the DeLoach addendum the name of an FBI agent who was to assist in returning James Earl Ray to the United States was originally withheld by the FBI.)

157. Beginning with the first records provided in this case, virtually all FBI names were withheld. Also withheld were virtually all other names, even of those subpoenaed as witnesses for the expected trial of James Earl Ray. The FBI did this and persisted in it and refused to provide replacement copies from which there were no improper withholdings even when I proved to it that it was withholding what all the world knew, what had been widely publicized in many books and magazine and newspaper articles as well as in my own book.

158. FBI persistence in improper withholdings continued after this Court did rule on the question. The FBI's contemptuous disregard of this Court is reflected not only in its noncompliance with this Court's ruling. It was verbalized to Mr. Lesar and to me. When I informed FOIA Supervisor SA Thomas Wiseman and Office of Legal Counsel SA Parle Blake of this Court's ruling and asked that the relatively few records provided to that time be reprocessed in accord with this ruling, SA Wiseman responded, "I'll see you in court first!" From then until now those records have not been replaced.

159. One of the Court's rulings on this matter was on June 10, 1976. (Exhibit 26 is page 17 of the transcript of that calendar call.) This Court then said, "I

of the FBIHQ MURKIN files, the ruling of this Court continued to be ignored in the processing of the MURKIN records despite my repeated appeals.

161. To the best of my knowledge, there has never been a time from the moment of his incarceration until now that James Earl Ray has not been subject to the kinds of surveillances itemized in my information request. My last personal knowledge is as of 1975, when the Tennessee State Attorney General's office refused to order an end to the intrusion into the privacy of communication with his defense, of which I was part.

162. One of the earliest evidences of intrusions into James Earl Ray's right to privacy in consulting counsel is in Exhibit 28, a Rosen to DeLoach memo of June 19, 1968. (This was shortly after the arrest.) While what is included in this memo is limited to what was in James Earl Ray's letters, later records indicate there also was electronic eavesdropping, beginning in London and including his counsel.

163. Mr. Lesar and I have independent and common knowledge of the continuation of the various surveillances on James Earl Ray from our joint exercise of discovery under court order for the evidentiary hearing of October 1974. We began with a "leaked" handwritten receipt covering the hand-delivery to the District Attorney General of Shelby County by Sheriff's Inspector Billy J. Smith of a record that was part of James Earl Ray's preparations for his defense. He gave it to his then counsel, Percy Foreman, who left it in the Ray cell. We were able to obtain the official orders and procedures for these surveillances. They trace back to the instructions the Attorney General gave the Bureau of Prisons, as recorded by Mr. DeLoach in Exhibit 25.

164. There are many proofs that the FBI and the Department were the beneficiaries of these surveillances in the FBIHQ MURKIN files. One of these, selected because of the gross misuse of an attachment by the House Select Committee on Assassinations at its secret hearing of April 18 of this year, is attached as Exhibit 29. (In other similar records the FBI also withheld the name of the sheriff, as it originally withheld from this record the name of its Memphis SAC.)

165. These Bureau of Prison officials recommended and I believe provided the design for microphone and closed-circuit TV surveillance which were installed. There

believe this was done when James Earl Ray discussed his defense. I have personal knowledge that this was not done when he decided not to go through with the guilty plea into which he says he was coerced. During the evidentiary hearing we obtained official confirmation that his intent to refuse to go through with that guilty plea was first obtained by the sheriff, whose only possible source was surveillance. (After this added pressures to plead guilty were applied to James Earl Ray, from the evidence adduced at that hearing.)

166. Mr. Lesar and I, in tracing this note, came across the sheriff's large and well organized and indexed book of instructions that resulted from the services rendered to the Shelby County Sheriff by the Bureau of Prisons of the Department of Justice. We both examined it. We obtained some excerpts from it and used them as exhibits in the evidentiary hearing.

167. Although these instructions were supposed to anticipate all contingencies, they did not provide for the discontinuance of the ordered surveillances or even for emergency repairs to the electronic surveillance equipment. However, they did order the guards to intercept all of the mail, both ways, including all defense mail. These instructions directed that all the mail, including to and from counsel, be hand-delivered to the administrative district attorney, who was directed to xerox even the mail with counsel prior to placing it in the outgoing mail or permitting delivery of incoming mail, including from counsel.

168. While we were not able to obtain copies of all of these interceptions, Mr. Lesar and I did obtain copies of correspondence relating to legal matters with all of Mr. Ray's prior counsel and his letters to the judge. The FBI's MURKIN files hold copies provided contemporaneously by the sheriff.

169. The first attachment to Exhibit 29 is a letter in which James Earl Ray began his quest for other counsel who might attempt to end the prejudicial pretrial publicity his recognized counsel, Arthur Hanes, would not end. Mr. Hanes was largely responsible for that prejudicial publicity through a literary-rights contract with William Bradford Huie. In return, Mr. Huie gave Mr. Hanes all the money Mr. Hanes received from his relationship with Mr. Ray, some \$35,000 plus payment for an article Mr. Hanes signed.

Mr. Ray to write the letter that is part of Exhibit 29. The immediate cause of the letter to the judge was an article the FBI leaked to Jeremiah O'Leary, also an Item of my information request that remains without response. Mr. O'Leary published this FBI material in Reader's Digest, a favorite FBI outlet. (See Exhibit 24, page 2) Mr. Ray told the judge that if he did not end this prejudicial pretrial publicity he, Ray, might as well walk over and be sentenced without trial.

171. Mr. Lesar and I obtained two different copies of this registered letter xeroxed prior to being mailed and one copy xeroxed after it was mailed.

172. The letter in Exhibit 29 was xeroxed prior to being mailed.

173. Copies of some of the fruits of these surveillances were kept by the District Attorney General after he resigned. On October 17, 1974, we recovered some from the souvenir collection he stored in the basement of his home.

174. The records provided in this instant cause, like Exhibit 29, reflect that the FBI received information picked up by this electronic surveillance as well as copies from the mail interception. I have not received from the FBI copies of all the mail intercepts of which Mr. Lesar and I know. I also have not received from the FBI copies of Mr. Ray's defense records that were taken from his cell by the sheriff's staff.

175. Records I have received indicate that often the FBI received its copies before the prosecution had an opportunity to make its copies.

176. There is no reflection at all in any records provided to me, whether from FBIHQ files or those of any field office, of the largest haul made against the Ray defense. This was the taking from him by force of all the great volume of records he had compiled for his defense, including all of his communications with all of his lawyers. This happened the night the State of Tennessee delivered him to the Shelby County Sheriff for that evidentiary hearing.

177. The seizure of these records was after the State had been permitted discovery against Ray's counsel. The seizure was by the Sheriff, who turned other records over to the FBI. No records of this nature have been provided in this instant cause. There is no reason to believe that they would be filed under MURKIN in the FBI's Memphis Field Office. The Memphis and other searches were limited to files

179. The limited nature of the FBI's search for relevant records in its Memphis Field Office is indicated in Exhibit 30. This is a Memphis communication of October 27, 1976, responding to an FBIHQ request for records in this case. This copy is from a Memphis file, not FBIHQ. FBIHQ asked for copies of two records and two sets of pictures only. The date, October 27, 1976, is more than eight months after the first calendar call in this case, eleven months after I filed the complaint, a year and a half after I repeated the information request for the crime-scene pictures referred to in Paragraph 6, and about eight and a half years after I made the first information request for them. Yet with all the Items of the request then in litigation for almost a year FBIHQ made such modest requests for records from its Office of Origin, where normally most records are kept.

180. The affidavit of SA Thomas Wiseman that was filed early in this instant cause swears to a search of the FBIHQ MURKIN files and swears that this search showed there are no crime-scene photographs. Exhibit 30 establishes the falsity of SA Wiseman's affirmation. Paragraph 6 of Exhibit 30 establishes that 47 crime-scene photographs are among the very earliest records sent to Washington from Memphis. These and the other photographs mentioned in Paragraph 5 were sent on April 6 and 7, 1968. The crime was on the night of the fourth.

181. Ordinarily the medical photographs of Paragraph 5 would not be available. In this case they and other such photographs were displayed widely throughout the State of Tennessee, including to all meetings of the bar and to such groups as the truckers' association. These photographs were also displayed by the House Select Committee on Assassinations at one of its few public sessions. On that occasion the press was permitted to take pictures of them. The University of Arizona has sold copies of some in the form of a videotape the original of which was given to it by the Memphis medical examiner. Mr. Lesar has one of these videotapes.

182. I believe the real reason the FBI withholds copies from me, aside from its general predisposition to withhold, has nothing to do with privacy rights. Rather does this withholding relate to the evidentiary value of some of those photographs. I have examined some of them and speak from personal knowledge. In addition, the medical examiner swore falsely about them at the evidentiary hearing. Were the

withhold from the Attorney General and referred him to its press release. Exhibit 31 shows it sought to withhold from the Tennessee District Attorney General.

184. Incredible as it may appear, FBIHQ even ordered its Memphis Field Office to withhold the prosecutorial volumes (referred to in Exhibit 31) from the United States Attorney in Memphis because FBIHQ did not trust him.

185. Although copies of Exhibit 31 were sent to the Director of the FBI and the Attorney General, this copy was provided by the Department's Civil Rights Division.

186. From May 17 until September 27, the FBI did not provide a single record to the Memphis prosecution, according to the District Attorney General (Exhibit 31, page 2). Yet trial then was scheduled for only six weeks in the future. As the FBI initially withheld from me the indexes to the prosecutorial volumes of records referred to in the second letter in Exhibit 31 until it was compelled to provide me with copies under discovery, so also did it withhold copies from the Memphis prosecution. This second letter of complaint was written about two weeks before preparations for trial had to be completed.

187. In representing to this Court that my information request does not include these indexes, the Department represented incorrectly. They are included in Items 21, 22 and 24. Item 21 is specific in identifying "Any index..."

188. First by false representation, then by stonewalling and then by extensive and unjustifiable excisions, I was denied the use of these indexes for all the time I was examining the records indexed.

189. When I discovered that the FBI was continuing to withhold from the records it provided what I personally had published and what was readily available in standard sources like the telephone and city directories, I sent the FBI xerox copies of what my book and the phone book report. The FBI refuses to replace those pages with unexpurgated copies.

190. This is one of the more ridiculous and yet perhaps one of the more important of such withholdings. It relates to a Louisiana State Trooper, Raul Esquivel, Sr. (His son of the same name is not mentioned in any records I have received despite the fact of the relevance of the son's nonsecret address in the investigation of the FBI's own leads.) /I brought to light in my book, FRAME-UP.

conduct a real investigation of Raul Esquivel, Sr. I have not received records reflecting that this ordered investigation was made. I do not assume that, with all the indication of the need for such an investigation, the New Orleans Field Office did not obey the order of FBIHQ. These needs include the conspicuous fact that Mr. Ray made several trips to New Orleans when he was on the lam and immediately before Dr. King was killed. Both of these trips began from Los Angeles, where Mr. Ray met one Charles Stein. It is from Mr. Stein that the FBI obtained the Baton Rouge phone number that led it to Raul Esquivel, Sr. (as independently it also led me to him). This phone number is the one solid Louisiana lead the FBI had. That the FBI did not even seek to determine Mr. Esquivel's whereabouts at the times Mr. Ray was in New Orleans and when he was driving through Louisiana cannot be believed. Nor can it be believed that Mr. Esquivel's whereabouts were not of interest to the FBI for the times Mr. Ray is known to have had other meetings in the south. Yet this is what the records provided by the FBI reflect.

192. The name Raul Esquivel does not even appear in either version of the indexes provided to me by the FBI.

193. This is not a unique case of voids in the records provided to me. Another is that - if the records provided can be believed - the FBI was not able to place Mr. Ray at any fixed point between Atlanta and Memphis in the days immediately before the killing. If the records provided are to be believed, the FBI also made no investigation of where Mr. Ray was the second night before the crime - not even after I learned this from Mr. Ray and published it. It was a "hot sheet joint" just south of Memphis, on the road from New Orleans and Baton Rouge, not the road from the last location the FBI had, Atlanta. Even after I gave the FBI's FOIA agents the name of that motel and told them I had been there and had interviewed two maids who told me of having been interviewed by two FBI agents, I received no records. If the records provided are to be believed, FBI agents investigated on both sides of that motel and never once stopped off at it.

194. The foregoing paragraphs relate to several items of my request. How the FBI could have avoided the relevant records is indicated in what follows in and about Exhibits 32 and 33.

and other surveillances of "any person associated in any way" with Mr. Fensterwald's CTIA. Mr. Garrison was a director of the CTIA. One page only of a transcript of a taped phone conversation was provided. Jim Garrison is certainly one of the parties. Almost certainly the other party is a character going by the name of Jack Martin. The fact is that the Department has extensive transcripts of many phone conversations and buggings of Mr. Garrison. These led to an unsuccessful prosecution of Mr. Garrison. Not one other such record has been provided in this instant cause although the FBI and the Department have such records of the results of telephone and microphone surveillances. That they are not included in the MURKIN files does not mean that they are not included within my information request. They are within my request.

196. Moreover, this electronic surveillance was officially approved. There are records of it. It was arranged through Pershing Gervais, a former New Orleans policeman, then a close friend and confidant of Mr. Garrison. Until Mr. Gervais elected to blow it and made clamorous protests over alleged Departmental violations of its agreement with him, the Department fitted Mr. Gervais into a new identity and moved him and his family to Canada, where he was well provided for. It simply is not possible that the Garrison surveillance and its relevance to my information request were not known to the Department and to the FBI. This also is the subject of one of my older information requests.

197. The proofs of deliberate withholding and deliberate misrepresentations of withholding in this instant cause are virtually without limit.

198. There continues to be withholding from the indexes and the records indexed even after a November 11, 1977, compromise with the FBI. The government informed the Court of this in camera on November 21, 1977. This relates to the withheld names of certain prisoners. I reduced my request to a small number of these prisoners. Despite the compromise, despite the policy statements of the Attorney General and others, despite the Department's testimony to the United States Senate (which I have read) and despite the statements on such withholdings by this Court, as recently as after the calendar call of May 10 of this year FBI FOIA SAs Horace Beckwith and Ralph Harp refused to provide those records. They then insisted that these would not be provided until the end of this case.

Report.

200. Quite the opposite of all the FBI's representations to me about the nonexistence of relevant records anywhere except in its "central files," this exhibit is specific in identifying the importance, nature and resting place of some of the important and the still-withheld records. Exhibit 32 contains Supervisor Long's account of his "tickler system" as he reported it to Assistant Director Rosen. Contrary to the FBI's representations to this Court, that it cannot comply with my information request by subject, this record reflects that the FBI has such a means: "Long stated that he maintained the system with approximately 35 key classifications. This system was maintained in addition to the MURKIN file." (Emphasis added)

201. The third Paragraph of Exhibit 32 identifies several places to be searched for the "two daily reports" prepared for the Director. These are the Director's files and those of the FBI Civil Rights Division, both of which the FBI refused to search for me, claiming there were no records in either place. Even the routing of these twice-daily reports to the Director is outlined in this paragraph.

202. The penultimate paragraph indicates that the files of the Domestic Intelligence Division also should have been searched if there was intent to comply with my information request. Here again I was told that there are no such files.

203. The Long "tickler system" should include many items of my information request besides those relating to various surveillances.

204. Other originally withheld OPR records copies of which have not been provided by the FBI leave beyond question that there was a separate "JUNE MAIL" file and that in the purging of the records of Director Hoover's office upon his death the files relating to Dr. King were not destroyed.

205. Once when I was unable to be present at a calendar call, the Court held that the records of the OPR are not included within my information request. I had believed that a number of Items did include OPR and CRD records. These Items are 2, 7, 8, 9, 10, 13, 14, 17, 24 and 25 of December 23, 1975. Item 17 relates to records of "any re-investigation ... of the assassination of Dr. King undertaken in 1969 or at any time thereafter ..."

206. Because of the added limitations then imposed upon me by the state of my

and with the other Items was assured by FBIHQ. It did not have to send special instructions to the field offices directing how they not comply. Its instructions for "compliance" served this end.

208. In response to the separate FOIA/PA requests I was compelled to make of each of the FBI's 59 field offices, I received New Orleans records, some of which are attached as Exhibit 33.

209. Even after I caught on to FBIHQ's devices for noncompliance, New Orleans insisted "There has been no attempt (sic) by this office (sic) to apply any 'limit' to your request."

210. One such limit was restriction to whatever the FBI may mean by its "main files." This limit is included in the first letter from the New Orleans office, paragraph 2. It also is included in FBIHQ's teletyped instructions to the field offices, page 2, paragraph 2. Other limits follow there, including to "IAs" of what I believe are many "Subs" in the "main files" and in permitting the field offices to decide for me what is a "substantive, pertinent notation" added to any record already provided to Memphis or FBIHQ.

211. Another evasion is on page 3 of this teletype. It does not direct that the affidavit of compliance be executed by the agent who conducted the search. Even though the teletype then states that FBIHQ was providing a draft of the affidavit, this paragraph was marked in the New Orleans Field Office.

212. The executed affidavits are not first-person affidavits.

213. Two affidavits were sent to FBIHQ by the New Orleans Field Office. I believe that neither has yet been filed. The amended affidavit was executed pursuant to telephoned instructions from FBIHQ on the day FBIHQ ordered it, September 7, 1977. The earlier affidavit was executed the end of August 1977. Both dates are prior to my receipt of any records from the New Orleans Field Office files. Both affidavits are identical in not attesting to a first-person search of the files. (Paragraph 2) Both are identical with the FBIHQ draft in the limitation to MURKIN files only. Both are identical in listing records not provided on the claim they could not be copied. Such listed objects as photographs can be copied and I did request copies of some of the photographs listed.

dumping upon me of thousands of uncollated Memphis Field Office files on the last day permitted by the stipulations rather than "periodically as they are processed." The mass of these first records provided under the stipulations was so great - more than 6,000 pages - I was not able to lift the large box in which all were shipped.

215. When I finally obtained a list of the files that were to have been in that box, I found that some were not included. I informed the FBI immediately. Copies were to have been mailed. They were not mailed. Then they were to have been given to me some six weeks later when we met on the morning of November 11, 1977. They were not. I have written the FBI and the Department about this a number of times over the past six months. I have not received a single response. Finally, after Mr. Lesar included these missing Memphis files in a Motion for Partial Summary Judgment, following the calendar call of May 10, 1978, SAs Beckwith and Harp insisted they had given copies to Mr. Lesar on November 11. (I know this is not true because I alone received the records provided on that day, several thousand loose unpackaged pages. They were too much for me to carry and I in fact injured myself and hemorrhaged in carrying them.) On May 10 I told SA Beckwith that I would pay for what he regarded as duplicate copies. He then refused to provide them, alleging that even if he sent them by certified, return receipt mail I would deny having received them. This, of course, is a gross and deliberate falsehood, an intended diversion to accomplish still more stonewalling. I have made no such complaint to the FBI although I have received about 150,000 or more pages of records from it. Mr. Lesar then asked SA Beckwith to give copies to government counsel, who could give copies to him. As of this moment that has not happened. Moreover, the FBI knows that, although it was to have had these records xeroxed on the morning of November 11 for me to pick up at noon, after the conference we had in the offices of the Civil Division, they in fact were not xeroxed. The FBI then promised to mail them to me. Its practice was to use return-receipt mail. It has produced no such receipt.

216. In support of the preceding paragraph I attach Exhibit 34. This Exhibit consists of an annotated copy of the FBIHQ's list headed "MEMPHIS MURKIN FILES," a copy of three FBI FOIA handwritten notations and an uncorrected copy of a letter I wrote FOIA Supervisor John Hartingh on October 19, 1977, after I received this list

compliance built into other field office compliance by SA Matthews' directions to limit searches to Sub 1As. (I have no list of the Sub files of the other field offices included in the stipulations.)

219. On November 11, 1977, one of the FBI FOIA SAs made the handwritten list of the Sub Gs showing those I received and those I did not receive. The notations on a separate sheet of paper, "Keith Gehle, X5565" and "(Vol 32 to end)", are also by the FBI. This second notation coincides with the handwritten list, which has a line drawn above "32." Check marks on the handwritten list indicate files not provided. Files 27 and 31 do not appear in the typed list. They are included in the FBI's own handwritten list of missing Sub G files.

220. The scrap of routing envelope with the identification of SA Beckwith is from one of the flimsy envelopes in which the FBI agents carried the several thousand loose sheets of index pages to the meeting we had after noon, following our meeting in the Civil Division offices on November 11, 1977.

221. Because the FBI represented that it wanted to get the case over with, I included in my hasty letter of October 19, 1977, some of what could be "helpful to you in getting this done with because it can help me specify withholding to you earlier." As the balance of the letter shows, I did provide those specifics that occurred to me when I first reviewed the records. I sent the FBI copies of records that were to have attachments and did not have the attachments. I added further information about the pictures I had loaned the FBI in April 1968. (Despite the government's representations to the Court in camera, these pictures have not yet been returned to me, probably because the FBI refuses to search the files of its Frederick Residency. However, it can provide copies from other files.)

222. SA Beckwith was present at the November 11 conferences and in chambers on November 21, 1977. He therefore has personal knowledge contrary to what he claimed on May 10, 1978. This personal knowledge extends to the missing Memphis Sections, to the withheld information relating to prisoners and to these still not returned pictures I let the FBI have through its local Resident Agent.

223. SA Matthews' teletype to the field offices that is included in Exhibit 33 also reveals his unilateral rewriting of the stipulations as they relate to field

"pertinent", the stipulations specify "... attachments that are missing from headquarters documents will be processed and included if found in field office files as well as copies of documents with notations." (Emphasis added) There is no qualification at all relating to such notations.

225. Once the field office records began to be provided it became apparent to me that the directive not to duplicate any records to or from FBIHQ and the Memphis Field Office contained in SA Matthews teletype effectively eliminated any possibility of missing records being produced by the field offices. The field offices had no way of knowing which records were allegedly missing from FBIHQ files so the field offices provided none of them.

226. Not all of the field offices included in the stipulations and to which I also addressed PA requests provided such records as New Orleans has.

227. I believe this added noncompliance enables the withholding from me of other proofs of deliberate noncompliance in this instant cause.

228. The misrepresentations and false representations relating to compliance set forth in the foregoing paragraphs are not by any means all the misrepresentations and false representations. In order to prepare this affidavit, I have had to suspend compiling proofs of unfaithful representations made by government counsel. I shall complete and attest to that as soon as it is physically possible for me to do so.

ADDENDUM RELATING TO DEFENDANT'S CROSS-MOTION FOR PARTIAL SUMMARY JUDGMENT.

1. The Memorandum in Support begins with the heading "I. Plaintiff has received the Records" of the FBI's Civil Rights Unit. That this is a false statement is proven by Exhibit 32 and the prior portions of this affidavit dealing with that Exhibit.

2. The statement that I have received "1. The records of" this Civil Rights Unit is evasive if not also false. I have received FBIHQ records from its Central File MURKIN files only. On a number of occasions during the processing of these Central records and specifically in a number of conferences with the FBI's representatives during the summer of 1977 I made specific requests for the searching of the separate files of several parts of the FBI, including the CRU. I was told what is ludicrous, that there are no such other files, that all files are in FBIHQ MURKIN files. The truth is that the FBI refused to search any CRU files.

3. The following statement appears at the bottom of the first page of the Argument: "Pursuant to his Freedom of Information Act request, plaintiff has received all non-exempt portions of the MURKIN file, including the CRU records..."

4. My request makes no mention of MURKIN. I was not even aware of that code designation when I made the request. As the transcripts of the calendar calls will show, I informed the Court that searches limited to these MURKIN files could not result in compliance. I have so informed the Department and the FBI on a number of occasions. Foregoing paragraphs of this affidavit contain illustrations of this.

5. I have not "received all non-exempt portions." The fact is that the opposite is admitted on the next page, under III: "Approximately 75 documents still remain to be processed by the originating agencies."

6. For a year or more I have made repeated requests of the FBI for these withheld records. The FBI refused even to ask these other agencies to process them.

7. The foregoing paragraph is also true with regard to other withheld records referred elsewhere in the Department.

8. This statement is under II on this same page: "Plaintiff also alleges that he has not received that portion of the Federal Bureau of Investigation's Memphis Field Office MURKIN files designated Sub G." This is false. I did receive some of

supervisory capacity" in this case. He claims to being "familiar with the procedures utilized by the FBI in processing FOIAPA requests" but he does not claim to have any first-person knowledge of the processing of the request in this case. He also limits himself to the processing of the MURKIN records, which did not begin until more than a half-year after the first calendar call in this case.

11. I believe that in accord with its practices with which I am painfully familiar over a long period of time, the FBI still again deliberately selected an agent without first-person knowledge. I did not write any one of my many letters specifying noncompliance to SA Beckwith, for example, so he can, if necessary, claim not to have seen any of those letters.

12. To the best of my knowledge only one of the agents who were in a supervisory capacity in this case is no longer alive. That agent is the late Thomas W. Lenehan. The report of his fatal heart attack is in the Washington Post of May 12, 1978. This is after SA Beckwith executed his secondhand affidavit.

13. During the processing of most of the MURKIN records, SA John Hartingh was the supervisor in charge. Had SA Hartingh been chosen to execute the affidavit, he could not have executed the affidavit to which SA Beckwith attests. SA Hartingh knows better.

14. I am not aware of the publication of any obituary of SA John Hartingh.

15. The analyst who processed most of the records provided is SA Ralph Harp. He was very much alive and in attendance upon this Court on May 10, 1978. But SA Harp also could not have executed such an affidavit as SA Beckwith's. SA Harp also knows better.

16. If there are special FBI regulations relating to "all records created at or received by FBIHQ pertaining to the investigation of the assassination of Dr. Martin Luther King, Jr.," which is how SA Beckwith's Paragraph 2 begins, I am not aware of any such special regulations.

17. If there are no such special regulations then this Paragraph contains falsity. The only alternative is that records remain withheld from me. If any such records are still withheld, then the penultimate sentence of this Paragraph is false in attesting that I have received all nonexempt records. The preceding paragraphs

this is my Item 12, relating to the CTIA and its members. Mr. Lesar and I are other illustrations of this.

19. I do not read anywhere in SA Beckwith's affidavit that my request rather than the government's substitution of it, the MURKIN file, has been complied with. In fact, as the preceding paragraphs indicate, my request has not been complied with.

20. SA Beckwith makes no mention of field office records. His language restricts him to "all records created at or received by FBIHQ." As the government's own witnesses testified in this instant cause about September 1976, most records are not in FBIHQ. Most are in the field offices. I cannot imagine that SA Beckwith does not know this.

21. Because his evasive and incomplete language relating to the CRU is used by government counsel as the basis for false representations to the Court, I quote it verb atim: "... the MURKIN investigation file contains records (sic) created by the Civil Rights Unit ..." (See paragraphs 199-203 and Exhibit 32)

22. The MURKIN files also contain a large assortment of nut letters and the ravings of the insane, neither of which I requested. But what SA Beckwith does not state and cannot state is that the MURKIN files contain all relevant records.

23. In his Paragraph (3) SA Beckwith does not state when any one of the 137 documents referred elsewhere was so referred. To my knowledge these referrals were made as far back as 1976. In stating what he regards as FBI policy, which is not relevant, SA Beckwith does not attest to what happened in this specific case or to any effort the FBI made to obtain clearance of any single referred record. In fact, the FBI has refused my request that it seek the cooperation of these other agencies.

24. If as his Paragraph (4) implies SA Beckwith made "A review of records at FBIHQ" and he failed to inform this Court that I had written the FBI FOIAPA unit many times about the missing Sub G Sections and that the FBI (and the Department) never once responded, he is deliberately withholding what he makes relevant in his affidavit. I have already attached as Exhibit 34 some of the FBI's own handwritten notes that are relevant, as well as my own annotation of the FBI's typed list of Memphis records.

25. Here again SA Beckwith is evasive, even if he were truthful. My request of the Memphis Field Office is not limited to its "non-exempt 'MURKIN' investigation

26. The attachments to SA Beckwith's affidavit are neither fair nor typical nor for the most part relevant to the Items of my request. Almost all bear the identifying initial of the Director. This is not true of most of the similar records provided to me. Not one of SA Beckwith's attachments claims any exemption. This also is not true of most of the copies provided to me. When there was this fine excuse for attaching copies of those twice-daily summaries provided to the Attorney General by the FBI, not one of the nine attachments is of such a summary. SA Beckwith's Exhibit C contains a self-fashioned petard. Its first page states there is "enclosure." The handwritten note added states "sent 7-22-68." The last page begins "Attached for approval is a letter to the Attorney General with copies to" others, copies that have not been provided to me. There is no attachment with SA Beckwith's Exhibit C. If the missing attachment, of which my counsel and I said much without success to the FBI, was the letter to the Attorney General, then the FBI's snail couriers were exceptionally lazy. It took them three days to get around to informing the Attorney General. This is not to state that the Attorney General sustained any great loss. Everything factual and relevant in Exhibit C had already appeared in the public press.

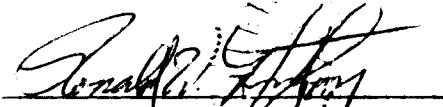


HAROLD WEISBERG

FREDERICK COUNTY, MARYLAND

Before me this 16th day of May 1978 deponent Harold Weisberg has appeared and signed this affidavit, first having sworn that the statements made therein are true.

My commission expires July 1, 1978



NOTARY PUBLIC IN AND FOR
FREDERICK COUNTY, MARYLAND



EXHIBIT 1

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

450 Golden Gate Avenue
P.O. Box 36015
San Francisco, California 94102

March 10, 1978

Reply, Please Refer to
File No. 190-120

Mr. James H. Lesar
910 16th Street N.W.
Suite 600
Washington, D.C. 20006

Dear Mr. Lesar:

Re: BENARD FENSTERWALD, JR.


This letter and the enclosed xeroxed document is in response to your Freedom of Information Act - Privacy Act request dated January 27, 1978.

No excisions or deletions have been taken from the document furnished to you.

Your patience has been appreciated.

Very truly yours,

CHARLES R. MC KINNON
Special Agent in Charge


B: JAMES L. WATTERS
Special Agent
Legal Section

Transmit in _____
(Type in plaintext or code)

Via airtel

(Priority)

To: SAC, Albany
From: Acting Director, FBI

Date 7-20-72

L.P.P.
RICHARD LEE BAST
REDEX CORPORATION
ELECTRONIC SURVEILLANCE

The Department has advised that captioned subjects have been indicted in the District of Columbia on Federal interception of communications charges.

Accordingly, the Department has instructed that procedures should be instituted to preclude the monitoring of subjects, their attorneys, or any defense strategy conversations until such time as prosecution has been completed and the Department issues notice that the restrictions may be removed.

In complying with this request from the Department, all offices should be guided by the instructions set forth in SAC Letter 69-43, dated 8/13/69, and apply them to all electronic surveillances now in operation as well as those installed while the above restrictions are in effect.

The Department has identified subjects' attorneys as: Philip J. Mirschkop, 503 D Street, Northwest, Washington, D. C., 20001, and Bernard Fensterwald, Jr., 905 16th Street, Northwest, Washington, D. C., 20006.

Bast resides in McLean, Virginia, and is employed by captioned corporation at 1404 New York Avenue, Northwest, Washington, D. C.

2 - All Offices

(Do not type below this line.)

66-672B-2078
SEARCHED INDEXED
SERIALIZED FILED

JUL 24 9 07 AM '72

FBI - SAN FRANCISCO

Carol
note + adv
Thurston to Ross
add to list
7/26/72

1-cc
1-cc
139-124
Jan

139-124

(This line for LEFT MARGIN.)

FBI

EXHIBIT 2

Date: 6/11/68

Transmit the following in _____
(Type in plaintext or code)

via AIRTEL _____
(Priority)

TO: DIRECTOR, FBI (44-3887)
(ATTN: FBI IDENTIFICATION DIVISION)

FROM: SAC, NEWARK (44-854) (P)

SUBJECT: MURKIN
(OO: Memphis)

*1 copy copy given to CPR 9-31-70
with identification of FBI issued
throughout document
PEN/jmb*

Re Newark teletype to Chicago dated 6/7/68, and Newark teletype to the Bureau, Memphis and Chicago dated 6/9/68.

Enclosed for the Bureau is a form newsletter bearing the heading, "The Royal Bank of Canada Monthly Letter."

For the information of the Bureau, JERRY RAY, subject's brother, was encouraged by [redacted] to travel from Chicago, Ill., to Camden, N.J., on 6/5/68, to visit her. This was their first meeting and JERRY RAY performed his travel by plane.

RAY stayed with [redacted] where [redacted] has a room. The landlady for this room is [redacted] who resides at the same location.

On 6/7/68, [redacted] said to [redacted] and [redacted] upon his arrival on 6/5/68, JERRY RAY had with him the 5/3/68, issue of "Life" magazine, which contains a cover story re instant matter. He also had a second issue of "Life" which had New York City Mayor JOHN LINDSAY on the cover. That issue contained additional information concerning MURKIN.

- 4 - Bureau (Enc. 1) (RM)
- 1 - Memphis (Info)
- 1 - Chicago (Info)
- 5 - Newark
- (1 - 137-6829)
- (1 - 137-6826)

JEO/eag

(11)

Approved: _____
Special Agent in Charge

Sent _____ M Per _____

ENCLOSURE

REC-19

JUN 13 1968

DEB

44-854-101
44-3887-1015

M. J. [signature]

WR

As he unpacked the magazines, JERRY RAY said [REDACTED] "Just between you and me, I saw my brother right after he escaped. We had a meeting place where he would meet on my days off." RAY did not say if these alleged meetings occurred after his escape from prison or after the murder of KING.

JERRY RAY also said he had visited his brother who owns a tavern in St. Louis, Missouri, after the assassination and before his first interview by the FBI. He stated that before the FBI contacted him, he saw the photograph of an individual identified as ERIC STARVO GALT with his eyes closed. He recognized this man as being identical with his brother JAMES EARL RAY.

JERRY RAY said if he told the FBI everything he knows, "with all of their resources" they would be able to "track him down." He stated, "I do not know where he is right now. I do not think I'll ever see him alive again." He explained his brother would probably not permit himself to be captured alive. JERRY RAY added that he did not want the subject apprehended because of the additional bad publicity it would result in for the RAY family. RAY further said he does not refer to the subject since the assassination by his real name but calls him STARVO or GALT. He did not explain why he does this.

RAY also said, "I tell the FBI only enough to keep them off my back."

On 6/5/68, RAY speculated [REDACTED] that the subject would probably flee the country to Mexico or Canada. He also said the subject was too hot for him to be in touch with now.

On 6/6/68, [REDACTED] asked JERRY RAY if his brother shot KING. He replied, "This is his business. I didn't ask him. If I was in his position and had 18 years to serve and someone offered me a lot of money to kill someone, I didn't like anyhow and get me out of the country, I'd do it."

Later the same day JERRY RAY commended [REDACTED] even if the subject confesses to committing the murder of KING, he, JERRY RAY, would not agree with him. He did not further explain this statement, [REDACTED] advised.

RAY said he now carries a gun from his room to his car. He keeps the gun in the trunk of his car. When he walks

to his room from his car, he removes the gun from the car trunk and takes it with him. He said he carries the weapon for personal protection.

RAY said the subject is a supporter of Presidential Candidate GEORGE WALLACE. He said the subject once drove a man to Alabama from possibly the California area so he could vote for WALLACE. He then identified this man by his photograph which appears in the 5/3/68, issue of "Life." It is noted [redacted] said the magazine states this man's name is CHARLES STEIN. JERRY RAY, [redacted] did not say when the trip to Alabama occurred.

JERRY RAY said he was considering moving his residence again to a place where the press and possibly the FBI would be unaware of. He also said he was thinking of beginning to use the alias of JERRY RYAN. He then displayed a new Illinois driver's license in the name of JERRY RYAN. He said he recently obtained that license for his own use. He did not further explain why he might change his address and begin to use an alias. He did not say he intended to leave his present job.

On 6/7/68, [redacted] said on 6/6/68, [redacted] asked JERRY RAY if he thought his brother shot KING. RAY replied by pointing out if he were in his brother's position of having an 18 year sentence to serve once he was apprehended and someone offered him money to kill someone he did not like and thereafter be able to leave the country, he would do it. RAY further volunteered at this point the subject might have fled to Canada or Mexico. He did not say anything further about where he thought the subject was.

Then [redacted] asked JERRY RAY where the subject got the money to buy instant white Mustang with. JERRY RAY replied, "They gave him part of the money. He put the money in a safety deposit box, but when he left, he drew it all out. It broke his heart to have to leave the white Mustang."

On 6/9/68, PCI also said on 6/6/68, [redacted] recalled RAY commented the subject was paid either \$100,000 or \$500,000. JERRY RAY said this while [redacted] and he were discussing if the subject killed KING. According to [redacted] JERRY RAY did not further explain his comment regarding the \$100,000 or \$500,000 sum. Neither PCI was able to extract a direct statement from JERRY RAY that the subject killed KING.

On 6/9/68, [redacted] said [redacted] received a telephone call from JERRY RAY. He said he was calling to alert [redacted] in

NK 44-854
JEO:lgd

JERRY RAY also told [REDACTED] he intends to visit the subject with his brother who owns a tavern in St. Louis when the subject is returned to the United States.

[REDACTED] received the impression from JERRY RAY that he did not know the subject was traveling as he was just before his arrest.

JERRY RAY also said he intends to travel to St. Louis, Missouri to confer with his brother who owns a tavern there within the next week. He said he will do this so he and his brother can agree on how they should handle inquiries from the Press. He said he might consult with an attorney himself so he would not mistakenly say anything in public which might be detrimental to the subject's case.

On 6/10/68, [REDACTED] advised [REDACTED] received on 6/3/68 an airmail special delivery envelope from JERRY RAY postmarked in Wheeling, Ill., on 6/1/68. The envelope contained a money order from JERRY RAY to [REDACTED] in the amount of \$40.00. The money order was about 8½" long by 3½" wide. The paper the money order was on was yellow in color and had a white edge. Across the bottom of the face of the money order was "PERSONAL MONEY ORDER" written in black letters. PCI said [REDACTED] could not recall noticing what kind of a money order it was.

[REDACTED] stated on 6/3/68 [REDACTED] cashed the money order at the First Camden National Bank and Trust Co. bank located in the 2800 block of Mt. Ephraim Ave., Camden, N.J. [REDACTED] accompanied [REDACTED] and put [REDACTED] name and the number of [REDACTED] account at that bank on the money order when it was cashed.

This money order represents one of several instances where JERRY RAY has mailed money orders or cash to [REDACTED] for [REDACTED] personal use. It is noted for the Bureau's information JERRY RAY is apparently quite fond of [REDACTED] and this is probably the reason he sends [REDACTED] money.

The money order was enclosed in a four page form-type newsletter bearing the heading of "THE ROYAL BANK OF CANADA MONTHLY NEWSLETTER". Beneath this heading appears the information this newsletter represents Vol. 15, No. 5.

FBI WASH DC

FBI ST LOUIS

927PM URGENT 5-1-68 JHH

TO: DIRECTOR MEMPHIS CHICAGO

FROM: ST. LOUIS (44-775)

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

5/1/68

MURKIN - SUMMARY

PHYSICAL SURVEILLANCE

DISCRETE-FISUR DISCLOSED JERRY RAY LEFT SL ELEVEN FIVE AM THIS DATE IN HIS CAR. CHICAGO ADVISED TELEPHONICALLY. NOT AT MAC ARTHUR HOTEL, APPARENTLY STAYED WITH BROTHER JOHN. NO INDICATION HE CONTACTED PERSONS OTHER THAN JOHN AND SISTER CAROL PEPPER.

JOHN RAY NOT AVAILABLE UNTIL LATE THIS AFTERNOON. SA'S CONTACTED HIM AT GRAPVINE TAVERN. HAD SEVERAL CUSTOMERS, BARMAID GONE, WAS TENDING BAR ALONE. WAS CORDIAL, BUT STATED COULD NOT TALK WITH CUSTOMERS PRESENT. ASKED SA'S RETURN ELEVEN AM TOMORROW FOR INTERVIEW.

REC-23 44-38861-2710

██████████ AKA ██████████ REINTERVIEWED. APPEARED COOPERATIVE. SA'S DID NOT DISCLOSE JERRY RAY VISIT BUT ASKED WHAT HAPPENED SINCE LAST CONTACTED. SUGGEST CHICAGO NOT MENTION ██████████ TO JERRY AT THIS TIME TO SEE IF HE VOLUNTEERS NAME.

END PAGE ONE

MAY 9 1968

Handwritten signatures and initials:
 [Signature]
 [Signature]

PAGE THREE

[REDACTED] BORN [REDACTED]. IS DISABLED
MARINE VETERAN. VA RECORDS WILL BE REVIEWED, SERIAL NUMBER
DETERMINED AND IDENT RECORD REQUESTED.

[REDACTED]
ALBERT PEPPER, BROTHER IN LAW OF SUBJECT WILL BE INTERVIEWED
TOMORROW MORNING PER BUREAU PHONE CALL THIS DATE.

ATTEMPT WILL BE MADE TO LOCATE PEPPER'S BROTHER, FRANKLIN
DANIEL PEPPER, [REDACTED]

[REDACTED] AT RESIDENCE OF PARENTS [REDACTED]
[REDACTED]

COVERAGE OF RELATIVES BEING INSTITUTED AS DIRECTED.

FELLOW PRISONER INTERVIEWS CONTINUING.

SUBJECT ARMED AND DANGEROUS.

END.

CAB

FBI WASH DC

7-10-1951

May 1, 1968

PLAINTEXT

TELETYPE

URGENT

1 - Mr. Long

TO: SACS, CHICAGO
KANSAS CITY
ST. LOUIS
SPRINGFIELD

FROM: DIRECTOR, FBI

MURKIN

FULL COVERAGE IS TO BE AFFORDED THE RELATIVES OF SUBJECT
RESIDING IN YOUR RESPECTIVE TERRITORIES. THIS WILL INCLUDE
A SPOT SURVEILLANCE OF THESE PERSONS AS WELL AS A DETERMINATION
OF THEIR ASSOCIATES AND INDIVIDUALS MAKING FREQUENT CONTACT
WITH THEM.

YOU SHOULD MAKE THIS A CONTINUING PROJECT
UNTIL OTHERWISE ADVISED BY THE BUREAU.

IT WILL BE FULLY INCUMBENT UPON EACH OFFICE TO BE COMPLETELY
AWARE OF ANY SITUATION IN WHICH THE SUBJECT CONTACTS RELATIVES

1 - MEMPHIS

REL: pb

(6)

MAIL ROOM TELETYPE UNIT

REC-71

EX 109

19 MAY 2 1968

FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION

PAGE TWO...

MAY 1 1968

TELETYPE

TELETYPE TO SAC, CHICAGO
KANSAS CITY
ST. LOUIS
SPRINGFIELD

RE: MURKIN

OF THE SUBJECT. YOU SHOULD INSURE THAT EACH RELATIVE IS
ADEQUATELY COVERED TO POSSIBLY ASSIST IN THE SUBJECT'S
LOCATION AND APPREHENSION.

ARMED AND DANGEROUS.

AIRMAIL COPY TO MEMPHIS.

NOTE: In view of the fact subject could possibly contact
his relatives, the offices covering residence of relatives
requested to provide full coverage to provide any information
whatsoever that could lead to the subject's apprehension.

Date 5-24-68

JOHN LARRY RAY, 1902a Cherokee, was interviewed at that location at which time he supplied the following information:

RAY identified a photograph of JAMES DAVID DAILEY as a person known to him only as "J.D." who at one time operated a tavern on Morrison Street in St. Louis and with whom RAY got involved in a fist fight with sometime in 1960. RAY is of the opinion that although he knows "J.D." by sight he does not believe that DAILEY knows him. RAY was unable to provide any information whether his brother, JAMES EARL RAY, and DAILEY have ever known each other.

RAY was questioned regarding his stay at the MacArthur Hotel in St. Louis at which time he readily stated that approximately two or three months ago he spent a night at the MacArthur Hotel with the night barmaid of the Grapevine Inn, NAOMI REGAZZI (phonetic). According to RAY he registered as Mr. and Mrs. JOHN RAY and provided a fictitious address. He was questioned regarding the address 1886 Wyoming at which time he stated it is entirely possible that he used that address when registering, however, it does not have any particular significance to him.

RAY stated that in the early fall of 1967, his father, JERRY RAYNES, had sold a house on Park Avenue in St. Louis and gave to RAY \$1000 to hold for him. RAY indicated that he had saved approximately \$3000 from various employments and indicated that on many occasions carried this cash on his person and stated that even to this date it is not unusual for him to carry \$500 or \$600 on him. RAY denied any of the money saved by him had been obtained in an unlawful manner. RAY supported this statement by saying that in the operation of the Grapevine Tavern it is necessary to have an abundance of cash for various bills and he also pays the employees at the tavern in cash.

RAY stated that in early August of 1967, he had decided to drive to San Francisco, California, in an attempt to invest the money he had at that time in a bar or other profitable business. He indicated that he drove alone to California, and while in San Francisco, stayed several days

5-18-68 at St. Louis, Missouri

File # [REDACTED]

SA [REDACTED]

SA [REDACTED]

Date dictated 5-20-68

at various cheap hotels in the downtown area, exact names unrecalled. He did say that he failed to find a suitable business opened and while on the return trip to St. Louis he decided to travel to Tijuana, Mexico. He related that he had heard of the numerous dishonest people and thieves in Mexico so while traveling through an unnamed town in Wyoming he purchased \$750 worth of travelers' checks. RAY stated that he then drove to Tijuana and after his arrival there stated it was extremely difficult for him to understand the language, that he did not like the place, and within two hours after his arrival departed en route to St. Louis, Missouri.

RAY stated the entire trip required approximately two weeks and he emphatically denied any knowledge of or contact with his brother, JAMES EARL RAY, during the trip or at any time following JAMES' escape from the Missouri State Penitentiary. He stated he never knew that JAMES RAY was in California, until the current publicity regarding him.

RAY added that upon his arrival in St. Louis during the last week of August, 1967, he opened bank accounts at the Manufacturers Bank and also the Jefferson-Gravois Bank. He indicated that both accounts were opened as the combined business hours of both banks were suitable to his own hours. RAY stated that deposits to open these accounts were made with the remaining cash he had on hand and the travelers' checks which he purchased in Wyoming.

RAY was questioned regarding the financial status of his brother, JAMES RAY, while he was in the Missouri State Penitentiary and RAY stated that he had no idea as to how much money JAMES had, however, he reiterated the previous recollection of statements made by JAMES during visits to the Missouri State Penitentiary that if he got out of the penitentiary he would leave the country. JOHN RAY stated that he assumed that his brother would have had sufficient money to do just that. He denied any knowledge of sources of income for his brother but he again assumed that if his brother was involved in the sale of amphetamine or in the loan business while in the penitentiary he would then presumably have made some money. RAY denied any knowledge or information that anyone outside the penitentiary owed money to his brother or was holding money for him.

FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE
COMMUNICATION SECTION

APR 26 1968

TELETYPE

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

FBI WASH DC

FBI ST LOUIS

1010PM URGENT 4-26-68 JLS

TO BUREAU, MEMPHIS, CHICAGO AND SPRINGFIELD
FROM ST. LOUIS (44-775)

MURKIN - SUMMARY

JOHN LARRY RAY, BROTHER OF SUBJECT, REINTERVIEWED. MORE COOPERATIVE. ADMITTED VISITING SUBJECT TWO OR THREE TIMES MSP. WAS IMPRISONED IN ILLINOIS PERIOD OF YEARS PRIOR TO SUBJECTS NINETEEN FIFTY NINE ARMED ROBBERY AND DENIED KNOWLEDGE OF SUBJECTS ACTIVITIES DURING SAME. AGAIN DENIED CONTACT WITH SUBJECT SINCE ESCAPE OR KNOWLEDGE OF HIS WHEREABOUTS.

The Jew
Long

████████████████████ EFFORTS DIRECTED TOWARD DEVELOPING LIQUOR PERMIT VIOLATION TO SERVE AS LEVER TO FORCE COOPERATION. SUPPLIERS OF GRAPEVINE TAVERN STATE DELIVERIES ARE COD AND PAID IN CASH BY WHO EVER IS ON DUTY. PUBLIC UTILITIES STATE BILLS PAID BY CASH OR MONEY ORDERS, NAME OF REMITTERS NOT YET KNOWN.

████████████████████ EMPLOYMENT ONE DAY MAY TWENTY EIGHT FIFTY EIGHT GLEN ECHO COUNTRY CLUB VERIFIED. *REC-110 44-38861-2243*

████████████████████ SOCIAL SECURITY NUMBER. *16 APR 29 1968 RESIDENCE*
ONE NINE ONE THREE HICKORY. NOT RECALLED BY EMPLOYEES.

END PAGE ONE

~~CODE TEXT LINE FIFTEEN HRS ABOVE'S SHOULD BE SUBJECT'S,~~
~~TEXT LINE SIXTEEN SHOULD BE USED~~

66 MAY 3 1968 *cc - Long*

sf

PAGE TWO

SL 44-775

COMMERCIAL BAKERIES UNABLE TO LOCATE RAY EMPLOYMENT TO DATE.

HIPPIE NEIGHBORHOODS NEGATIVE.

MOBERLY MO STATE TRAINING SCHOOL FOR MEN INMATE [REDACTED]

[REDACTED] STATED WHEN HE WAS AT MSP RAY INDICATED INTEREST IN LETTERS

[REDACTED] RECEIVED FROM MEXICO AND QUESTIONED REGARDING MEXICAN
ECONOMY AND ARMY STRUCTURE.

SUBJECT ARMED AND DANGEROUS.

END

GFH

FBI WASH DC

PLAINTEXT

May 2, 1968

TELETYPE

URGENT

1 - Mr. Long

COMMUNICATION SECTION
MAY 2 1968
11A

TELETYPE
TO: SAC, ST. LOUIS
FROM: DIRECTOR, FBI
MURKIN

ST. LOUIS WILL PROVIDE FULL COVERAGE AT THE GRAPEVINE TAVERN TO DETERMINE IF THE OWNER OR OPERATOR OF THE TAVERN IS POSSIBLY ENGAGED IN ANY ILLEGAL ACTIVITIES WHATSOEVER. ALONG THESE LINES, YOU SHOULD IMMEDIATELY ASCERTAIN IF THE TAVERN IS POSSIBLY LICENSED AND IS CONFORMING WITH PRESENT LAWS AND REGULATIONS GOVERNING THEM. THIS IS FOR THE PURPOSE OF DEVELOPING INFORMATION WHICH CAN BE UTILIZED IN CONNECTION WITH INTERVIEWS TO DETERMINE WHEREABOUTS OF SUBJECT. KANSAS CITY HAS ADVISED THAT SUBJECT RAY UTILIZED THE ALBERT PEPPER STATIONERY COMPANY, SEVEN ONE TWO A SHENANDOAH STREET, ST. LOUIS, MISSOURI, AS A MEANS OF GETTING MONEY OUT OF PERSON, ALLEGEDLY PURCHASING STATIONERY.

REC 5 4/4-8861 27c

EX 100

MAY 3 1968

[REDACTED]

MEMPHIS

REL: dby (4)

SEE NOTE PAGE TWO

66 MAY 3 1968

TELETYPE TO SAC, ST. LOUIS

RE: MURKIN

[REDACTED]
[REDACTED] IF GRAND JURY IS NOT
IN SESSION TO SUBPOENA RECORDS, YOU SHOULD INSURE THAT REVIEW
OF RECORDS CAN BE ACCOMPLISHED WITH FULL SECURITY AND THE
BUREAU'S INTEREST WILL BE FULLY PROTECTED.

ARMED AND DANGEROUS.

AIRMAIL COPY TO MEMPHIS.

NOTE: Kansas City has advised that Ray has utilized the
Albert Pepper Stationery Company of St. Louis, Missouri,
as a means of getting money out of the prison. [REDACTED]

St. Louis also being instructed to fully cover the Tavern
as owned and operated by subject's relatives and to ascertain
if illegal activities involved and to establish the Tavern
operating in compliance with regulations.

GEORGE McMILLAN
12 HILLIARD STREET
CAMBRIDGE, MASS 02138
PHONE 617 547-0260

Sept 14, 1973

Dear Jack:

That was a good letter you wrote about the blackberries, etc. Peacock is now living in Lewiston, not far from Ewing. I heard that his wife is an alcoholic and that he isn't doing much of anything himself.

My lawsuit to see you goes on, in fact my lawyers expect some kind of decision from the federal judge here in Boston within next two weeks. But, even if he acts in my favor, the government has recourses which will still delay my seeing you. I am now well along with my book and am working against a hard deadline of March 15, 1973. It is the absolute last date on which I can do anything with my manuscript. That means it will be published in the Fall of 1974, about a year from now. Book publishing is a very slow affair.

The thing I want to talk with you about now is ~~xxxxxxx~~ about what went on between you and Jimmy and Jerry and Jimmy in that year between the time he escaped from Jeff City and was arrested in London. I especially want to know about the time between Jeff City and Memphis. What I most want to do is check with you the story Jerry told me in Chicago in the summer of 1972 when I went out there two times to interview him. He told me one hell of a lot stuff. Then he sent me a tape on which he said he had conned me. I put all the stuff I got from him aside, telling myself it was probably all a lot of shit. Then the other day I looked at it again, read it all over carefully. I changed my mind about it. I decided that Jerry had told me the truth, that all the stuff was pretty much true, that maybe he had lied to me about some names, invented something here or there, but that the general story he told me was true. That's what I believe now, and I mean to use the stuff.

But I want to check it as much as I can. I've already checked a couple of things & they've turned out to be true. Sometime before I write this section I am going to Memphis and look at the FBI file on the case; that's been made available to me. Knowing what I know, some of the things in that ~~xxx~~ file might look different to me from what they looked to Frank and Huie.

(More)

PS I thought a man named Cason ran the pool hall? ~~xxxx~~ And barber shop. Did he come before or after Fat Brown? Or did Cason own it and Fat run it?

GEORGE McMILLAN
12 HILLIARD STREET
CAMBRIDGE, MA 02138
PHONE 617-547-6260

What I would like ~~is~~ more than anything is to check Jerry's story with you. What do you think about doing it by mail? I've just been taking for granted that this is something you wouldn't want to write me about. Am I wrong? Let me know. If it's OK with you, it's OK with me.

And I will ~~pay~~ pay you something for your help. Not a big sum. And I won't pay in advance. I've been had too often for that. But I will pay as we go along.

And if we don't do it now, I don't know when we will ever do it. Time is running out for me. And I'm going to use something so it might as well be the straight story.

I would like to talk with Jimmy. The Tennessee officials have given me permission. But Jimmy won't see me, just as he hasn't seen any writer. Jerry says that if Jimmy's current appeal is turned down in Cincinnati that Jimmy is going to talk, hold a press conference. Well, I doubt that there would be much for me in that press conference. Both Stoner and Foreman have urged Jimmy to talk with me but Fensterwald does not want him to.

I think he should. Mine is the last book that's going to be done in the foreseeable future. And he can't sell another "story" like he sold to Huie. Nobody is going to pay him anymore unless they check the story in advance. Oh, maybe some TV network might pay him a relatively small sum for an on-camera interview. But that wouldn't help anybody.

One more question. Do you have any pictures of your family? Your mother? Any old pictures of any kind of any member of the family?

Look forward to hearing from you soon.

Sincerely,

Mr. John Larry Ray #86798
Marion
Illinois

PS I ^{am} moving South Octobr 1st so answer this letter to me at
Coffin Point
Frogmore, South Carolina 29920

FBI WASH DC

FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION

EXHIBIT 9

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

FBI ST LOUIS

1040PM URGENT 5-2-68 JHH

TELETYPE

TO: DIRECTOR MEMPHIS KANSAS CITY CHICAGO

FROM: ST. LOUIS (44-775)

MURKIN SUMMARY

RE BUREAU TELETYPE TO ST. LOUIS THIS DATE.
RE GRAPEVINE TAVERN.

LICENSE OBTAINED BY CAROL PEPPER, SUBJECTS SISTER, AS SOLE OWNER AND OPERATOR, WHEREAS JOHN LARRY RAY, SUBJECTS BROTHER, WHO HAS CRIMINAL RECORD, HAS EVERY APPEARANCE OF BEING ACTUAL OPERATOR. ALLOWING RY-COM TO OPERATE IS GROUND FOR LICENSE REVOCATION UNDER STATE LAW. LEASE IS IN NAME OF CAROL PEPPER, AND RENT PAID BY HER CHECKS. UTILITIES IN HER NAME. SUPPLIERS PAID IN CASH ON DELIVERY. JOHN RAY EXECUTED MORTGAGE FOR PEER COOLER WITH CAROL AS CO SIGNER. FACTS WILL BE DISCUSSED HYPOTHETICALLY WITH ATU TO DETERMINE IF SUFFICIENT TO CONSTITUTE VIOLATION OF TITLE TWENTY SIX, SECTION SEVEN TWO ZERO SIX PARAGRAPH TWO, U. S. CODE. IF SO, WILL BE USED AS LEVER TO OBTAIN COOPERATION OF BOTH.

EX-116

REC 11 1/1-38861-2947

TAVERN BEING COVERED BY SOURCES AND SPOT CHECKS 1:25 MAY 7 1968
CONNECTION WITH COVERAGE OF JOHN RAY. HE HAS NO TELEPHONE AT RESIDENCE.

END PAGE ONE

44-775-6

FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE
COMMUNICATION SECTION

MAY 15 1968

TELETYPE

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

FBI WASH DC

FBI ST LOUIS

1126PM URGENT 5-14-68 JLS

TO DIRECTOR AND MEMPHIS

FROM ST. LOUIS

MURKIN - SUMMARY

[Handwritten signature]

RE [REDACTED] RAY AND JAMES

LAOMA OWENS ENTER JEFFERSON-GRAVOIS BANK SL SUMMER SIXTYSEVEN.
CURSORY CHECK OF ALL CHECKING SAVINGS AND INSTALLMENT LOAN ACCOUNTS
UNDER RAY NAME AND ALIASES AND JAMES LOAMA OWENS AT JEFFERSON-GRAVOIS
BANK SL BY BANK [REDACTED] TODAY UNPRODUCTIVE. CHECK IN DEPTH OF
ALL BANK RECORDS, INCLUDING SAFETY DEPOSIT BOXES, WILL BE MADE TOMORROW.

RE EX CONS [REDACTED] AND [REDACTED]

[REDACTED] TODAY ADVISED HE AND [REDACTED] VISITED [REDACTED]
[REDACTED] LAST NIGHT. ALLEGED [REDACTED] TOLD OF FBI INTERVIEW. BOTH
[REDACTED] AND [REDACTED] GAINED DEFINITE IMPRESSION [REDACTED] HAD HARBORED
RAY AFTER ESCAPE, THO [REDACTED] DID NOT ADMIT TO SUCH IN SO MANY WORDS.

RE [REDACTED] RINTERVIEWED EXHAUSTIVELY. AGAIN
DECLINED TO FURNISH SPECIFIC INFO RE DEEP SOUTH BANK ALLEGEDLY ROBBED
BY UN-NAMED MAN AND RAY, JUNE JULY SIXTYSEVEN, ON GROUND WANTED FEW
MORE DAYS TO DETERMINE IF SOMEONE ELSE AWARE OF SAME, SO HE WILL NOT
BE FINGERED AS SOURCE. INSISTED SAW ACCOUNT OF ROBBERY IN CHICAGO

END PAGE ONE

[Handwritten notes: Distel SACs, cc, De, No, 5-14-68, cc Jones]

REC-44 44-38861-303

MAY 16 1968

EX-115

57 MAY 23 1968

[Handwritten initials]

PAGE TWO

SL 44-775

TRIBUNE, BUT NOW PLACES TIME AS MUCH AS MONTH FOLLOWING HIS RELEASE JUNE TWENTY THIRD. NOTE CG CHECK OF TRIBUNE WAS TO END JULY SIXTY-SEVEN. PLACES VISIT OF UN-NAMED MAN FEW DAYS OR WEEKS AFTER TRIBUNE ARTICLE. NOW CLAIMS MAN TOLD HIM ON FIRST VISIT RAY WAS ACCOMPLICE. PLACES SECOND VISIT WITHIN THREE OR FOUR WEEKS OF FIRST, INSTEAD OF SIX WEEKS AGO, AS ORIGINALLY STATED. NOW SAYS MAN JUST CAME FOR CUP OF COFFEE; SECOND VISIT, AND THAT RAY OR TWO HUNDRED FIFTY DOLLAR LOAN MADE ON PREVIOUS VISIT NOT MENTIONED. WHEN CONFRONTED WITH DISCREPANCIES STATED "AS I'VE TOLD YOU, MY BRAIN DON'T WORK RIGHT". STATED MAN MUST HAVE OBTAINED [REDACTED] ADDRESS FROM RAY AND RAY [REDACTED] NOW SAYS STATE LINE RIVER WAS MISSISSIPPI AND CITY WHERE BANK ROBBED ON EAST SIDE OF RIVER.

TOLD OF VISIT BY [REDACTED] WHO HE KNOWS AS [REDACTED] AND ANOTHER MAN LAST NIGHT. SAID [REDACTED] ASKED FOR FOOD MONEY. [REDACTED] GAVE HIM THREE OR FOUR DOLLARS. THEY TALKED OF RAY BEING RED HOT NOW AND BOTH MEN LEFT.

[REDACTED] EMPHATICALLY DENIED HARBORING RAY, OR KNOWING WHEREABOUTS SINCE ESCAPE. WHEN ADVISED OF REPORT RECEIVED RAY SEEN NEAR HIS RESIDENCE HE STATED IF HE WAS, HE NEVER CAME INSIDE OR CONTACTED HIM IN ANY WAY.

[REDACTED] CLOSED AS [REDACTED] UNRELIABLE. BEING CONSIDERED POSSIBLE HARBORER.

END PAGE TWO

PAGE THREE

SL 44-775

RE CAROL PEPPER SISTER.

CAROL PEPPER RE-INTERVIEWED TODAY. SPECIFICALLY DENIED CONTACT BY OR KNOWLEDGE OF RAY WHEREABOUT SINCE ESCAPE, OTHER THAN WHAT READ IN PAPERS AFTER START OF THIS CASE. SAYS BROTHER JERRY IS ONLY MEMBER OF FAMILY WHO HAS NOT MOVED SINCE ESCAPE, AND IS ONLY ONE WHOSE PRESENT MAILING ADDRESS KNOWN TO RAY. SAYS GRAPEVINE TAVERN BARELY MAKING ESPENSES AND MAY NOT CONTINUE.

RE JOHN LARRY RAY, BROTHER.

JOHN RAY ONLY PERSON OPERATING GRAPEVINE TAVERN TODAY AND COULD NOT BE INTERVIEWED BECAUSE OF CUSTOMERS.

RE JERRY RAYNES, FATHER.

SOURCES AND SPOT CHECK DISCLOSED NO SIGNIFICANT ACTIVITY.

FELLOW PRISONER INTERVIEWS AND LOOK ALIKE RESOLUTIONS CONTINUING.

SUBJECT ARMED AND DANGEROUS.

END

BGM

FBI WASH DC

FP

APR 12 15 32

FBI

FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION

JUNE 1 1968

TELETYPE

EXHIBIT 11

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

NH
8:10 PM
6/1/68
JLS

per
Mr. Bishop
leg's

F

FBI WASH DC

FBI ST LOUIS

632PM URGENT 6-1-68 JLS

TO DIRECTOR AND MEMPHIS

MURKIN - SUMMARY

RE JERRY RAYNES, CAROL PEPPER, JOHN LARRY RAY.

SOURCES AND SPOT CHECKS DISCLOSED NO SIGNIFICANT ACTIVITY.

NO PERTINENT DEVELOPMENTS OTHER PHASES OF INVESTIGATION TODAY.

SUBJECT ARMED AND DANGEROUS.

END

GFH

FBI WASH DC

P

REC 11/14

4130

EX 109

14 JUN 5 1968

Deleted Copy Sent John Larry Ray
by letter 3/2/96
Per FOIA Request cy

54 JUN 13 1968

CC - *[Handwritten]*

[Handwritten]

6/25/68

JOHN LARRY RAY was interviewed at the Grapevine Tavern, Illinois and Arsenal Avenue, at which time he stated he had been closed the entire previous week for the safety of the patrons of the tavern, since on one occasion earlier in the week three car loads of Negroes were reported as observing the tavern. He indicated that he had also been hiding from reporters but would not reveal the location where he had taken refuge.

RAY indicated he had opened this bar this date for business as usual and NAOMI REGAZZI is currently working as barmaid for him. JOHN RAY stated there was no truth in regards to newspaper accounts of him having received a telephone call from Canada and stated that he does not know anyone in Canada. He indicated that he believed the telephone at the Grapevine Tavern is tapped and that the FBI and other law enforcement agencies would probably be aware of all of his phone calls. He did not specifically state that he believed the FBI was responsible for tapping his phone.

RAY also stated that he has had no contact from his brother, JAMES EARL RAY, and he further has no intentions of going to London, England, to see him. He commented that he doubted if he could get a passport for such a trip. He further denied that he has at this time retained any lawyer for his brother. RAY did state that he has written to his brother in London and told him to get in touch with his sister, CAROL PEPPER, if he needs anything as CAROL is the one who is most accessible. He provided his brother with CAROL's current address and telephone number.

RAY was again questioned regarding source of income for his brother at which time he stated that his brother never had any real needs for money as he was always able to pick it up by ways of burglaries or robberies during his travels. He indicated this was, of course, the reason why he was sentenced to the Missouri State Penitentiary.

RAY indicated that he had recently sold his Thunderbird automobile and had purchased a 1963, four-door, white colored Chrysler for \$500 from a private individual.

RAY stated that his brother JERRY RAY had arrived in St. Louis on the previous day from Chicago, Illinois, and stayed last night with his sister, CAROL PEPPER. RAY stated that JERRY was at the time of interview inside the tavern and stated he wanted to talk to the interviewing agent.

On 6/17/68 at St. Louis, Missouri File # _____
by SA _____ Date dictated 6/21/68

UNITED STATES GOVERNMENT

Memorandum

DIRECTOR, FBI (44-38861)

DATE: 4/30/68

SAC, ST. LOUIS (44-775) (P)

RE: MURKIN
CR

In connection with investigation being conducted by the St. Louis Office in captioned case it is deemed advisable for this office to obtain [redacted] information from [redacted] as hereinafter listed.

[redacted] Portageville, Missouri. [redacted] has been described as a close associate of subject, JAMES EARL RAY, and allegedly hid RAY out at the time he escaped from the Missouri State Penitentiary in April, 1967.

[redacted] Portageville, Missouri. [redacted] is operated by [redacted]

[redacted] operated in conjunction with [redacted]

[redacted] ALBERT and CAROL PEPPER, [redacted] Missouri. CAROL PEPPER is subject, RAY's, sister.

[redacted] Grapevine Tavern at 1982 Arsenal St., St. Louis, Missouri, operated by JOHN LARRY RAY, subject's brother.

[redacted] She is the landlady of [redacted] former cellmate and close friend of subject, RAY.

[redacted] JERRY RAYNES, RAY's father, who resides at [redacted] Center, Missouri

- 2 - Bureau (RM)
- 1 - St. Louis
- SJP/jtc
- (3)

REC-111 44-38861-2897
EX-111
1003

SL

44-775

[REDACTED]
[REDACTED] resided at [REDACTED].
[REDACTED] in St. Louis prior to his moving to Portageville,
Missouri about 30 days ago.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Bureau authority is requested permitting St. Louis
to obtain [REDACTED] information as above described.

FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION

MAY 2 1968
TELETYPE

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

FBI WASH DC

FBI CHICAGO

433 PM URGENT 5/2/68 EOM

TO DIRECTOR (44-38861) ST. LOUIS (44-775) KANSAS CITY (44-760)

SPRINGFIELD (44-561) AND NEWARK (44-854)

FROM CHICAGO (44-1114) 3P

MURKIN

Handwritten signatures and initials

[REDACTED]

EX-110 REC-78

44-38861-3006

RE BROTHER JERRY RAY. JERRY TELEPHONICALLY CONTACTS

CASE AGENT DAILY AND IS PHYSICALLY CONTACTED BY ANOTHER AGENT
ON A DAILY BASIS. HIS EMPLOYER AND COUNTRY CLUB MANAGER COM-
PLETELY COOPERATIVE AND WILL ADVISE OF ANY UNUSUAL ACTIVITY

Handwritten initials

END PAGE ONE

MAY 6 1968

55 MAY 10 1968

Handwritten signatures and initials

PAGE TWO CG 44-1114

ON PART OF JERRY. IN ADDITION SECURITY GUARD SERVICE FOR COUNTRY CLUB MAKES HOURLY CHECKS DURING EVENING TO DETERMINE THAT JERRY AT WORK.

AS PREVIOUSLY NOTED JERRY IS MAINTENANCE MAN FOR COUNTRY CLUB FROM ELEVEN PM UNTIL FINISHED NEXT MORNING, THEREBY HAS ACCESS TO FOUR PRIVATE PHONES AND SEVEN PAY PHONES LOCATED ON COUNTRY CLUB PREMISES. THE PAY PHONE IN THE COTTAGE WHERE JERRY RESIDES IS UTILIZED BY ALL OTHER MEMBER OF THE COTTAGE. IN LETTER TO MARJORIE FETTERS, CAMDEN, N. J., JERRY MAKES COMMENT INDICATING THAT PAY PHONE USED DURING CONTACT WITH HER.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

IN THIS REGARD OFFICES RECEIVING THIS TELE FURNISH PHONE NUMBERS OF RELATIVES AND KNOWN ASSOCIATES. NEWARK FURNISH PHONE NUMBER OF MARJORIE FETTERS. BUREAU WILL BE ADVISED OF TELEPHONE COVERAGE EFFECTED.

END PAGE TWO

PAGE THREE CG 44-1114

RE ASSOCIATES AND INDIVIDUALS MAKING FREQUENT CONTACTS WITH RELATIVES. [REDACTED] COOPERATING WITH THIS OFFICE.

[REDACTED] VERY APPREHENSIVE OF CONNECTION WITH SUBJECT BECOMING KNOWN. ALSO, DUE TO INFORMATION SET FORTH IN "LIFE" MAGAZINE, [REDACTED] CONCERNED OVER POSSIBLE LOSS OF BUSINESS FROM RESULTING NOTORIETY [REDACTED]

[REDACTED] ACCORDINGLY, NO DIRECT CONTACT WITH [REDACTED] ASSOCIATES CHICAGO WILL BE MADE PENDING ADDITIONAL INVESTIGATION DEVELOPING ANY ASSOCIATION OR POSSIBILITY SUBJECT AWARE OF [REDACTED] LOCATION, UACB.

FROM INTERVIEWS AND INVESTIGATION, JERRY RAY FRIENDLY WITH EMPLOYEES AT COUNTRY CLUB BUT HAS ONLY TWO CLOSE ASSOCIATES, BOTH EMPLOYEES. ONE IS SINGLE AND RESIDES IN SAME COTTAGE AT COUNTRY CLUB. THE OTHER MARRIED RESIDES IN MT. PROSPECT, ILLINOIS. ALSO DURING BRIEF MARRIAGE THIS AREA, JERRY DID NOT DEVELOP ANY ACQUAINTANCES OR ASSOCIATES AMONG EX-WIFE'S FRIENDS OR RELATIVES. AM CC TO MEMPHIS.

ARMED AND DANGEROUS.

END

WPK

FBI WASH DC

VIA TELETYPE
MAY 2 1968
ENCIPHERED

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

4:05 PM URGENT 5-2-68 JJR
TO DIRECTOR, MEMPHIS, AND KANSAS CITY
FROM ST. LOUIS

MURKIN.

RE MEMPHIS IT, APRIL TWO NINE, LAST, REQUESTING KANSAS CITY AND
ST. LOUIS RECOMMENDATIONS RE USE OF [REDACTED]

ST. LOUIS RECOMMENDS AGAINST USE IN ST. LOUIS AREA. EXISTING
SOURCES AND THOSE UNDER DEVELOPMENT IN ST. LOUIS BELIEVED ADEQUATE.

(P).

RECEIVED: 5:07 PM MKP

REC-74

44-38861-2799

EX-105

12 MAY 6 1968

70 MAY 10 1968

07

[Handwritten signature]

FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION

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

BI WASH DC

BI ST LOUIS

008PM URGENT 5-3-68 JLS

O DIRECTOR, MEMPHIS, CHICAGO, AND SPRINGFIELD

FROM ST. LOUIS (44-775)

URKIN - SUMMARY

RE: JOHN RAY. COVERAGE INCLUDING SPOT CHECKS CONTINUING.

RE: CAROL PEPPER. SAME. [REDACTED]

0 ITEMS OF SIGNIFICANCE IN LOCATING SUBJECT NOTED.

RE GRAPEVINE TAVERN. ATU REPRESENTATIVE QUALIFIED TO FURNISH AUTHORITY STATEMENT AS TO ELEMENTS AND EVIDENCE USUALLY NEEDED FOR LIQUOR TAX STAMP VIOLATION, AND FIRST ASSISTANT USA WHOSE OPINION REQUESTED ON MATTER, NOT AVAILABLE TODAY. WILL CONTACT MONDAY.

RE: JERRY RAY. IF HE CONTACTS OFFICE AS DIRECTED, SA WILL INTERVIEW BEFORE HE LEAVES SL AND BEFORE HE LEAVES CENTER, MO., TO OBTAIN RESULTS OF HIS CONTACTS WITH RELATIVES IN THIS DIVISION.

RE TELEPHONE NUMBERS.

REC-40 44-38861-2881

FOR ASSISTANCE OF OFFICES COVERING RELATIVES [REDACTED]

[REDACTED] FOLLOWING ARE PHONE NUMBER OF SL RELATIVES OR OTHER PERSONS OF INTEREST THIS CASE:

16 MAY 6 1968

PR SIX DASH NINE FOUR ONE SEVEN, GRAPEVINE TAVERN, JOHN LARRY RAY. NO PHONE AS RESIDENCE.

[REDACTED], ALBERT AND CAROL PEPPER.

[REDACTED], JERRY RAYNES, CENTER, MO.

[REDACTED], LANDLADY OF [REDACTED]

PAGE TWO

44-775

[REDACTED], FORMER RESIDENCE OF [REDACTED]
[REDACTED]

[REDACTED] PRESENT RESIDENCE

[REDACTED] PORTAGEVILLE, MO:
[REDACTED]

PORTAGEVILLE, BILLED TO [REDACTED]
[REDACTED]

[REDACTED] PORTAGEVILLE.
[REDACTED]
[REDACTED]
[REDACTED]

FELLOW PRISONER INTERVIEWS CONTINUING.

ARMED AND DANGEROUS.

D

K

I WASH DC

FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION

MAY 3 1968

TELETYPE

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

BI WASH DC

BI SPRNGFLD

5:56 PM 5/3/68 URGENT CEK

O DIRECTOR AND CHICAGO, MEMPHIS, DENVER, NEWARK,
EATTLE, AND ST. LOUIS

ROM SPRINGFIELD (44-561)

MURKIN, CR.

RE BUREAU TEL MAY ONE LAST.

RE FULL COVERAGE OF RELATIVES.

THREE CLOSE RELATIVES OF SUBJECT RESIDE IN QUINCY,

ILLINOIS AS FOLLOWS:

CR-110 REC-20 44-38861-2885

SISTER - MELBA MARIE RYAN, VIRGINIA HOTEL, VIRGINIA,

HOTEL TELEPHONE NUMBER TWO TWO THREE ZERO FOUR ZERO THREE.

STEPMOTHER - RUBY CARPENTER, [REDACTED]

[REDACTED], TELEPHONE NUMBER [REDACTED]

16 MAY 6 1968

AUNT - MRS. FRANK (MABLE) FULLER, [REDACTED]

[REDACTED], TELEPHONE NUMBER [REDACTED]

END PAGE ONE

66 MAY 9 1968

PAGE TWO

RUBY CARPENTER WORKS AS BABYSITTER AND DOES HOUSE
WORK ON PART-TIME BASIS.

FRANK FULLER AND WIFE ARE ELDERLY AND RETIRED.

AGENTS IN DAILY CONTACT WITH PATRONS, VIRGINIA HOTEL,
INCLUDING CIS AND APPROPRIATE COVERAGE MAINTAINED ON
CARPENTER AND FULLER.

[REDACTED]

END APGE TWO

5/3/68

PLAINTEXT

TELETYPE

URGENT

1 - Mr. McDonough

TO: SAC, ST. LOUIS (44-775)

FROM: DIRECTOR, FBI (44-38861) - 28.97

MURKIN

REURLET APRIL THIRTY LAST.

YOU ARE AUTHORIZED TO OBTAIN [REDACTED]

[REDACTED] INDICATED

WHICH HAVE NOT BEEN PREVIOUSLY AUTHORIZED. [REDACTED]

[REDACTED]

ARMED AND DANGEROUS. AIR MAIL TO MEMPHIS.

FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
COMMUNICATION SECTION

1 - MEMPHIS

MAY 3 1968

EJM:cs
(4)

TELETYPE

NOTE: In connection with investigation being conducted by St. Louis, that office requests authority to obtain information on [REDACTED]

[REDACTED] Portageville, Mo. [REDACTED] had been described as close associate of subject Ray and allegedly hid Ray out at time he escaped from Missouri State Penitentiary in April, 1967.

NOTE CONTINUED PAGE TWO...

5 MAY 1968 MAIL ROOM TELETYPE UNIT

NOTE CONTINUED:

[REDACTED], St. Louis, Missouri.
She is landlady of [REDACTED] former cell mate and alleged
close friend of subject Ray.

[REDACTED] Jerry Raynes, Ray's father who resides
at Center, Missouri.

St. Louis also requested authority to obtain
similar data on [REDACTED] Albert and Carol Pepper (sister
and brother-in-law of subject) and on the Grapevine Tavern
owned by Carol Pepper but operated by John Larry Ray, subject's
brother. This coverage has previously been authorized by
Butel 4/30/68.

McGowan
Long

5/9/68

PLAINTEXT

TELETYPE

URGENT

TO SAC ST. LOUIS (44-775)
FROM DIRECTOR FBI (44-38861)

1 - Mr. Long
1 - Mr. McGowan

MURKIN.

ADVISE BY RETURN TEL RESULTS OF REINTERVIEW WITH
[REDACTED] AND CURRENT DEVELOPMENTS INTO ASSOCIATES AND
BACKGROUND OF [REDACTED]

YOU ARE TO FURNISH BUREAU DAILY TELETYPE SUMMARY
WHICH SHALL INCLUDE BUT NOT BE LIMITED TO INFORMATION
DEVELOPED AS TO ACTIVITIES OF SUBJECT'S RELATIVES AND THEIR
ASSOCIATES IN YOUR AREA. THIS MATTER MUST BE VIGOROUSLY
PRESSED BY YOUR OFFICE. COPY MAILED MEMPHIS.

ARMED AND DANGEROUS.

EX-116

REG-104

44-38861-3260
EPI

SAC, Memphis (44-1987)

REC'D DEPT OF JUSTICE

CLM:vea
(5)

MAY 2 4 22 PM '68
SEE NOTE PAGE TWO
MAY 10 1968

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

FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION

MAY 9 1968

TELETYPE

MAY 16 1968 TELETYPE UNIT

NOTE:

Information was received that [REDACTED], former prison buddy of subject Ray, allegedly received two calls from Ray since the assassination. St. Louis had previously interviewed [REDACTED] and was instructed to reinterview him in detail regarding this matter. [REDACTED] reported to have been acquainted with subject and individual who has allegedly harbored ex-prisoners and St. Louis was conducting investigation concerning [REDACTED] and his recent associates. The closest relatives of the subject reside in St. Louis territory and St. Louis is being instructed to submit daily teletype summary regarding investigation into their activities in order to insure that investigation of the subject's family is being vigorously pursued.

UNITED STATES GOVERNMENT

Memorandum

JUNE

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

R
m
W. J. ...

TO : Mr. DeLoach *JR*

FROM : A. Rosen *A. Rosen*

SUBJECT: MURKIN

DATE: May 9, 1968

- 1 - Mr. DeLoach
- 1 - Mr. Rosen
- 1 - Mr. Malley
- 1 - Mr. McGowan
- 1 - Mr. Long
- 1 - Mr. Conrad
- 1 - Mr. Gale

PURPOSE: To recommend the installation of a technical surveillance (TESUR) on the telephones of Albert and Carol Pepper, St. Louis, Missouri, and the telephone listed to the Grapevine Tavern in St. Louis, Missouri, owned by Carol Pepper, subject's sister, and operated by John Larry Ray, subject's brother, and the installation of a microphone surveillance at the residences of Carol Pepper, and John Larry Ray, and at the Grapevine Tavern. These installations could assist in the early apprehension of the subject, which could possibly be instrumental in reducing the stresses and tension placed on our national security subsequent to the death of Martin Luther King, Jr.

RAY
DA

BACKGROUND: We are presently conducting exhaustive and extensive investigation to determine the present whereabouts of the subject James Earl Ray, who is one of the TEN MOST WANTED FUGITIVES. Although many hundreds of interviews have been conducted and leads run out, we have not been able to locate the subject nor have we located any person who can furnish us any information as to the subject's present whereabouts. It has been determined that Carol Pepper, the sister of the subject, and John Larry Ray, the brother of the subject, are the closest relatives to him. Carol is married to Albert Pepper and they reside at 2025 Belleview, St. Louis, Missouri, telephone number 645-2948. John Larry Ray resides at 1900 A Cherokee, St. Louis, Missouri, no telephone listed. Carol presently owns the Grapevine Tavern, 1982 Arsenal, St. Louis, Missouri, telephone number PR 6-9417. This tavern is operated by John Larry Ray.

John Larry Ray has expressed a cooperative attitude; however, it is felt that he is not giving us complete and accurate information. Carol Pepper refuses to submit to interview and is not cooperative. It is felt that if the subject telephones or personally contacts any of the relatives, it will most likely be Carol Pepper or brother John Larry Ray.

Enclosure *sent 5-13-68*

REL:ergery

MAY 3 1968

6 MAY 3 1968

EX-102

REC 11

CONTINUED - OVER

11 MAY 22 1968

1-3764

SIX

SPEC. MAIL RM

Memorandum to Mr. DeLoach
RE: MURKIN

RECOMMENDATION: That a technical surveillance be installed on the telephones of Albert and Carol Pepper and the Grapevine Tavern and a microphone surveillance be installed at the residences of Albert and Carol Pepper and John Larry Ray and at the Grapevine Tavern.

Attached for approval is a memorandum to the Attorney General requesting authority for this coverage.

*It is doubtful that
A.G. will approve.
- fees could be of
great assistance.*

*Ejm
Chad
JK
R
JSM*

J

SK

J

Memorandum

TO : Mr. Mohr

DATE: May 10, 1968

FROM : J. J. Casper

SUBJECT: MURKIN

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

Handwritten initials and signatures are present over the routing slip.

JUNE

Handwritten initials 'pa'

As shown in attached memorandum of May 9, 1968, from Mr. Rosen to Mr. DeLoach, consideration is given to microphone installations on certain properties of Albert and Carol Pepper. The proposal raises a question concerning the legality of any action taken against the subject of this case on the basis of information obtained from the microphones.

We believe these microphones can be installed and used without prejudicing the case against the subject. In a very recent decision of the United States District Court for the Southern District of New York, a listening device was installed on the premises of one Levine. Later, a subject named Granello, an associate of Levine, came up for trial and claimed that the listening device installed on Levine's premises, which was installed by trespass, was illegal as to him, Granello. It was not contended that any information obtained from the Levine microphone was used as evidence against Granello at trial either directly or as a lead. The court held that since Granello had no interest in the Levine premises, the monitor was not illegal as to him and he could not obtain a new trial or dismissal of the indictment. U.S. v. Granello, 280 F. Supp. 482 (1968).

Applied to instant case, this rule of law could work out in different ways. Assuming that the subject of this case is not on the premises to be surveilled by the means suggested, and has no possessory or other right in those premises, any information disclosed by the surveillance in some way, such as conversation among the Peppers, could be used to learn the whereabouts of the subject for purposes of arrest. The problem becomes somewhat more complicated, however, if the subject of this case made a telephone call to those premises and that telephone call were recorded and used as the basis for his apprehension. He then could claim that the surveillance violated his right of privacy in the telephone communication he made to that place, citing the Katz decision in the Supreme Court.

- Enclosure ~~2-1-68~~
- 1 - Mr. DeLoach
 - 1 - Mr. Conrad
 - 1 - Mr. Gale
 - 1 - Mr. Rosen
 - 1 - Mr. Malley
 - 1 - Mr. McGowan
 - 1 - Mr. Long

EJD/pal

6 MAY 31 1968

REC 11 44-38861-3763

31 MAY 22 1968

102
 13
 ↓

"CONTINUED - OVER"

Memorandum J. J. Casper to Mr. Mohr
RE: MARKIN

The worst that could happen in either of the above circumstances, however, - assuming that we follow the precautionary measures listed below - is that we illegally learn where the subject is located and thus are able to arrest him on that knowledge. The rule that comes into play here, established in the last century by the Supreme Court in Ker v. Illinois, 30 U.S. 347 (1886), is that an illegal arrest is no bar to prosecution. Wong Sun v. U.S., 371 U.S. 471 (1963); U.S. v. Hoffman, 385 F2d 501 (1967); Keegan v. U.S., 385 F2d 260 (1967). A person may be arrested unlawfully and actually kidnapped into the court having jurisdiction of the criminal case, yet the court still retains jurisdiction to try the person for the offense. The court would not allow the prosecution to use as evidence any information obtained through the illegal surveillance but the illegal surveillance would not taint the use of any other evidence obtained either before or after and which was gotten in a legal manner. Nor, to repeat, would the illegality of the arrest alone, resulting from whereabouts disclosed by unlawful surveillance, prevent the court from trying the subject for the offense.

If the action being considered is taken, we strongly suggest three precautionary measures, as follows:

(1) That all recordings be preserved intact. It may be necessary to disclose some of them to the court or even to the defense.

(2) That no use be made of any information obtained against anyone whatsoever or in any way whatsoever except for the single purpose of locating the subject in this case. As we well know by this time, evidence of the offense obtained in this manner is not admissible. It would not be admissible against the subject and it would not be admissible against the Peppers on a charge of harboring.

(3) Be aware that since this search and seizure is unconstitutional as to the Peppers, they have at least a theoretical cause of action for damages against those who installed the devices by trespass. Here again, however, if nothing learned by this surveillance is used against the Peppers in any way, their cause of action is diminished to the lowest possible degree, becoming that for a technical violation only rather than one of substantial harm to them. Moreover, in any such case the government of the United States should surely be willing to pick up the tab for any judgment had against those who installed the microphones.

RECOMMENDATION:

For information.

Handwritten initials: R, JJC, and others.

Handwritten notes: "PLEASE SEE ATTACHED" with arrows pointing to the right and a circled signature.

The Attorney General

JUNE

May 13, 1968

Director, FBI

- 1 - Mr. DeLoach
- 1 - Mr. Rosen
- 1 - Mr. McGowan
- 1 - Mr. Long

ASSASSINATION OF MARTIN LUTHER KING, JR.

James Earl Ray has been identified as the subject in the case involving the murder of Martin Luther King, Jr.

Extensive investigation has been conducted, and no information has been developed indicating his present whereabouts. In order to possibly assist in locating and apprehending the subject, it would be of extreme value to know if the subject has made any contact, either personal or by telephone, with his sister, Carol Pepper, as well as his brother, John Larry Ray.

Rozby

In view of the above, it is requested that you authorize installation of a technical surveillance at the residence of Carol Pepper and at the Grapevine Tavern, owned by Carol Pepper and operated by John Larry Ray. It is also requested that you authorize installation of microphone surveillance on the residences of Carol Pepper, and John Larry Ray, as well as the Grapevine Tavern.

5-14-68
EX: [unclear]
Room 205 949
NR

These installations could assist in the early apprehension of the subject, which could possibly be instrumental in reducing the stresses and tension placed on our national security subsequent to the death of Martin Luther King, Jr.

de

REL:vea
(7)

✓

NOTE: See memorandum A. Rosen to Mr. DeLoach dated 5-9-68, caption "MURKIN," RE:arg. EX-115

REC-23
UAW

44-2000-3509

11 MAY 17 1968

SENT FROM D. O.
TIME
DATE
BY

[Handwritten signature]

6 MAY 21 1968 TELETYPE UNIT

CONFIDENTIAL

1 - Mr. C.D. DeLoach
1 - Miss Holmes

The Attorney General

June 11, 1968

Director, FBI

JUNE

1 - Mr. Rosen
1 - Mr. W.C. Sullivan
1 - Mr. C.D. Brennan
1 - Mr. H.J. Rozanus

ELECTRONIC SURVEILLANCES

MURKIN

Reference is made to my memorandum dated June 4, 1968, captioned as above, pointing out that your decisions were urgently needed concerning requests for electronic surveillances on the individuals and organizations listed in my memorandum of May 23, 1968. Subsequent to the memorandum of May 23, 1968, a request for electronic surveillance was submitted to you on May 31, 1968, concerning the National Headquarters of the Students for a Democratic Society, Chicago, Illinois.

As you were previously advised, this Bureau is greatly concerned about the delays involved regarding the requests for electronic surveillances which have been submitted to you. While we are making every feasible effort to obtain essential intelligence data in the internal security field, we cannot hope to fulfill our responsibilities in the intelligence field unless the requested investigative techniques are made available. It is absolutely essential that in critical cases full coverage be given in areas of foreign intelligence, counterespionage, domestic subversion, and insurrection. The requests which are pending are in critical cases and in view of the developments during the past several weeks, particularly concerning activities of subversive organizations, civil rights groups, and organizations affiliated with the New Left, this Bureau must have consideration of the coverage requested of you.

I again find it necessary to bring to your attention that your delays involving requests for electronic surveillances are causing a loss of invaluable intelligence information. It is again requested that you furnish your decision as soon as possible concerning the requests which have been made.

68825-0718-99

CONFIDENTIAL

477 of 38861

~~CONFIDENTIAL~~ 57 OCT 11 1968

66-8160

MJR:pag/sib
(9)

~~CONFIDENTIAL~~

CONFIDENTIAL

JUN 14 1968
SEE NOTE PAGE TWO

Excluded from automatic
downgrading and
declassification

ton _____
occh _____
top _____
per _____
lcham _____
rod _____

DECLASSIFIED BY 6855
ON 9/8/77
OCT 11 1968

SENT FROM D. O.
TIME 5:00 PM
DATE 6-11-68
BY

MAIL ROOM TELETYPE UNIT

10/11

The Attorney General

~~CONFIDENTIAL~~

For your information, inasmuch as James Earl Ray has been apprehended, the request for electronic surveillances mentioned in my memorandum dated May 13, 1968, captioned "Assassination of Martin Luther King, Jr." is hereby withdrawn. (UNCLASSIFIED)

NOTE:

See memorandum C.D. Brennan to Mr. W.C. Sullivan, same caption, dated 6/10/68, prepared by MJR:sss.

This memorandum is classified "Top Secret" since unauthorized disclosure could result in exceptionally grave damage to U.S. intelligence interests.

~~Revised by 3002~~
~~1/21/77~~
~~[Signature]~~

7306 TJS/eh 2/21/77

2-3

INDEX

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

3/11/69

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

MR. TOLSON:

RE: JAMES EARL RAY
ASSASSINATION OF MARTIN LUTHER KING

Now that Ray has been convicted and is serving a 99-year sentence, I would like to suggest that the Director allow us to choose a friendly, capable author, or the Reader's Digest, and proceed with a book based on this case.

A carefully written, factual book would do much to preserve the true history of this case. While it will not dispel or put down future rumors, it would certainly help to have a book of this nature on college and high school library shelves so that the future would be protected.

Whom do you suggest?

I would also like to suggest that consideration be given to advising a friendly newspaper contact, on a strictly confidential basis, that Coretta King and Reverend Abernathy are deliberately plotting to keep King's assassination in the news by pulling the ruse of maintaining that King's murder was definitely a conspiracy and not committed by one man. This, of course, is obviously a rank trick in order to keep the money coming in to Mrs. King, Abernathy, and the Southern Christian Leadership Conference. We can do this without any attribution to the FBI and without anyone knowing that the information came from a wire tap.

Respectfully,

C. D. DeLoach

CDD:CSH (3)

cc Mr. DeLoach
Mr. Bishop

See ADDENDUM... page 2

44-38861-5651

REC-33

13 MAR 26 1969

100-101015
MAR 16 1969

Handwritten notes:
4/1/69
sent to Bishop
3/20/69
G...
See...

Handwritten signature: [Signature]

UNRECORDED COPY FILED IN

3/12/69

If the Director approves, we have in mind considering cooperating in the preparation of a book with either the Reader's Digest or author Gerold Frank. The Reader's Digest would assign one of their staff writers or contract the preparation of a book out to an established author. Gerold Frank is a well-known author whose most recent book is "The Boston Strangler." Frank is already working on a book on the Ray case and has asked the Bureau's cooperation in the preparation of the book on a number of occasions. We have nothing derogatory on him in our files, and our relationship with him has been excellent. His publisher is Doubleday.

NY

~~P~~

78 P

G.M. L.
F

Several Books Planned on Ray Case; First

to Be Out Next Week

By MARTIN WALERON

Special to The New York Times

MEMPHIS, March 12—"Next to cotton, James Earl Ray is Memphis's biggest industry," Percy Foreman said last fall after he succeeded Arthur J. Hanes as Ray's lawyer.

Mr. Foreman, who said he was promised no fee for defending Ray on a murder charge in the assassination of the Rev. Dr. Martin Luther King Jr., at the time also scorned what he referred to as the "pandering press" and its curiosity about Ray.

Books in Preparation

The chief target of the Houston lawyer's scorn seemed to be William Bradford Huie, the Alabama author who had bought the rights to Ray's life story and was getting handwritten memorandums from Ray in the Shelby County jail. Mr. Huie had written two articles about Ray for Look magazine.

This week, at least five books on James Earl Ray and the assassination of Dr. King were in preparation.

And Mr. Foreman had succeeded Mr. Hanes, of Birmingham, Ala., not only as Ray's attorney but also as a business associate of Mr. Huie.

One of the books on Ray and the assassination is ready for printing and distribution. It was written by Clay Blair, former editor of the Saturday Evening Post.

Other Authors

Bantam Books said that Mr. Blair's book, "The Strange Case of James Earl Ray," would be published next Monday or Tuesday. It will be a history of Ray and of the murder, with a chapter on the courtroom proceedings of last Monday when Ray pleaded guilty to murdering Dr. King and was sentenced to 99 years in prison. Other authors preparing books include Gerold Frank, who has written six best-sellers, among them "The Boston Strangler," and George L. McMillan of Atlanta, Ga. Mr. Squires, a Nashville newspaperman, and Mr. Huie.

Mr. Frank's book may be the most comprehensive. With a reported advance of \$100,000, the New York writer plans to spend two years researching and writing his book for Doubleday Co., Inc.

Other authors have expressed opinions as to which

Dr. King's murder was the result of a conspiracy, Mr. Frank said that he was trying to get more evidence before making a decision.

'History of Ineptitude'

"I hope my book will be a full history of the assassination of Martin Luther King and what happened on all levels. And if there was a conspiracy, I hope to know that. I will try to tell the entire unfolding story," Mr. Frank said.

"From Ray's history of ineptitude," he said, "I would assume that he was helped in the assassination or preceding it, but that it was not necessarily a conspiracy."

"If we knew the true motivation, it might well explode any idea of conspiracy," he continued. "On the other hand, you cannot apply the normal measures of logic to a man who has spent most of his life behind bars. If he did this alone, he may have been turned on for reasons lost in the depth of his own personality."

Doubts a Conspiracy

Mr. Frank, who began his research last July, said that he had not paid any money to any of the principals or to anyone else for information.

Mr. McMillan said that his book, "Portrait of an Assassin," would be a psychological study of Ray. It will be published by Little Brown & Co. Mr. McMillan said that he had a "very happy contract" and that foreign reprint contracts had already been signed by publishers in eight countries.

"I have always believed that James Earl Ray did it alone," he said. "This guy is a loner. And I have never investigated any aspect of a conspiracy, which has left me free to work on this biography."

Mr. McMillan said that he had hired a psychiatrist to help him interpret the psychological effect on Ray of his many years in prison, his background of poverty and his family life. "Things like, what does it do

to a guy to sleep in the same bed with his parents when he is growing up," he said.

Mr. McMillan said his book was to have been published four months after the end of Ray's trial. The date may be pushed forward, he said.

Mr. Squires's book to be published by New American Library, may be the second book out on Ray. Mr. Squires, who has covered the case for his newspaper, The Nashville Tennessean, said the writing should be completed in the next two weeks.

He said he hoped the book would be a "complete account of the murder of Dr. King, the arrest of Ray, the hiring and firing of Hanes and what went on in Memphis."

The book has not yet been titled.

Mr. Huie, who bought the publication rights to Ray's life story last July, originally had signed a contract calling for proceeds from a book to be split between himself, Mr. Hanes and Ray.

Disbelieves Theory

He paid an advance of \$25,000 to Ray, who signed the money over to Mr. Hanes as part of his legal fee.

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

- The Washington Post _____
- Times Herald _____
- The Washington Daily News _____
- The Evening Star (Washington) _____
- The Sunday Star (Washington) _____
- Daily News (New York) _____
- Sunday News (New York) _____
- New York Post _____
- The New York Times 20
- The Sun (Baltimore) _____
- The Daily World _____
- The New Leader _____
- The Wall Street Journal _____
- The National Observer _____
- People's World _____
- Examiner (Washington) _____

Date MAR 13 1969

5651
ENCLOSURE

Mr. Huie, a resident of Tuscumbia, Ala., who is the author of a half-dozen best-sellers, wrote in the two articles for Look magazine last fall that

Ray said there had been a conspiracy to murder Dr. King.

However, Mr. Huie said in Memphis this week that he no longer believed in the conspiracy theory.

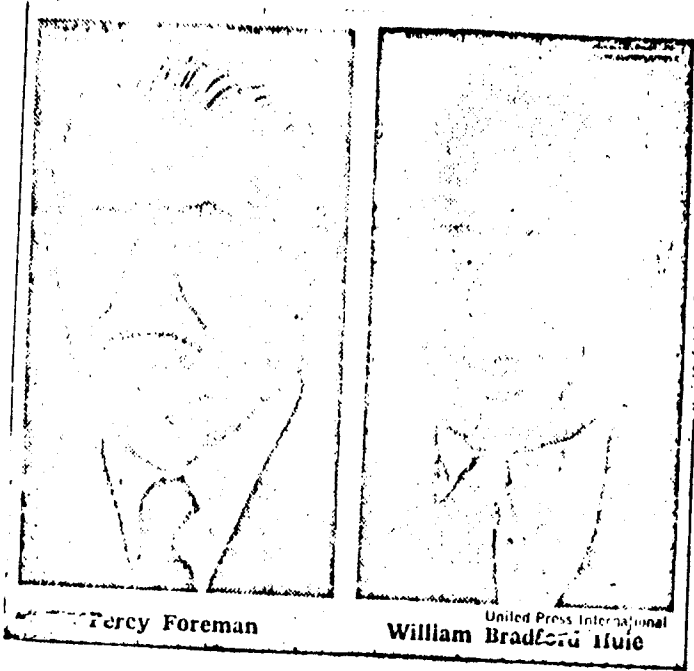
Mr. Huie said that Ray had told him that the assassin went into a rooming house and shot at Dr. King across the street while Ray was seated in front of the rooming house in the driver's seat of a white Mustang car.

The author quoted Ray as saying that the assassin rushed down the stairs of the rooming house and hid on the floor of the back seat of the car, covering himself with a sheet while Ray drove him out of town.

"When I could not find the man, I concluded that Ray himself made the decision to kill Dr. King," Mr. Huie said.

A third article for Look was prepared this week by Mr. Huie and Mr. Foreman. In addition, Mr. Huie is completing a book on Dr. King's assassination for the Dell Publishing Company. The book, which will concentrate on activities of Ray before and after the murder, has been tentatively titled, "He Slew the Dreamer."

Although Mr. Hanes still has a claim against a portion of the proceeds from the sale of Mr. Huie's book, the Alabama author told reporters in Memphis this week that he had a contract with Mr. Foreman.



Percy Foreman

United Press International
William Bradford Huie

RECORDED COPY FILED IN

UNITED STATES GOVERNMENT

EXHIBIT 25

Tolson	<input checked="" type="checkbox"/>
DeLoach	<input checked="" type="checkbox"/>
Mohr	<input type="checkbox"/>
Bishop	<input type="checkbox"/>
Casper	<input type="checkbox"/>
Callahan	<input type="checkbox"/>
Conrad	<input type="checkbox"/>
Felt	<input type="checkbox"/>
Gale	<input checked="" type="checkbox"/>
Rosen	<input checked="" type="checkbox"/>
Sullivan	<input checked="" type="checkbox"/>
Tavel	<input type="checkbox"/>
Tele. Room	<input type="checkbox"/>
Holmes	<input type="checkbox"/>
Gandy	<input type="checkbox"/>

Memorandum

TO : Mr. DeLoach

DATE: June 8, 1968

FROM : A. Rosen

- 1 - Mr. DeLoach
- 1 - Mr. Rosen
- 1 - Mr. Malley
- 1 - Mr. McGowan
- 1 - Mr. Long
- 1 - Mr. Mohr
- 1 - Mr. Bishop
- 1 - Mr. Conrad
- 1 - Mr. Gale
- 1 - Mr. Sullivan
- 1 - Mr. Trotter

SUBJECT: MURKIN

This is the investigation into the assassination of Martin Luther King, Jr.

Based upon stops placed by New Scotland Yard as a result of information furnished by the FBI, James Earl Ray was arrested at the London International Airport, London, England, today, 6/8/68, at 11:15 a. m. London time (6:15 a. m. Washington, D. C., time).

Ray was traveling under a Canadian passport issued in the name of Ramon George Sneyd. At the time of his arrest he had two Canadian passports under this name. One had been issued at Ottawa on 4/24/68 and the other had been issued by the Canadian Embassy at Lisbon, Portugal, on 5/16/68. Ray obtained a second passport by claiming that his original passport had been destroyed.

Ray at the time of the arrest was carrying in his hip pocket a fully loaded revolver. He is being detained by English authorities for carrying a concealed weapon and for entering the country with illegal documentation (the passport). Ray is to be arraigned in court in London on Monday, 6/10/68, at 10:30 a. m. London time. Ray cannot be interviewed by FBI personnel before his arraignment. Subsequent to the arraignment he can be interviewed only if he consents to submitting to such an interview.

The Legal Attache in London has advised that Ray's identity has been confirmed through fingerprints.

REC-31 - 4616

The White House, the Department of State, Secret Service and officials of the Department of Justice were appropriately advised of the apprehension of Ray. Also, Public Safety Director, Frank Holloman, of Memphis, Tennessee, was personally informed that Ray had been

ENCLOSURE

Enclosures

PERS. REC. UNIT

79 CLM:vea (12)

CONTINUED - OVER

SLX

The Attorney General asked me to come to his office at approximately 2:20 p. m. In his office were his wife, Assistant Attorney General Vinson, Assistant Attorney General Pollack, his Executive Assistant Sol Lindenbaum and the Deputy Attorney General, Warren Christopher.

The Attorney General first congratulated the FBI and stated that this was the greatest news he had ever heard. He next went into a long song and dance on the absolute necessity of security and the avoidance of evasion of civil rights of the subject, James Earl Ray. The Attorney General asked me questions concerning the quality of our Agent personnel in London and I told him we had absolute faith and confidence in these men, otherwise we would not have assigned them there. He stated he thought we should send additional men to London to assist in this case. I told him I thought this was both foolish and unnecessary. He asked me about Legal Attache Minnich's background and I provided this information for him. He asked me if the FBI had a representative in the same cell block with the subject. I told him we did not and that furthermore, inasmuch as this man was under British custody, we could not even talk to the prisoner unless he, the prisoner, agreed to interrogation. The Attorney General asked if we had a man next to the cell block. I told him we did not and that he must realize that this man was under British custody and, therefore, not the responsibility of American authorities. The Attorney General stated he would feel better if he knew the exact provisions under which security the prisoner was being maintained. I made no comment.

The Attorney General asked me if I thought it was necessary to send a Departmental representative to London. I told him I thought this was completely unnecessary if the representative would be going for the purpose of attempting to look into FBI activities. The Attorney General stated this representative would be going for the purpose of expediting legal activities, in connection with the extradition of the subject. He added that the Departmental representative would also check with the British authorities to make certain there was ample security. Furthermore, to make certain that the prisoner's civil rights were being protected.

The Attorney General asked me whom I thought should be responsible for bringing the prisoner back to the United States. I told him I previously discussed this with the Director and that the Director was agreeable to the FBI escorting the prisoner back to the United States. He asked how many men would do this. I told him we would utilize three very capable men. He stated he thought we needed more. I told him I disagreed and that three men

would be sufficient, particularly if handcuffs and leg irons were used. The Attorney General asked me if I thought military transportation or commercial transportation should be utilized. I told him that military transportation would probably be better and furthermore that the plane should land at a military base, possibly near Memphis, Tennessee, so that maximum security could be afforded. The Attorney General agreed. He then called Governor Buford Ellington in Tennessee and specifically asked him to expedite extradition proceedings by immediately making a request to the President of the United States so that the White House in turn could forward this request to the British Home Secretary. The Attorney General also told Governor Ellington that he would personally feel better if Federal officers (meaning the FBI) would escort the prisoner back to the United States. Governor Ellington agreed to all terms and stated that he would comply with the wishes of the Federal Government in this matter.

The Attorney General next turned to the Deputy Attorney General and asked him if he thought a Departmental representative should be sent to England. The Deputy Attorney General replied, "Without question." The Attorney General next asked the entire group whom they thought should be sent. He ventured the personal opinion that it should either be Vinson or Pollack. There was no comment. The Attorney General then stated that Vinson should go and should leave tonight, June 8, 1968. He asked that Vinson be placed in touch with our Legal Attache. I told the Attorney General that sending Vinson was his own business, however, I would like to make absolutely certain that Vinson did nothing to upset the very excellent relationship between the FBI and Scotland Yard. I stated that Vinson under no circumstances should attempt to push Scotland Yard around by insisting on different types of security. The Attorney General repeated that Vinson would be there primarily for the purpose of expediting legal activities. The Attorney General then told Lindenbaum to have several Bureau of Prisons officials go to Memphis early Monday, June 10, 1968, for the purpose of taking a look at the county jail in Memphis so that proper security could be afforded the prisoner once he was turned over to the state authorities. (This, of course, is none of the Attorney General's business inasmuch as once the prisoner is turned over to the state he is strictly the state's responsibility.)

Upon leaving, the Attorney General told me that he would like to sit down with me within the next several days and completely go over this case. I told him that we had already provided him with reports in the matter and that these reports, plus the press release of today, covered all necessary details. He made no comment other than to commend the FBI once again and to say that hard work paid off.

ACTION:

KENNETH L. BOUNDS

In the event extradition proceedings are successful and the FBI is called upon to bring the subject back to the United States, it is suggested that Legal Attache Minnich, Special Agent Supervisor Wilbur L. Martindale and Special Agent Supervisor [REDACTED] be assigned this responsibility. BOUNDS [REDACTED] is approximately 6 feet 4 inches tall, is in excellent physical shape, is a former firearms instructor and is currently assigned to the General Investigative Division here at FBI Headquarters. He has an excellent background. In the event the Director approves this recommendation, we will have [REDACTED] obtain a passport and the necessary medical shots so that he can proceed to London, England, upon instructions.

BOUNDS

I am advising Legal Attache Minnich this afternoon, June 8, 1968, that while he should confer with Assistant Attorney General Vinson he should not be "bossed around" by Vinson or allow Vinson to upset any delicate relations that we have with law enforcement authorities in England.

Done, 6/8/68

[Signature]



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

In Reply, Please Refer to
File No.

FOR IMMEDIATE RELEASE
JUNE 8, 1968

Attorney General Ramsey Clark today announced that James Earl Ray, an escaped convict being sought in connection with the fatal shooting of the Reverend Dr. Martin Luther King, Jr., in Memphis, Tennessee, on April 4, 1968, has been located in London, England.

FBI Director John Edgar Hoover said that Ray, who has used the name of Eric Starvo Galt and other alias, was detained by officers of New Scotland Yard at 11:15 a. m., London time, this morning. Ray was traveling under the name of Ramon George Sneyd and had two Canadian passports in that name in his possession. One passport had been issued at Ottawa on April 24, 1968, and the other had been issued May 16, 1968, at Lisbon, Portugal, by the Canadian embassy in that city. Mr. Hoover advised that Ray was located based on information furnished by the FBI to New Scotland Yard. At the time of his detention, Ray was passing through British immigration offices and was planning to take a flight to Brussels, Belgium.

44-1-4616
ENCLOSURE

Mr. Hoover said that Ray is now being held at London's Cannon Row Police Station under maximum security conditions. Mr. Hoover further advised that Ray was armed with a fully loaded pistol which was found in his hip pocket. He was wearing glasses and was dressed in a light colored raincoat, a sports jacket and gray trousers.

Director Hoover advised that Ray's arrest was the direct result of intensive investigation by the FBI pursued in all fifty states-- as well as in Canada, Mexico, Portugal, England and other countries. In particular, Mr. Hoover signaled out the outstanding cooperation received from the Royal Canadian Mounted Police and from England's New Scotland Yard.

FBI Director Hoover pointed out that Ray was detained in England based on his use of fraudulent documentation--a passport--and also on the fact he was carrying a concealed weapon. A 1st degree murder indictment was returned by the Shelby County Grand Jury in Memphis, Tennessee, on May 7, 1968, charging Ray and necessary extradition proceedings will be initiated shortly.

According to Mr. Hoover, Ray was added to the FBI's list of "Ten Most Wanted Fugitives" on April 20, 1968.

Mr. Hoover stated that the 40-year-old Ray is an escapee from the Missouri State Penitentiary at Jefferson City, Missouri. He was received at the institution on March 17, 1960, to serve a 20-year sentence following conviction in St. Louis for armed robbery and for operating a motor vehicle without permission of the owner. In April, 1967, he was reported missing from the State Penitentiary; and on July 20, 1967, based on information indicating Ray had fled from Missouri, an FBI complaint was filed at Jefferson City charging him with unlawful flight to avoid confinement for armed robbery.

On April 17, 1968, the FBI filed a complaint at Birmingham, Alabama, charging him, under the name of Eric Starvo Galt, with conspiring to violate the civil rights of Dr. King in violation of Title 18, Section 241, of the United States Code.

This FBI complaint charges that:

"On or about March 29, 1968, at Birmingham, Alabama, ... Eric Starvo Galt and an individual whom he alleged to be his brother, entered into a conspiracy which continued until on or about April 5, 1968, to injure, oppress, threaten, or intimidate Martin Luther King, Jr., ... in the free exercise or enjoyment of a right secured to him by the Constitution or

laws of the United States; namely, the right to freely travel from state to state. In furtherance of this conspiracy, Eric Starvo Galt did, on or about March 30, 1968, purchase a rifle at Birmingham, Alabama..."

Immediately after the fatal shooting, a 30.06 rifle with a telescopic sight was found near a rooming house on South Main Street in Memphis which overlooks the Lorraine Hotel and Motel where Dr. King was staying. Mr. Hoover said FBI Agents determined that the rifle had been purchased on March 30, 1968, from a gun dealer in Birmingham and that the telescopic sight was also purchased from this dealer.

On April 19, 1968, Mr. Hoover announced that a systematic and exhaustive search of latent fingerprints uncovered in the Dr. King case against the fingerprints of the over 53,000 persons for whom "Wanted Notices" had been posted in the files of the FBI's Identification Division led to the determination that Galt and Ray were identical.

FBI Agents also identified him as the owner of an abandoned 1966 white Mustang bearing Alabama license plates which was

located in Atlanta, Georgia, on April 11, 1968. As Eric Galt, he had purchased the Mustang from a private citizen in Birmingham on August 30, 1967. From that date until it was abandoned in early April, 1968, the car was driven more than 19,000 miles.

Mr. Hoover said that the fugitive's travels in the Mustang included trips to Los Angeles, New Orleans, Birmingham, Memphis and Atlanta, as well as to Mexico. He visited Mexico in October and November, 1967. He made a trip to Canada earlier in 1967 before purchasing the Mustang.

According to the FBI Director, while in Montreal, Canada, in the Summer of 1967, Ray enrolled as Eric Galt for a correspondence course in locksmithing offered by a school in New Jersey. He also took a course in bartending in Los Angeles early this year, graduating on March 2, 1968. In addition, he also took dance lessons in Long Beach, California, from December, 1967, to February, 1968.

Mr. Hoover said that a summary of the FBI's investigation in this case, together with the findings of the FBI Laboratory and the results of fingerprint examinations by the Identification Division, will be made available to Tennessee authorities.

Accused Slayer Of King Seized at London Airport

By JEREMIAH O'LEARY

Star Staff Writer

James Earl Ray, accused slayer of Dr. Martin Luther King Jr., was arrested today in London.

The 40-year-old fugitive was seized by Scotland Yard operatives at 11:15 a.m. (7:15 EDT) as he disembarked from an airliner en route from Lisbon, Portugal, to Brussels, Belgium. Atty. Gen. Ramsey Clark and FBI Director J. Edgar Hoover announced.

The FBI, which has sought Ray since King's death April 4 in Memphis, Tenn., said Ray had a snub-nosed, fully loaded revolver in his hip pocket when British police made the arrest. Ray was arrested on the basis of information furnished Scotland Yard by the FBI.

An announcement by Scotland Yard said Ray was charged with possessing a forged passport and possessing a firearm without a certificate.

Ray was wearing a light raincoat, sports jacket and gray trousers.

He was traveling with a Cana-



JAMES EARL RAY

dian passport listing him as Ramon George Sneyd. The FBI said he obtained the Canadian passport April 24 in Ottawa, Canada, where he apparently fled after King's assassination.

The arrest was announced as King's widow was attending funeral services for Sen. Robert F. Kennedy in New York.

Hoover said Ray had been traced by the FBI to Canada and that he had flown to London on May 7 with a round-trip ticket. In London, Ray had cashed in the unused part of the ticket in exchange for a ticket to Lisbon and a voucher for the difference of \$14.00.

Last night, Ray boarded an airliner in the Portuguese capital, checked his luggage through to Brussels and stopped in London only as part of a refueling stop.

The FBI, already aware of the false identity he had assumed, had alerted Scotland Yard to watch for anyone using the name Ramon George Sneyd.

The arrest came when Scotland Yard detectives checked the passenger list of the Lisbon to Brussels airplane at Heath Row International Airport in London.

The FBI said Ray's extradition to the United States will be sought on the basis of the murder charge filed against him by the State of Tennessee rather than the federal fugitive and civ-

See RAY, Page A-5

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ENCLOSURE

RAY

Suspect Is Captured In Slaying of King

Continued From Page A-1
ll rights warrants outstanding against him.

According to information reaching here, Ray refused to admit his identity but he was identified quickly by British police from fingerprints taken after his arrest. Ray is being held in London's Canon Row police station under maximum guard.

Washington officials said they understood he would be arraigned on the British charges against him on Monday and that extradition proceedings would be started as soon as possible.

Hoover said the arrest was the result of close cooperation between the FBI, the Royal Canadian Mounted Police and Scotland Yard. The FBI had lost Ray's trail in the first several weeks after the murder of Dr. King, but picked up his scent again after routine checks of all passports issued in the United States and Canada.

Ray had applied for and obtained the Canadian passport under the name of Sneyd, using the name of one Paul Bridgeman of Toronto as a reference.

Hoover said no Paul Bridgeman had been located in Toronto, but that was the name of one of Ray's fellow prisoners in the Missouri State Penitentiary at Jefferson City, Mo. Ray himself apparently used the name Paul Bridgeman during his stay in Toronto before flying to London on May 7.

He had continued his old habits of living in cheap boarding houses and frequenting bars during his stay in Canada, FBI agents learned. The pursuit of Ray intensified in mid-May when the FBI learned that he had gone to the Canadian Embassy in Lisbon to apply for a second passport under the name of Sneyd, saying that the first one had been spoiled.

Ray had been the object of an intensive, worldwide manhunt since King's death, even before the FBI knew the true identity of the man they sought. The accused sniper had left a confused network of false identities behind him from the day in April 1967 when he escaped from the Missouri prison until his arrest today.

The first alias he used was Eric Starvo Galt, under which name he traveled to Canada in the summer of 1967 and bought the white Mustang that linked him with the King slaying.

When the suspect bought the presumed murder weapon, a Remington Gamemaster 30.06 pump gun, in Birmingham, Ala., on March 30, 1968, he used the name of Harvey Lowmyer. And when he registered in the Memphis flophouse several hours before Dr. King was fatally wounded on the balcony of the nearby Lorraine Motel on April 4, he was calling himself John Willard, the FBI said.

It was not until the white Mustang was located in Atlanta, Ga., parked near the state capital building, on April 11, that the name of Galt entered the investigation. FBI agents already knew that an Eric S. Galt had registered at the Rebel Motel in Memphis the night before King's murder but had not been able to connect him with the crime.

Registration of the car in Alabama gave investigators the name of Galt but a week went by before the FBI determined that this, too, was a false identity.

The FBI found that a man using the name Galt had traveled to Canada, Mexico, the Los Angeles area and New Orleans in a 19,000-mile journey from September, 1967 until early April, 1968. FBI agents located photographs of "Galt" at a bartending school in Los Angeles, in possession of a Mexican prostitute in Puerto Vallarta, and at the home of a Los Angeles girl to whom the suspect had written a lonely-hearts letter.

But it was not until April 18 that the FBI determined that the fugitive's real name was James Earl Ray.

before we proceed any further?

I would like to know because I am under time pressure and I would like to know whether or not I am going to have to write a brief or not.

THE COURT: The Court didn't really expect to require briefs on the subject.

I think that as a matter of fact, the administrative claims may be presented to the Court for in camera inspection that maybe is the way to handle it.

I will say, and rule at this time, that an official working on official duty is not subject to the Privacy Act as such, and, therefore, their names should be given.

If they have done a test in their official capacity we would expect the name to be given. Indeed, I know of no such strain of the Act.

If the Government contests that, indeed, we will need some briefs on that one.

Meanwhile we will have to set this thing further. You are granted leave to file interrogatories with regard to this original -- the release of the original items.

Insofar as the items which are copyrighted you are as for copies of photographs which apparently are subject to copyright. I think they are really prohibited from making a copy under those conditions.

I really would have to go into that a little more

Now, I am aware of this and I don't really think that it ought to be ignored when they have gone on record that way. These are cases of national importance, and they also, I think, reflect in their present posture adversely on the FBI, and the longer they take to bring it out, the worse they are going to look.

I am not judging or prejudging what their position is. I am only saying it doesn't look well when they don't make a fast effort to bring it all out as fast as possible.

I think this is a different kind of case from the regular every-day run-of-the-mill. At least it isn't my idea. It is the Attorney General's idea.

Consequently, I don't think we ought to be picking about whether an agent who was employed by the FBI to do a job like fingerprints is not going to give his name. I just don't believe that was ever intended.

It has never been raised in any of the other matters, so when did they suddenly come up with this one?

That is what I am concerned with. I am concerned with getting the information out, clearing the air as fast as possible rather than having a situation that is something else,

The matter in the Cleaver case was a very narrow point. It did not involve this.

We realize that the FBI has limited funds, has limited personnel. But I do think, for their own sake as well as by the

UNITED STATES GOVERNMENT

Memorandum

Tolson	
DeLoach	
Mohr	
Bishop	
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Tele. Room	
Holmes	
Gandy	

Mr. DeLoach

DATE: June 19, 1968

COM: A. Rose *RW*

- 1 - Mr. DeLoach
- 1 - Mr. Rosen
- 1 - Mr. Malley
- 1 - Mr. McGowan
- 1 - Mr. Long
- 1 - Mr. Conrad
- 1 - Mr. Bishop
- 1 - Mr. Gale
- 1 - Mr. Mohr
- 1 - Mr. Sullivan
- 1 - Mr. Trotter

SUBJECT: MURKIN

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

The attached memorandum is being furnished to Assistant Attorney General Stephen J. Pollak of the Civil Rights Division with a copy to Assistant Attorney General Fred M. Vinson, Jr., of the Criminal Division.

The Department is being advised of the closing of the tavern operated by the subject's brother, John Larry Ray, after three carloads of Negroes were reported to be observing the tavern; that the news report of his brother receiving a telephone call from a friend in Canada is false; that his brother is not planning a trip to London, contrary to press reports; that sources in England state his brother would not be given permission to visit the subject if he did come to England; that Attorney Arthur J. Hanes, Sr., of Birmingham, Alabama, intends to apply for a passport for himself and his son for travel to England in connection with his reported representation of the subject; and that the subject appeared in London on 6-18-68, on the local charges and was given a remand until 6-27-68.

Legat, London has also received information in the strictest confidence that Ray wrote the Birmingham, Alabama, Bar Association requesting assistance and suggested his letter be forwarded through former Birmingham Mayor Hanes. This apparently refers to Arthur J. Hanes, Sr. London sources also advised that the subject refused to see two Scotland Yard officers on 6-14-68 and stated he would refuse to see FBI Agents if they asked to see him. Since the information has been furnished in confidence, it is not being given the Department.

A telephone number written in Portuguese, which was among notes found in Ray's possession when he was arrested, has been determined to be the telephone number of the African Embassy in Lisbon, Portugal. That Embassy has no

Enclosure *sent 6-19-68*

EJM:FJH:jlh

CONTINUED-OVER

(12)
JUN 24 1968

L.H.

JD

gfi

Memorandum to Mr. DeLoach
RE: MURKIN

knowledge of Ray. A check of banking institutions in Lisbon relative to Ray has been unproductive to date.

ACTION:

For your information. In accordance with the Attorney General's request that Assistant Attorney General Pollak be kept advised of pertinent developments, there is attached a letter to Mr. Pollak. This case is continuing to receive high priority attention. A copy is being furnished Mr. Vinson in accordance with his request of June 15, 1968.

DeLoach *Christy* ✓
R. J. M. *Jr*
J. G.

FBI

Date: 8/26/68

Transmit the following in _____
(Type in plaintext or code)

Via AIRTEL _____
(Priority)

TO : DIRECTOR, FBI
FROM : SAC, MEMPHIS (44-1987) (P)
SUBJECT: MURKIN

Enclosed for the Bureau are Xerox copies of the three documents described below. These were furnished by WILLIAM N. MORRIS, JR., Sheriff, Shelby County, Tenn., to [REDACTED] 8/23/68. *ROBERT G. JENSEN*

- (1) A map which purports to show how the subject escaped from the Missouri State Penitentiary.
- (2) Letter addressed by the subject to his sister, Mrs. CAROL PEPPER, 2025 Belvue, Maplewood, Missouri.
- (3) List of questions, unanswered, which appear to have been prepared for the subject by WILLIAM BRADFORD HUIE.

Since there is some question that this information may be privileged, it is not being disseminated and will not be put in a report.

This is furnished only for the Bureau's information.

REC-46

3 - Bureau (Enc. - 3) *MNO*
1 - Memphis
JCH:JMR

REC 46

44-38861-5162

EX-105

2 AUG 28 1968

ENCLOSURE ATTACHED

Del. _____

Sent _____ M Per _____

Dec 18 68.
Dear Mr. [unclear]
Tell Jack I got his letter, I also
got one from Jerry. Tell Jack I would
very asking him to come down but
an our time he got it since I
couldn't help, tell what the other
was behind or the letter, tell him
the judge has a K. or something
I want to talk to him about stones
also I think I got some cases of what
for him & for other, and that Home
will probably want to see them so
bring them to stay a couple days
in Birmingham, I can explain anything
when I see them. Try to come one
day except wed. & Thurs
Take it Easy Jerry



Mr. Carl Papp
2025 Bell Ave
Nashville, Tenn

ENCLOSURE

The material which you have written for me is most helpful. With it I can re-create your escape on April 23, 1967, your walk toward Kansas City, how you reached Chicago, and how you lived there for about two months, working at the Indian Trail Restaurant in Minnetka.

I need exactly this sort of information for every other period of your life from the day you left Chicago for Canada.... This 11 months from your escape down to about March 1, 1968.

I also need some additional detail as to your way of life inside the prison during the seven years prior to your escape.

Here are more questions:

In that seven years name for me all the people who visited you.

How often did you have a visit from somebody?

Estimate for me how many times you had a visitor during that seven years?

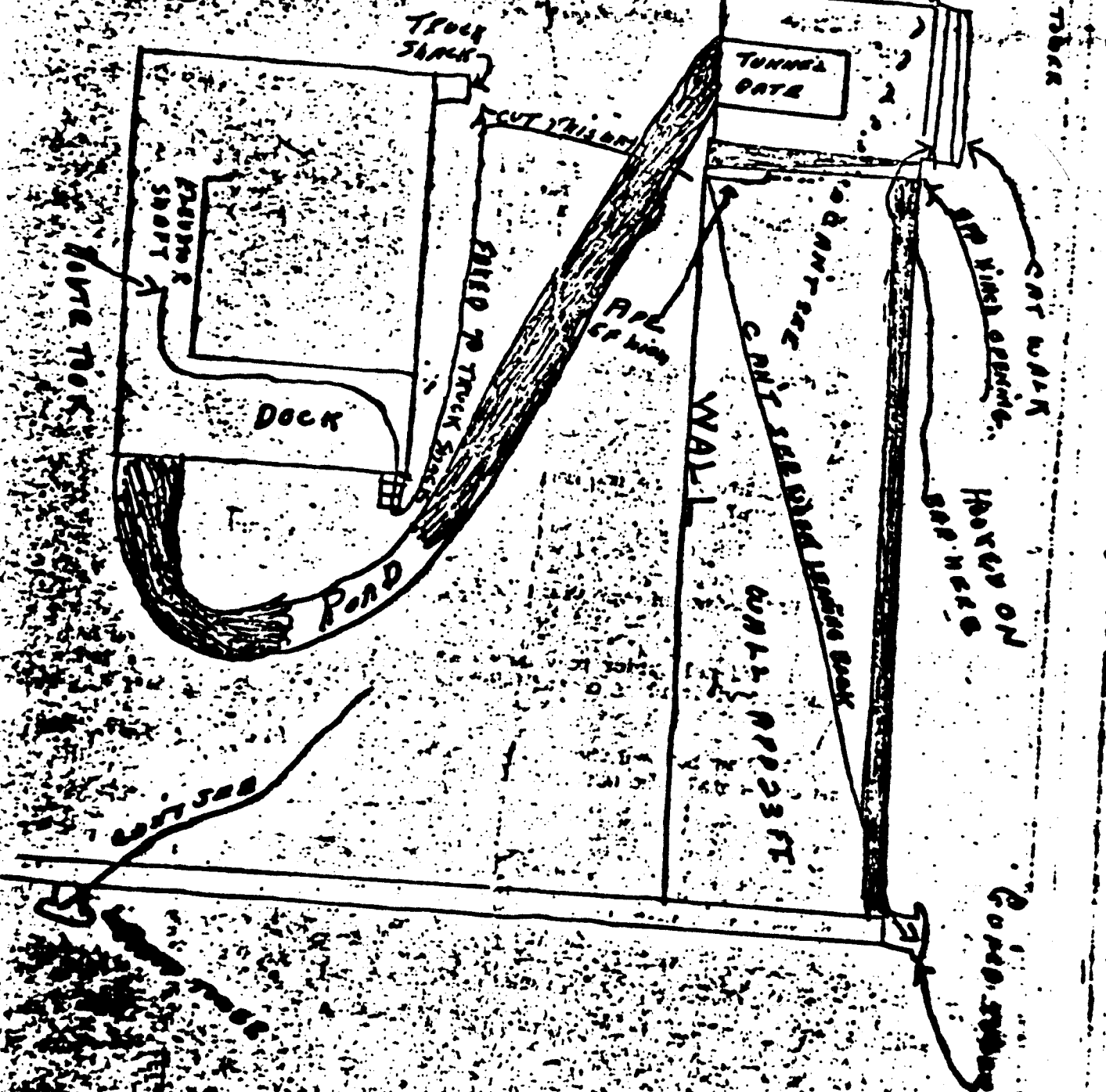
Did any women ever visit you?

Immediately prior to your escape on April 23rd, when had you had your last visitor? A month? Three months? Christmas? Six months?

Tell me how and where you slept in prison? Alone in a cell? With one cell-mate? Who was your last cell-mate?

Tell me about this last cell-mate? Who? What crime was he in for? Did he talk a lot? What about?

REPORTS ON HOW I GOT OUT
LAUNDRY TRUCK, BREAD TRUCK
IF THE WARDEN KNEW AND I GOT
OUT ASK HIM HOW COME HE
WAITED 24 HRS. BEFORE HE
REPORTED ME MISSING.



Memorandum

TO : SAC, MEMPHIS (44-1978) DATE: 10/27/76

FROM : SUPERVISOR JOHN L. SHELBURNE

SUBJECT: MURKIN

OO: MEMPHIS

On 10/27/76, Supervisor DONALD A. SMITH, Freedom of Information Unit, telephonically advised the writer of the following:

A verified request has been received from an individual as to information in the above-captioned file. The Bureau has been sued by this individual, the case going to the Court of Appeals and the Bureau has been ordered to submit certain information.

Mr. SMITH requested the following items to be located and sent to the Bureau:

Memphis teletype to the Bureau dated 4/5/68 with the title marked changed "UNSUB; Harvey Lomeier"(phonetic), sent at approximately 8:19 p.m., consisting of four pages. He desires a Xerox copy of the machine copy of all four pages.

Memphis airtel to the Bureau dated 4/6/68 that enclosed 13 photographs obtained from the PD which were taken of the victim at the hospital. He desires all 13 photographs.

Memphis airtel to the Bureau 4/7/68, captioned MURKIN, in which 47 photographs of the crime scene were enclosed. He desires copies of all 47 photographs.

San Francisco teletype to the Bureau, Atlanta, Birmingham and Memphis, dated 4/8/68 captioned MURKIN, sent by San Francisco at 4:06 p.m., and begins "On April 8, 1968, Inspector KEN MADLEY, San Francisco Police Department advised" This teletype is three pages. He desires a Xerox copy of all three pages.

Mr. SMITH requested that these be sent to him, attention FOI Section, SA DONALD A. SMITH, Room 5442 JEH. *44-1987-Subm 10E*

JLS:tjm
(1) *[Signature]*



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

EDWARD E. BAKER
EXECUTIVE ASSISTANT

PHIL M. CANALE, JR.

DISTRICT ATTORNEY GENERAL

FIFTEENTH JUDICIAL CIRCUIT OF TENNESSEE

COUNTY OF SHELBY

SHELBY COUNTY OFFICE BUILDING

157 POPLAR AVENUE

MEMPHIS, TENN. 38103

WILLIAM D. HAYNE
JAMES C. BRADLEY
EWELE C. RICHARD
JEWETT H. MILLER
J. CLYDE MANSON
BAR J. CATANTANO
LEONARD T. LATEL
CLAY N. SANDERS
ARTHUR T. BENNETT
PHILLIP E. KUBIN
T. E. CRAWFORD
DON D. STROTHER
DON A. DINO
JAMES H. CROSS
JOSEPH L. PATTER
BILLY F. GRAY

FLOYD A. RHODES
ADMINISTRATIVE ASSISTANT

JOHN L. CARLISLE
H. J. DEACH
L. E. HUTCHINSON, JR.
GEORGE A. BECKER
CRIMINAL INVESTIGATORS

EARL E. FITZPATRICK
NON-SUPPORT DIVISION

September 27, 1968

Hon. Stephen J. Pollak
Assistant Attorney General
Civil Rights Division
Dept. of Justice
Washington, D. C. 20530

Dear Mr. Pollak: In Re: State of Tennessee vs.
James Earl Ray

As you probably know, we have been doing extensive pre-trial work getting ready for the trial in the above styled matter on November 12, 1968. Prior to this time, we have received a number of investigative reports from the Federal Bureau of Investigation, but there are some reports which we desperately need in preparing for this case which have not yet been tendered to us. In some instances, we have received laboratory reports pertaining to certain physical evidence, but have not received the field reports which would indicate to us who recovered the evidence that was examined in the laboratory, and how and by whom same was transmitted to the laboratory for examination. Of course, we have to keep intact the chain of evidence in presenting this material at the trial.

It is urgently requested that, as soon as possible, this office be furnished with any and all available investigative reports originating and emanating from the following localities, whether such reports have been submitted by the Federal Bureau of Investigation, local law enforcement, or agencies outside the continental United States.

I make specific reference to the need for reports from the following localities:

Chicago, Illinois
New York City
Canada
London, England (We do have the
Scotland Yard report.)

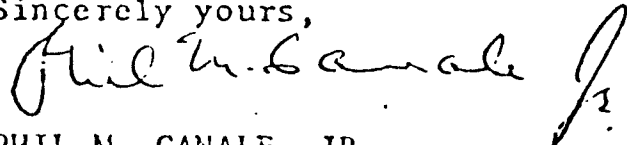
100-1234
SEP 29 1968
PAC

Mexico
Lisbon, Portugal.

Also, since the last report submitted to this office from field offices of the Federal Bureau of Investigation dated May 17, we have received no reports since that date, and we would like to have the results of any supplemental investigations. I refer specifically to the possible supplemental investigations from Atlanta, Georgia, Los Angeles, California, Birmingham, Alabama, New Orleans, Louisiana, Kansas City, Missouri, and Newark, New Jersey.

Thanking you for your assistance in this matter, I
am

Sincerely yours,



PHIL M. CANALE, JR.
District Attorney General

PMC:inn

CC: Hon. Ramsey Clark
Attorney General of the U.S.
Dept. of Justice
Washington, D. C.

CC: Hon. J. Edgar Hoover
Director
Federal Bureau of Investigation
506 Old P. O. Bldg.
Washington, D. C. 20535

ROBERT M. DWYER
DEPUTY ASSISTANT

LLOYD A. BROUEN
ADMINISTRATIVE ASSISTANT

JOHN E. CARLISLE
R. J. BROWN
E. MICHELESON, JR.
CLYDE R. VANDERSON
ORIGINAL INVESTIGATORS

APRIL E. FITZPATRICK
TELEPHONE SUPPORT DIVISION

PHIL M. CANALE, JR.
DISTRICT ATTORNEY GENERAL
FIFTEENTH JUDICIAL CIRCUIT OF TENNESSEE
COUNTY OF SHELBY

SHELBY COUNTY OFFICE BUILDING
157 FORLAN AVENUE
MEMPHIS, TENN. 38103

ASSISTANTS

WILLIAM D. HAYES
JAMES C. BEASLEY
EVELYN B. BISHOP
JEWETT H. HILLES
CLYDE HANSON
SAM J. CATANZAR
LEONARD T. LAFF
ARNDT E. BUNN
DON D. STROTHER
DON A. DING
JOSEPH L. PATTER
BILLY F. GRAY
EUGENE C. GALRI
HARVEY HERRIN
F. GLEN SISSON
JOHN W. PIEROTT

October 22, 1968

Mr. D. Robert Owen
Deputy Assistant Attorney General
Civil Rights Division
Department of Justice
Washington, D.C.

Dear Bob:

The three boxes of indices arrived, and I certainly appreciate your forwarding them to me. They are a beautiful piece of work and will be of great assistance to us in the trial of the Ray case.

I do feel it will be helpful for your secretary to come to Memphis and assist us in co-ordinating and checking our indices against yours to make sure neither one of us has overlooked anything, and also for her to explain to us any details regarding the indices which we could overlook.

If it is possible, I would like for her to come to Memphis on Monday, October 28. I have to be in Nashville on that date and part of Tuesday, but Mr. Dwyer, Mr. Beasley, and Mr. Carlisle will be back from their European trip by this weekend and your secretary can start right in with them and with my secretary Miss Fortinberry.

Will you please let me know if your secretary can be here on Monday, and if you will advise of her flight, I will make arrangements to have her met at the airport.

Thanking you for your co-operation, I am

Sincerely yours,

Phil M. Canale, Jr.

PHIL M. CANALE, JR.
District Attorney General

PMCJR:MEF

Haven't

Interview of Richard E. Long

Mr. Richard E. Long was interviewed at his office on December 30, 1976 by James R. Kieckhefer. Mr. Long was the Headquarter's Supervisor for the MURKIN investigation in 1968, operating from the Civil Rights Unit of the General Investigative Division. Mr. Long is presently Assistant Director of the Finance and Personnel Division of the FBI.

Long advised that he was assigned the MURKIN investigation because he had geographical responsibility for the Memphis Field Office. On April 5, 1968, he and the Chief of the Civil Rights Section, Clem McGowan, went to see Assistant Director Alex Rosen regarding the investigation. Rosen inquired as to how Long would maintain a "tickler system." Long at a later time explained to Rosen how his tickler system would be formed and utilized. Long stated that he maintained the system with approximately 35 key classification. This system was retained in addition to the MURKIN file.

Long stated that each day there were prepared for the Director two daily reports, one in the morning (9:00 am.) and one in the afternoon (1:00 pm.). He was assisted in these reports by Supervisor Frank Hadson and Dick Bates of the Civil Rights Unit who would read the incoming teletypes with him. Long and Bill Martindale would then prepare the memo for the Director. The memo would be forwarded to McGowan for signature, then to James Malley, then to Rosen, and then to DeLoach. These were only reports of the current investigation and did not contain recommendations, said Long.

Long said that DeLoach would offer many suggestions. If a matter of importance was received, DeLoach would be called by telephone. Long advised that there were no limitations or restrictions on the investigation. However, this case was handled in a somewhat different manner because Headquarters had responsibility for the conduct of the case. Generally, the office of origin (Memphis) had this responsibility and would provide Headquarters with up-to-date reports on a case. Long said that he was instructed to use all manpower he felt necessary to complete a full investigation of the assassination.

Long related a story told him by Rosen regarding the search of fingerprint fugitive files. Rosen said that the Director believed, after some point in the investigation, that the assassin was a

fugitive and recommended a search of appropriate files. Since the thumb print taken from an Atlanta map found at Galt's vacated room in Atlanta had a unique "ulner loop" and was a very clear print, this was used in the search of the fugitive files. The first 100 jackets of the file contained Ray's identity, and the other fingerprints obtained during the investigation matched the Ray file.

Regarding the directives from Headquarters, Long advised that they were standard procedure in a major case. He stressed that because of the importance of the case shorter deadlines were enforced. Again, Long added this was a massive investigation without restrictions. Long believes this was a complete, highly responsible and successful investigation by the FBI. Until Ray was apprehended, there was 24 hour supervision at FBI Headquarters.

Long stated that he was not really aware of the investigation by the Domestic Intelligence Division on Dr. King. He could not recall any contact with Division 5 and did not know that there were two agents from the Domestic Intelligence Division reading incoming teletypes. Although it is a possibility that this was being done if it was done it was without his knowledge.

Long stressed that the FBI was very concerned with Ray's source of funds, and believes that Ray committed some type of crime to finance himself. Long believes that Ray was a strong racist and used the example of Ray not attending a softball game at the Missouri State Penitentiary if blacks were even in attendance. Long explained that the Ray family was interviewed numerous times, but stated the Bureau was uncertain as to the veracity of any family members.

(Suggested Affidavit A)
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG

Plaintiff,

v.

CIVIL ACTION NO.
75-1996

UNITED STATES DEPARTMENT OF JUSTICE

Defendant.

AFFIDAVIT

I, (name of affiant), being duly sworn, depose
and say as follows:

(1) I am a Special Agent of the Federal Bureau of Investigation (FBI), assigned to the (name of field office) Field Office of the FBI at (city), (state). My responsibilities as a Special Agent include the handling of Freedom of Information Act (FOIA) matters within the (name of field office) Field Office.

(2) Pursuant to the request of FBI Headquarters (FBIHQ), received on August 10, 1977, I caused a search to be made of the General Indices of the (name of field office) Field Office, on (date of search), for all records and exhibits pertaining to the assassination of Dr. Martin Luther King, Jr., and filed under the FBI designated title for that investigation, "MURKIN." The method of search conducted was the same as that utilized to retrieve records necessary to fulfill the FBI's investigative responsibilities.

(3) Thereafter I (supervised or conducted) the review of those records and exhibits located pursuant to the

exhibits containing documents to FBIHQ, with the exception of those records previously directed or received from FBIHQ or the Memphis Field Office of the FBI which did not contain a substantive notation thereon. Those exhibits which contained items other than documents were not copied or forwarded to FBIHQ, however are listed below:

- a.
- b.
- c.

(Utilize last sentence of Paragraph 3 only if items of this nature were located; if no such items were located, add as last sentence of Paragraph 3 "No exhibits were located which contained items other than documents.")

(Name of affiant)
Special Agent
Federal Bureau of Investigation
(City and State)

Subscribed and Sworn to before me this _____ day of _____, 1977.

Notary Public

My commission expires _____

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG)

Plaintiff)

v.)

UNITED STATES DEPARTMENT OF JUSTICE)

Defendant)

Civil Action Number 75-1996

AFFIDAVIT

I, CLIFFORD H. ANDERSON, being duly sworn, depose and say as follows:

(1) I am a Special Agent of the Federal Bureau of Investigation (FBI), assigned to the New Orleans Field Office of the FBI at New Orleans, Louisiana. My responsibilities as a Special Agent include the handling of Freedom of Information Act (FOIA) matters within the New Orleans Field Office.

(2) Pursuant to the request of FBI Headquarters (FBIHQ), received on August 10, 1977, I caused a search to be made of the General Indices of the New Orleans Field Office, on August 10, 1977, for all records and exhibits pertaining to the assassination of Dr. Martin Luther King, Jr., and filed under the FBI designated title for that investigation "MURKIN." The method of search conducted was the same as that utilized to retrieve records necessary to fulfill the FBI's investigative responsibilities.

(3) Thereafter I supervised the review of those records and exhibits located pursuant to the search described in Paragraph (2) above and, on August 29, 1977, forwarded one copy each of said records and exhibits containing documents to FBIHQ, with

contain a substantive notation thereon. Those exhibits which contained items other than documents were not copied or forwarded to FBIHQ, however are listed below:

- a. Two cloth strips with laundry tags bearing codes 02B-6 and D2B-6;
- b. Photographs of artist's conception of unknown subject purchasing rifle in Birmingham;
- c. Photographs of DARREL DEXTER GATIN;
- d. Negatives of artist's conception of unknown subject by witnesses in Memphis and Birmingham;
- e. Photographs of bedspread in which gun was wrapped;
- f. Negatives of ERIC S. GALT;
- g. Photograph of subject with eyes closed;
- h. Color photographs of RONALD BARDIN SIMPSON;
- i. Photographs of JAMES EARL RAY, March 17, 1960;
- j. Photographs of JAMES EARL RAY, September 8, 1966;
- k. Photographs of WALTER TERRY RIFE;
- l. Standup photographs of RAY, March 28, 1955;
- m. Photographs of JAMES EARL RAY, 1960;
- n. Photographs of Continental Dance Studio Party;
- o. Negatives of JAMES EARL RAY and WALTER TERRY RIFE (no dates);
- p. Photograph of JAMES EARL RAY, January 4, 1966;
- q. Color photograph of CHARLES STEIN;
- r. Photographs of MYRAL TOMASCO;
- s. Photograph of CHARLES STEIN;
- t. Photograph of CHARLES JOSEPH STEIN, July 21, 1961;
- u. Photograph of JAMES L. OWENS;
- v. Photographs of JULES RICO KIMBLE.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG

Plaintiff

v.

UNITED STATES DEPARTMENT OF JUSTICE

Defendant

)
)
) Civil Action Number 75-1996
)
)
)
)
)

AFFIDAVIT

I, CLIFFORD H. ANDERSON, being duly sworn, depose and say as follows:

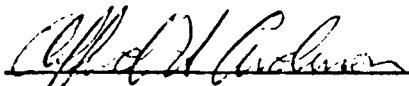
(1) I am a Special Agent of the Federal Bureau of Investigation (FBI), assigned to the New Orleans Field Office of the FBI at New Orleans, Louisiana. My responsibilities as a Special Agent include the handling of Freedom of Information Act (FOIA) matters within the New Orleans Field Office.

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- b. Photographs of artist's conception of unknown subject purchasing rifle in Birmingham;
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- d. Negatives of artist's conception of unknown subject by witnesses in Memphis and Birmingham;
- e. Photographs of bedspread in which gun was wrapped;
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- g. Photograph of subject with eyes closed;
- h. Color photographs of RONALD BARDIN SIMPSON;
- i. Photographs of JAMES EARL RAY, March 17, 1960;
- j. Photographs of JAMES EARL RAY, September 8, 1966;
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- o. Negatives of JAMES EARL RAY and WALTER TERRY RIFE (no dates);
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- q. Color photograph of CHARLES STEIN;
- r. Photographs of MYRAL TOMASCO;
- s. Photograph of CHARLES STEIN;
- t. Photograph of CHARLES JOSEPH STEIN, July 21, 1961;
- u. Photograph of JAMES L. OWENS;
- v. Photographs of JULES RICO KIMBLE.


CLIFFORD H. ANDERSON
Special Agent
Federal Bureau of Investigation



UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION
 701 Loyola Avenue
 New Orleans, Louisiana 70113
 February 3, 1978

In Reply, Please Refer to
 File No.

Mr. Harold Weisberg
 Route 12
 Frederick, Maryland 21701

Dear Mr. Weisberg:

We have received your letter dated January 28, 1978, in which you stated that we have applied a "limit" to your request for records. There has been no attempt by this office to apply any "limit" to your request. We have merely attempted to describe our records after a good faith search was made to locate records concerning your request.

In your letter you also have brought up the issue of a separate matter, Civil Action #75-1996, which concerns your request for Martin Luther King assassination files. As you have been previously advised, it appears that you presently possess the information retrievable in the New Orleans Field Office records concerning you, or that it is readily available to you at FBI Headquarters, Washington, D.C.

We have referred your latest communication to FBI Headquarters for any possible further processing.

Very truly yours,

FRANCIS M. MULLEN, JR.
 Special Agent in Charge

By:
 JOSEPH P. MC MAHON
 Supervisory Special Agent

- 1 - Addressee
- ① - Bureau
- 2 - New Orleans (1 - 190-34)
 (1 - 66-2855)

JPM:nmb
 (4)

JPM

701 Loyola Avenue
New Orleans, Louisiana 70113
January 23, 1978

Mr. James H. Lesar
Attorney at Law
910 Sixteenth Street, N.W.
Suite 600
Washington, D.C. 20006

Dear Mr. Lesar:

I have received your letter dated January 1, 1978, which enclosed an affidavit bearing Mr. Harold Weisberg's notarized signature. You requested all records of the New Orleans, Louisiana, Division of the Federal Bureau of Investigation on or pertaining to Mr. Weisberg, and records of any distribution of those records.

There are two main files in the New Orleans Division which pertain to Mr. Harold Weisberg. One concerns the civil suit Harold Weisberg versus U. S. Department of Justice (USDOJ), civil action 75-1986. The other main file concerns Mr. Weisberg's request regarding records of the assassination of President John F. Kennedy and others, which, as you are aware, is being processed pursuant to the provisions of the Freedom of Information and Privacy Acts (FOIPA) at FBI Headquarters, Washington, D.C. Mr. Weisberg presently possesses the information in both these FBI files, which are available at FBI Headquarters, Washington, D.C.

The only other references to Mr. Weisberg in the files of the New Orleans Office of the FBI are in regard to the assassination of President John Fitzgerald Kennedy at Dallas, Texas, on November 22, 1963. This information was previously processed under FOIPA legislation and released at Washington, D.C. It is available to public scrutiny in the Reading Room at FBI Headquarters, Washington, D.C., or copies may be obtained from that location at the cost of ten cents per page.

- 1 - Addressee
- 1 - Bureau (Enc. 1) (ATT: FIELD COORDINATION UNIT, FOIPA BRANCH)
- (3) - New Orleans (2 - 190-34)
(1 - 66-2855)

RPT:nmb
(5) *nmk*

SERIALIZED _____

Exempt in 6 mos. (5 yrs) 10 yrs.

done
190-34-3

It appears that either Mr. Weisberg presently possesses the information contained in the New Orleans records or it is readily available at FBI Headquarters, Washington, D.C. The processing of these records has been accomplished at Washington, D.C., as required by the Code of Federal Regulations, Section 16.57(c). FBI Headquarters has been notified of these facts.

Very truly yours,

FRANCIS M. MULLEN, JR.
Special Agent in Charge

By:
JOSEPH P. MC MAHON
Supervisory Special Agent

ADDENDUM:

Enclosed for the Bureau is one Xerox copy of letter of JAMES H. LEMAR dated 1/1/78, with enclosed affidavit of HAROLD WEISBERG.

HQ0037 2221952

PP AT BH LA NO WF CG SL

DE HQ

P 121915Z AUG 77

FBI DIRECTOR

TO ATLANTA PRIORITY

BIRMINGHAM PRIORITY

LOS ANGELES PRIORITY

NEW ORLEANS PRIORITY

WASHINGTON FIELD PRIORITY

CHICAGO PRIORITY

ST. LOUIS PRIORITY

BT

CLEAR

Murkin 157-10673

9 6 1 1 4 1 1

EROLD WEISSER V. U.S. DEPARTMENT OF JUSTICE (U.S.D.C., D.C.)

CIVIL ACTION NO. 75-1996, FREEDOM OF INFORMATION ACT (FOIA)

DEADLINE: AUGUST 31, 1977.

IN CONNECTION WITH CAPTIONED CIVIL ACTION THIS
BUREAU HAS ENTERED INTO A STIPULATION TO PROCESS
PURSUANT TO THE FOIA CERTAIN DOCUMENTS PERTAINING TO

8

40

*ORA
C. B. B.
8/29*

197-1-1

SEARCHED _____	INDEXED _____
SERIALIZED _____	FILED _____
AUG 30 1977	
FBI - NEW ORLEANS	

[Signature]

Copy of response to CG 2855

PAGE TWO CLEAR

THE ASSASSINATION OF DR. MARTIN LUTHER KING, JR.

(MURKIN) CONTAINED IN THE FILES OF YOUR FIELD DIVISIONS.

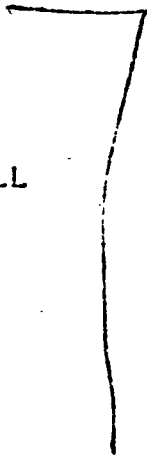
TO FACILITATE COMPLIANCE WITH THIS STIPULATION, EACH RECIPIENT SHOULD CONDUCT A SEARCH OF YOUR INDICES FOR ALL MAIN FILES IDENTIFIABLE WITH MURKIN. THEREAFTER, ATLANTA, BIRMINGHAM, LOS ANGELES, NEW ORLEANS, AND WASHINGTON FIELD SHOULD FORWARD TO FBIHQ ONE XEROX COPY EACH OF ALL DOCUMENTS, INCLUDING BULKY EXHIBITS AND 1-A'S WHICH MEET THE FOLLOWING CRITERIA: (1) ANY DOCUMENT IN THOSE FILES WHICH WAS NOT DIRECTED TO, NOR RECEIVED FROM, FBIHQ OR MEMPHIS FIELD DIVISION (FBIHQ FILES HAVE BEEN PROCESSED AT MEMPHIS FILES ARE CURRENTLY BEING PROCESSED FOR THE JESTER); (2) ANY DOCUMENT IN THESE FILES WHICH HAD BEEN COMMITTED TO, OR RECEIVED FROM, FBIHQ OR MEMPHIS BUT WHICH CONTAINS A SUBSTANTIVE, PERTINENT NOTATION - OTHER THAN AN ADMINISTRATIVE TYPE DIRECTIVE FROM A SUPERVISOR TO AN AGENT - THAT WOULD NOT APPEAR ON THE FBIHQ OR MEMPHIS COPY. BULKY EXHIBITS OR 1-A'S, HOWEVER, WHICH CONTAIN MATERIAL OTHER THAN DOCUMENTS, SUCH AS PHYSICAL EVIDENCE, SHOULD NOT BE COPIED FOR PROCESSING BUT SHOULD BE LISTED SEPARATELY IN YOUR COVER COMMUNICATION.

PAGE THREE CLEAR

CHICAGO AND ST. LOUIS SHOULD FORWARD TO FBIHQ A XEROX COPY EACH OF ONLY THOSE DOCUMENTS, INCLUDING BULKY EXHIBITS AND 1-A'S, IN THE MURKIN FILES WHICH (1) RELATE TO JOHN RAY, JERRY RAY, JAMES EARL RAY, CAROL PEPPER AND ALBERT PEPPER, AND WHICH WERE NOT SUBMITTED TO, NOR RECEIVED FROM, FBIHQ OR MEMPHIS AND (2) WHICH RELATE TO THOSE SAME PERSONS AND HAVE BEEN SUBMITTED TO, OR RECEIVED FROM, FBIHQ OR MEMPHIS BUT CONTAIN SUBSTANTIVE, PERTINENT NOTATIONS AS DESCRIBED ABOVE. FOLLOW THE SAME INSTRUCTIONS FOR BULKY EXHIBITS AND 1-A'S AS DESCRIBED ABOVE.

ALL COPIES SUBMITTED SHOULD BE CLEARLY LEGIBLE, AND SHOULD BE SENT REGISTERED MAIL, MARKED TO THE ATTENTION OF RECORDS MANAGEMENT DIVISION, FREEDOM OF INFORMATION-PRIVACY ACTS BRANCH.

ADDITIONALLY, ONE AGENT IN EACH FIELD DIVISION SHOULD SUBMIT AN AFFIDAVIT WHICH CAN BE FILED IN COURT ATTESTING THAT A SEARCH HAS BEEN MADE IN THE FIELD DIVISION FOR ALL FILES PERTAINING TO MURKIN IN ACCORDANCE WITH INSTRUCTIONS FURNISHED ABOVE AND CITING THOSE FILES LOCATED; (2) THAT ALL THOSE MURKIN FILES HAVE BEEN REVIEWED AND COPIES OF ALL



PAGE FOUR CLEAR

DOCUMENTS CONFORMING TO THE ABOVE CRITERIA HAVE BEEN
FORWARDED TO FBIHQ.

BY SEPARATE COMMUNICATION, EACH RECIPIENT FIELD OFFICE
WILL BE FURNISHED A SAMPLE AFFIDAVIT DETAILING THE FORMAT
DESIRED.

INASMUCH AS PROCESSING OF THESE DOCUMENTS IS TO BE
COMPLETED AT FBIHQ BY NOVEMBER 1, 1977, EACH OFFICE SHOULD
INSURE THAT THE DOCUMENTS, TOGETHER WITH THE AFFIDAVIT, ARE
FORWARDED TO FBIHQ BY AUGUST 31, 1977, OR AS SOON BEFORE
THE DATE AS POSSIBLE.

ANY QUESTIONS SHOULD BE RESOLVED BY CONTACTING SUPERVISOR
JOHN ALLEN HARTINGH, EXTENSION 5565, OR UNIT CHIEF HORACE P.
BEC WITH, EXTENSION 4036, FOIPA BRANCH, FBIHQ.

T

MEMPHIS MURKIN FILES

<u>Section</u>	<u>Subject Matter</u>	<u>Volumes</u>	<u>Released</u>	<u>Remarks</u>
.44-1987	Miscellaneous Investigation	7	7	
. 1A	Photos/Attachments	11	11	
.Sub	Office Memoranda & Inserts	2	2	
.Sub A	Reports	7	0	All volumes processed in HQ File
.Sub B	Letters and Airtels	8	8	
.Sub C	Newspaper Clippings	5	5	
.Sub D	Memphis FD-302's (Interviews)	3	3	
.Sub E	Miscellaneous Suspects	20	20	
.Sub F	Jay Wallis Vernon	1	1	
Sub G	Eric Starvo Galt (Volumes 7, 8, 9, 15, 16, 17, 18, 19, 20, 21, 24, 25, 26, 28, 29, 35, 36, 39, 40)	40	21	Processed in HQ File
.Sub I	Various Galts	1	1	
.Sub J	Telephone calls-Stein	2	2	
.Sub K	Prisoners	2	2	
.Sub L	Legats	2	2	
.Sub M	Post-Arrest Investigation	11	10	(Volume 1 processed in HQ File)
.Sub N	Security-Jail	1	1	
.Sub O	Legal Documents	3	2	(Volume 3 processed in HQ File)
Sub P	Trial	1	0	(Processed in HQ File)
.Sub Q	FD-302's (Interviews) Other Offices	1	1	

NAME (OR TITLE) OF ADDRESSEE, AGENCY,
ORGANIZATIONAL UNIT, ADDRESS, AND ROOM

STOP

STOP

STOP

6786
B. B. B. B.

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15-19	20-24	25-29	30	31	32	33	34	35+36	37	38	39	40
				HQ	HQ	HQ	HQ	9 DUP						HQ	HQ	HQ	HQ	31 DUP	33 DUP							

3-1-1
X 5765
L. J. G. H. C.

that I have dubs of the tapes of his interviews, part of what he made available to the MFO. If you read that part of Frame-Up relating to Reddick (Redditt) and the firemen you'll recognize that the MFO was more informed than the records provided indicate and had cause for more of a contemporaneous investigation than has been provided. I do have Marron's notes, as if I did not tell you, I have Sartor's. Without checking my files I'm certain that Marron gave a report involving a policeman in prior knowledge of the crime an an elected public official. With all the record-keeping I've seen and all the checking of all the really farout I have difficulty believing that when someone from Newsweek gave information of this nature to a field office there is no record.

This reminds me no written statements of any witnesses have been provided, one of the reasons I selected those volumes for immediate reading. I don't recall whether those I interviewed told me they gave written statements to the FBI but I think some did.

The Russell X. Thompson and it is no secret allegedly Rufus "Jack" Youngblood, aka sausage and eggs man (is it Crawford?) story is represented by a single and entirely inadequate record. There has to be more and it has to include of more recent date. Jim has just written the AF about another aspect involving DJ CRU in which he filled in all the improperly withheld names. I have skinned Thompson's files and heard his "Benavides" tapes and there is a whole hot money or hot paper rather story that is part of it. This is a separate crime, as you know, so you should realize there are many reasons for there having to be records belonging in HQ of MFO Sub E files that I've not been provided. If any show up in other Subs that Ralph Harp does not recall I'll write you and tell you. My purpose here is compliance.

Among the other subs I've read are those on the checking of phone calls. They do not include what New Orleans has to have checked and has to have reported to OO, Memphis. The fact is that my original source was not Ray or Stein or Jerry Cohen but the notes of one who had gone over FBI records in 1968. I've done a fair amount of work on those phones and I do want all the records relating to them. Separate from what may show in MO FO files there have to have been MFO records.

Stein's recollection was wrong, by the way. The pay phone was not in Texas and not at a gas station, unless there were more such calls than Stein reported. At least one was from closer to Los Angeles than any place in Texas and from a bar or similar establishment. Good think the CPR crew did not know. But if there was a good Chicago investigation relevant records are there because the call was to Jerry Ray. Now that Jerry has said so publicly I have no problem in disclosing this to you.

At the time I first saw references to the crook who coined the LA lines in the HQ files I raised a question about withholding his identity. I repeat it from the records in Sub L. My recollection may be flawed, more so today because I'm more tired than usual, but I think he fed Cohen and his editor a real name otherwise reported to the FBI, Eddie Wilburn, together with all the nonsense. He ~~was~~ or Pierce denied any Harrison connection but there was a pilot of similar if not identical name of interest to Harrison. This part is of no special interest to me. I report it in the event it is of interest to the FBI. I think these pages were in Volumes around 15-17 of E.

This sub contained a single reference to the Two Sisters in New Orleans. There were more such records in HQ files but they were masked. I hope that in the processing of the New Orleans files this will not be reported or the other things like that 623 Royal Street address or I'll have to make an issue of it. That place also figured in Harrison's interest.

There also was a reference to Joe Louw. I think there are more in NY FO, for example. I also believe this is relevant to what is currently before the judge because Louw processed his pictures at Earnest Withers'. I am inclined to believe that where photographers' names have been withheld, as I think I claimed improperly, Withers' name is among them. There are other indication of the existence of other records relating to the Louw pictures and not provided to me. MFO knew where Louw was and for what purpose, which makes a seeming lack of initiative seem extraordinary to me. And it has none of Withers' pictures? He was there, too.

I wish I did not have to take so much time writing about "compliance." Sincerely,

Harold Weisberg

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made before the bound volumes go to press.

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 77-1975

THE FOUNDING CHURCH OF SCIENTOLOGY
WASHINGTON, D.C., INC., APPELLANT

v.

NATIONAL SECURITY AGENCY, *et al.*

Appeal from the United States District Court
for the District of Columbia
(D.C. Civil Action No. 76-1494)

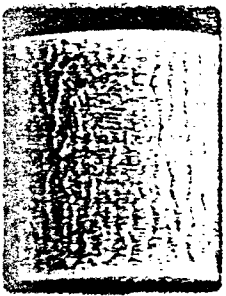
Argued March 27, 1978

Decided May 15, 1979

William A. Dobrovir for appellant.

Michael F. Hertz, Attorney, Department of
with whom *Earl J. Silber*, United States Attorney

Bills of costs must be filed within 14 days after entry of judgment.
court looks with disfavor upon motions to file bills of costs out of time.



bara Allen Babcock, Assistant Attorney General, and *Robert E. Kopp*, Attorney, Department of Justice, were on the brief, for appellee. *Leonard Schaitman*, Attorney, Department of Justice, also entered an appearance for appellee.

Before TAMM and ROBINSON, *Circuit Judges*, and OBERDORFER, * *United States District Judge*, United States District Court for the District of Columbia.

Opinion for the Court filed by *Circuit Judge* ROBINSON.

ROBINSON, *Circuit Judge*: The Founding Church of Scientology of Washington, D.C., Inc., the appellant, complained in the District Court of the refusal of the National Security Agency (NSA), the appellee, to release documents requested by appellant under the Freedom of Information Act.¹ The court, relying upon an affidavit submitted by the agency, ruled that the materials solicited were protected from disclosure by joint operation of Exemption 3 of the Act² and Section 6 of Public Law No. 86-36,³ and granted summary judgment in favor of NSA.⁴ We find that NSA failed to establish its entitlement to a summary disposition of the litigation. Accordingly, we reverse the judgment appealed from and re-

* Sitting by designation pursuant to 28 U.S.C. § 292(a) (1976).

¹ Pub. L. No. 89-487, 80 Stat. 251 (1966), codified by Pub. L. No. 90-23, 81 Stat. 55 (1967), as amended by Government in the Sunshine Act, Pub. L. No. 94-409, § 5(b) (3), 90 Stat. 1247 (1976), codified at 5 U.S.C. § 552 (1976) (hereinafter cited as codified).

² 5 U.S.C. § 552(b) (3) (1976).

³ Pub. L. No. 86-36, § 6, 73 Stat. 63 (1959), codified at 50 U.S.C. § 402 note (1976), quoted in text *in vivo* at note 25.

⁴ *Founding Church of Scientology v. NSA*, 434 F.Supp. 633 (D.D.C. 1977).

mand the case for additional proceeding
District Court.

I

NSA was created by order of the President and endowed with a twofold mission. Its task is shielding the Nation's coded communications by foreign governments. Its special function, implicated by appellant's document, entails acquisition of information from external signals and distillation of that information by the intelligence community and national makers. As a part of the latter activity, NSA routinely intercepts international communications of means.

In December, 1974, appellant sought access to the Freedom of Information Act, to all information retained by the Agency on appellant and that it espouses, as well as records reflecting information about appellant to domestic foreign governments. Subsequently, appellant was enlarged to embrace all references to L. Ron Hubbard, founder of the doctrine of NSA's reply was that it had not established a claim either to appellant or Hubbard, and transmitted no information regarding either parties specified in the demand. In March, 1975, appellant enumerated other Scientology organizations to which pertinent records might exist. NSA denied possession of any of the data sought.

⁵ Memorandum from President Harry S. Tamm, Secretary of State and the Secretary of Defense, "Intelligence Activities" (Oct. 24, 1952), No. 755, 94th Cong., 2d Sess. 736 (1976). NSA organized agency within the Department of Defense controlled by the Secretary of Defense.

In the course of Freedom of Information Act proceedings against the Department of State and the Central Intelligence Agency (CIA), appellant learned that NSA had at least sixteen documents concerning Scientology, and appellant and related organizations. So advised, and armed with details solicited from CIA, NSA succeeded in locating fifteen of those items in warehouse storage, and obtained a copy of the sixteenth from CIA. Release of these materials was resisted, however, on grounds that they were protected from disclosure by provisions of the Act relating to national security matters⁶ and to confidentiality specifically imparted by other statutes.⁷

In August, 1976, appellant commenced suit in the District Court to compel NSA to conduct a renewed search of its files and to enjoin any withholding of the materials desired. Appellant served numerous interrogatories on NSA inquiring into its efforts to locate responsive records, its classification of documents, and its correspondence with CIA with respect to the items theretofore uncovered. Purportedly to avoid revelation of functions and activities assertedly insulated by the Act from public scrutiny,⁸ NSA declined to supply more than minimal information in answer to the interrogatories.

⁶ Exemption 1, 5 U.S.C. § 553(b) (1) (1976), immunizes from compulsory disclosure information that is

(A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order[.]

As the District Court did not predicate the summary judgment on this exemption, we do not consider its applicability here. See text *infra* at notes 9-10.

⁷ Exemption 3, 5 U.S.C. § 552(b) (3) (1976), quoted in text *infra* at note 19.

⁸ See notes 6-7 *supra*.

Then, invoking Public Law No. 86-36⁹ or alternatively, NSA moved for dismissal or alternatively for summary judgment in support of the motion, NSA tendered the Norman Boardman, its information officer to furnish a more detailed but classified *camera inspection*. Appellant vigorously *opposed* submission and sought more extensive of the issues. The District Court waived that Section 6 of Public Law No. 86-36 was a statute foreclosing compulsory *post-hoc* data.¹¹ In that light, and on Boardman's public affidavit, the court ordered judgment for NSA.¹² From that action, the

II

Appellant begins with a challenge to Court's holding that the sixteen documents retained by NSA enjoy a protected status then complains of the court's failure to properly NSA's protestations respecting possessive relevant material.¹⁴ In pressing the first p

⁹ Quoted in text *infra* at note 25. Initially, 18 U.S.C. § 798 (1976) and 50 U.S.C. (1976) as Exemption 3 statutes. For a discussion of provisions in the context of litigation against v. NSA, No. 76-1921, (D.D.C. Apr. 7, 1978), reported). NSA's summary judgment motion and Court's decision, however, rested only on Public We limit our consideration accordingly.

¹⁰ Quoted in text *infra* at note 19.

¹¹ *Founding Church of Scientology v. NSA*, 434 F.Supp. at 633.

¹² *Id.*

¹³ See text *supra* at note 6.

¹⁴ Discussed in Part III *infra*.

concedes that Section 6 of Public Law No. 86-36 is a law bringing Exemption 3 into play but claims inadequacies in the agency's showing, upon which the District Court awarded summary judgment. More particularly, appellant contends that the Boardman affidavit lacked sufficient detail to enable an informed determination as to whether disclosure of any or all of the sixteen items would illuminate agency activities of which the public was not already aware. We, too, believe that Section 6 is an Exemption 3 statute and that NSA's affidavit did not furnish a satisfactory basis for testing the exemption's applicability to the data appellant seeks.

A

As originally enacted, Exemption 3 authorized the withholding of information "specifically exempted from disclosure by statute."¹⁵ The exemption was amended in 1976, however, "to overrule [a] decision of the Supreme Court"¹⁶ which had sanctioned rejection of a records request on grounds that nondivulgence was authorized by a statute conferring a "broad degree of discretion"¹⁷ on an agency to conceal data "in the interest of the public."¹⁸ Under the exemption as amended, materials are deemed "specifically exempted from disclosure by stat-

¹⁵ 5 U.S.C. § 552(b) (3) (1976).

¹⁶ H.R. Rep. No. 1441, 94th Cong., 2d Sess. 14 (1976) (conference report), referring to *Administrator v. Robertson*, 422 U.S. 255, 95 S.Ct. 2140, 45 L.Ed.2d 164 (1975).

¹⁷ *Administrator v. Robertson*, *supra* note 16, 422 U.S. at 266, 95 S.Ct. at 2148, 45 L.Ed.2d at 174.

¹⁸ 49 U.S.C. § 1504 (1976), providing that, upon objection of any person, agency officials "shall order such information withheld from public disclosure when, in their judgment, a disclosure of such information would adversely affect the interests of such person and is not required in the interest of the public."

ute" only if the "statute (A) requires that be withheld from the public in such a manner no discretion on the issue, or (B) establishes criteria for withholding or refers to particular matters to be withheld."¹⁹ Subsection (A) those laws that mandate confidentiality "absolutely without exception";²⁰ it condones no decision the agency level.²¹ Subsection (B), on the other hand, does contemplate some exercise of administrative discretion in closely circumscribed situations, "but not takeable thrust . . . is to assure that basic national security on governmental secrecy be made by the Executive branch."²²

The provision on which NSA relies to bring Exemption 3 into operation is Section 6 of Public Law 86-36, which states that with exceptions inapplicable to this case

nothing in this Act²³ or any other law shall be construed to require the disclosure of information to any function of the Executive Agency, of any information

¹⁹ 5 U.S.C. § 552(b) (3) (1976).

²⁰ 122 Cong. Rec. H9260 (daily ed. Aug. 31, 1976) (Representative Abzug).

²¹ *American Jewish Congress v. Krebs*, 187 F.2d 415 & n.33, 574 F.2d 624, 626 & n.33 (1978) (legislative history).

²² *Id.* at 417, 574 F.2d at 628 (footnote omitted).

²³ Pub. L. No. 86-36, 73 Stat. 63 (1959) ("Executive Order 11652", as amended, 50 U.S.C. § 402 note (1976) ("Agency").

²⁴ 5 U.S.C. § 654 (1958), repealed by Pub. L. No. 86-36, 73 Stat. 427 (1960).

to the activities thereof, or of names, titles, salaries, or number of the persons employed by such agency.²⁵

Plainly, Section 6 insulates the information specified from mandatory divulgence though it does not purport to bar voluntary disclosure by NSA itself. Since it countenances administrative discretion to publicize or maintain secrecy, Section 6 lacks the rigor demanded by Subsection (A) of Exemption 3. But appellant acknowledges, and the District Court ruled,²⁶ that, within the meaning of Subsection (B), Section 6 "refers to particular types of matters to be withheld."²⁷ More specifically, in material part the provision protects information laying open "the organization or any function of the National Security Agency, . . . [or] the activities thereof."²⁸

Our examination of Section 6 and its legislative history confirms the view that it manifests a "congressional appreciation of the dangers inherent in airing particular data,"²⁹ and thus satisfies the strictures of Subsection (B). The section was enacted at the request of the Department of Defense.³⁰ The Department's immediate aim was termination of personnel oversight by the Civil Serv-

²⁵ Pub. L. No. 86-36, § 6, 73 Stat. 64 (1959), in 50 U.S.C. § 402 note (1976).

²⁶ *Founding Church of Scientology v. NSA*, *supra* note 4, 434 F.Supp. at 633.

²⁷ See text *supra* at note 19. Concurring in this view are *Bacz v. NSA*, *supra* note 9, at 9-11; *Kriuk v. GSA*, 421 F.Supp. 965, 967-968 (E.D. N.Y. 1976).

²⁸ See text *supra* at note 25.

²⁹ *American Jewish Congress v. Krups*, *supra* note 21, 187 U.S.App.D.C. at 417, 574 F.2d at 628.

³⁰ Letter from Donald A. Quarles, Acting Secretary of Defense, to Richard M. Nixon, President of the Senate (Jan. 2, 1959), included in S. Rep. No. 284, 86th Cong., 1st Sess. 2-3 (1959).

ice Commission, which would subject agency activities to inspection.³¹ Exclusion from the Classification Act,³² administered by the Commission, was thought to be "consent treatment . . . accorded other agencies specialized or highly classified defense activities for purposes and scope of the bill proposed ever, for, as the Department explained and highly sensitive activities of the Agency to extreme security measures."³³ Accordingly, the Act exempts "exempting the Agency requirements involving disclosures concerning . . . matters which should be protected of national defense."³⁴

The Senate report focused on relieving requirements of the Classification Act. It echoed the Department's concern over public disclosure of "very highly classified functions vital to national security."³⁵ The statutory language simply purports to shield the matters enumerated from public consumption. Section 6 does not prohibit disclosure of information, including that "nothing in this Act or any other law shall be construed to require . . . disclosure."

³¹ *Id.* at 3 (letter).

³² See note 24 *supra*.

³³ S. Rep. No. 284, *supra* note 30, at 3 (letter) (text of report).

³⁴ *Id.* at 3 (letter).

³⁵ *Id.* (letter).

³⁶ *Id.* at 1-2 (text of report).

³⁷ *Id.* at 1 (text of report).

³⁸ See text *supra* at note 25.

Thus, Section 6 embodies far more than "a vague apprehension that [the] Agency might some day fall heir to sensitive information."³⁹ It reflects instead a congressional judgment that, in order to preserve national security, information elucidating the subjects specified ought to be safe from forced exposure. The basic policy choice was made by Congress, not entrusted to administrative discretion in the first instance. It follows that Section 6 is a statute qualifying under Exemption 3.⁴⁰

Even the most casual reading of Section 6 suggests, however, a potential for unduly broad construction. On the one hand, the section embraces personnel matters of a fairly restricted character and susceptible of little interpretation.⁴¹ Literal application of those terms might expectably honor the congressional policy underlying Section 6 without doing violence to the Freedom of Information Act's "overwhelming emphasis upon disclosure."⁴²

³⁹ *American Jewish Congress v. Kreps*, *supra* note 21, 187 U.S.App.D.C. at 417, 574 F.2d at 628.

⁴⁰ Accord, *Baez v. NSA*, *supra* note 9, at 9-11, *Kruh v. GSA*, *supra* note 27, 421 F.Supp. at 967-968.

⁴¹ "[N]ames, titles, salaries, or number of the persons employed by [the] agency." See text *supra* at note 25.

⁴² *Vaughn v. Rosen*, 157 U.S.App.D.C. 340, 343, 484 F.2d 820, 823 (1973), *cert. denied*, 415 U.S. 977, 94 S.Ct. 1564, 39 L.Ed.2d 873 (1974). Compare *Baker v. CIA*, 188 U.S.App.D.C. 401, 580 F.2d 664 (1978), in which we construed literally § 7 of the Central Intelligence Agency Act of 1949, ch. 227, § 7, 63 Stat. 211 (1949), codified at 50 U.S.C. § 403g (1970), which exempted "From the provisions of section 651 of Title 5, and the provisions of any other law which requires the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency. . . ." We noted, however, that to require that sought-after personnel material be in fact linked with intelligence, security, sources or methods would render § 403g "mere surplusage, since such a showing would necessarily bring the requested information within the purview of

On the other hand, Section 6 encompasses information with respect to the "activities" of 1 implicates superficially the gamut of age be sure, the legislation's scope must be by the agency's highly delicate mission. I elastic as "activities" should be construed to the "hazard[s]" that Congress foresaw.' observed in an analogous context, "to intent to close the loophole created in *Rot* must be particularly careful when scrutin exemptions based on such expansive term

§ 403(d) (3) [see note 46 *infra*] and therefrom disclosure without the need for a exemption." *Baker v. CIA*, *supra*, 188 U.S.A. 580 F.2d at 668. We observed, too, that "a very narrow and explicit exception to the" Freedom of Information Act. *Id.* at 407,

⁴³ See text *supra* at note 25 (emphasis supp

⁴⁴ *American Jewish Congress v. Kreps*, *supra* U.S.App.D.C. at 418, 574 F.2d at 629.

⁴⁵ See note 16 *supra* and accompanying text at 46-47 (concurring opinion). We spoke th § 403(d) (3) (1976), which instructs the Central Intelligence Agency to protect "int and methods from unauthorized disclosure." V "while the 'particular types of matters' listed (*e.g.*, names, official titles, salaries) are fairly 403(d) (3)'s language of protecting 'intellig methods' is potentially quite expansive."

It may be that Congress intended to co protection to NSA's "activities" by enacting I than it did to CIA by complementary operat and 403(d) (3). See *Baez v. CIA*, *supra* note Senate Report discussing Pub. L. No. 86-36 li afforded NSA to that allowed other intel exempted from the Classification Act, whic CIA. See S. Rep. No. 284, *supra* note 30. exemption would be consistent with legislati

NSA has not based its repulsion of appellant's informational request upon an illusory need to safeguard "secrets" either familiar to all or unrelated to its operational modes. In the agency's words, its "claim . . . is not made with respect to its general functions or activities";⁴⁷ it seeks instead to halt any divulgence of "information in such detail so as to let potential adversaries know which specific communications circuits are not secure, and which communications, depending on the circuits through which they were transmitted, the Agency is likely to possess or not possess."⁴⁸ That position, if substantiated, would undercut appellant's reliance on the Senate's far-ranging disclosure of NSA's operations in the course of recent investigations of gross illegalities on the part of intelligence agencies,⁴⁹ for the Senate inquiries seemingly stopped short of revealing specifics

respect to other agencies similarly engaged in highly classified defense activities"). As NSA's defense in the instant case is avowedly directed at safeguarding intelligence sources and methods, see text *infra* at notes 47-48, we need not consider whether the term "activities" in Pub. L. No. 86-36 might conceivably shield any more than that.

⁴⁷ Brief for Appellees at 14.

⁴⁸ *Id.* at 13 n.5; see *id.* at 12-13.

⁴⁹ See Final Report of the Select Comm. to Study Governmental Operations with Respect to Intelligence Activities, S. Rep. No. 755, 94th Cong., 2d Sess. (1976) (especially Book III, at 733-786). Although NSA would have no protectable interest in suppressing information simply because its release might uncloak an illegal operation, it may properly withhold records gathered illegally if divulgence would reveal currently viable information channels, albeit ones that were abused in the past. Compare *Halkin v. Helms*, No. 77-1922, (D.C. Cir. June 16, 1978), at 16-17. Of course, every effort should be made to segregate for ultimate disclosure aspects of the records that would not implicate legitimate intelligence operations, however embarrassing to the agency.

about the agency's intelligence capabilities warrant stringent protection from computation. With this background, then, we proceed whether the District Court adequately unjudicate the applicability of Section 6 to appellant seeks.

B

Congress has directed that in reviewing actions of Freedom of Information Act requests shall determine the matter de novo, and the contents of . . . agency records in examine whether such records or any part withheld under any of the exemptions section (b)."⁵¹ Very importantly, "the bureau agency to sustain its action."⁵² The legislative of the Act explains that "the Government given the opportunity to establish by means or detailed affidavit that the documents exempt from disclosure,"⁵³ and that the court

⁵⁰ See S. Rep. No. 755, *supra* note 49, Book ("[t]he Committee recognizes that NSA's *capability* is a sensitive national asset which zealously protected for its value to our country (emphasis supplied)"); *id.* at 736-783. See also *before the Select Comm. to Study Government with Respect to Intelligence Activities*, 94th Cong., 2d Sess., Vol. 5 (1975) (remarks of Senator Churn ("[t]o make sure this Committee does not ongoing intelligence activities, we have had to careful for the *techniques* of the NSA are of *fragile character*" (emphasis supplied) *Halkin v. Helms*, *supra* note 49, at 16-17.

⁵¹ 5 U.S.C. § 552(a) (4) (B) (1976).

⁵² *Id.*

⁵³ S. Rep. No. 1200, 93d Cong., 2d Sess., 9 (emphasis report) (emphasis supplied). See *Rag V* note 46, at 25-26, 33 (concurring opinion); *W*

cord substantial weight to an agency's affidavit."⁵⁴ But, as in the recent past we have noted, "conclusory and generalized allegations of exemptions" are unacceptable;⁵⁵ if the court is unable to sustain nondivulgence on the basis of affidavits, *in camera* inspection may well be in order. As Congress has declared, "in many situations" review of requested materials in chambers "will plainly be necessary and appropriate."⁵⁶

We think the District Court failed in this litigation to conduct a true *de novo* review consonant with the foregoing principles, and that summary judgment was precipitously entered. The showing made by NSA consisted wholly in the public affidavit of Norman Boardman, its information officer.⁵⁷ Boardman avowed that the materials requested "were acquired in the course of conducting lawful signals intelligence activities," and that "[r]elease of any record or portion thereof would disclose informa-

⁵⁴ 184 U.S.App.D.C. 117, 121-122, 565 F.2d 692, 696-697 (1977). See also *EP4 v. Mink*, 410 U.S. 73, 92-93, 93 S.Ct. 827, 838-839, 35 L.Ed.2d 119, 134-136 (1973).

⁵⁵ S. Rep. No. 1200, *supra* note 53, at 12. Though these remarks were made in the context of Exemption I, they would seem equally pertinent to Exemption 3 claims involving national security. See *Ray v. Turner*, *supra* note 46, at 16; *Goland v. CIA*, No. 76-1800, (D.C. Cir. May 23, 1978), at 20 n.64.

⁵⁶ *Vaughn v. Rosen*, *supra* note 42, 157 U.S.App.D.C. at 346, 484 F.2d at 826. See *Ray v. Turner*, *supra* note 46, at 43-45 (concurring opinion); *Goland v. CIA*, *supra* note 54, at 20 n.64; *Byrndon v. Eckard*, 187 U.S.App.D.C. 28, 33-34, 569 F.2d 683, 688-689 (1977); *National Cable Television Ass'n v. FCC*, 156 U.S.App.D.C. 91, 98, 479 F.2d 183, 190 (1973).

⁵⁷ S. Rep. No. 1200, *supra* note 53, at 9. See *Ray v. Turner*, *supra* note 46, at 26 (concurring opinion).

⁵⁸ Joint Appendix (J. App.) 83.

tion about the nature of NSA's activities functions."⁵⁸ He further explained:

I have determined that the records case and specific information about such as numbers, dates, and type of, retained therein cannot be disclosed, would jeopardize national security. Agency was established to perform of specific information which may specific individual or organization text of [the agency's] singular reveal certain functions and activities which are protected from mandator Section 6 of Public Law 86-36.⁵⁹

Boardman additionally maintained that were as detailed as security constraints

It is not possible to describe in a affidavit the material in and dates held by NSA, because this would knowledgeable person to determine documents . . . and thus disclose in and methods In short, any public description of material would secret nature of the information promise intelligence sources and

In our view, the Boardman affidavit conclusory to support the summary judgment. The agency acknowledged to the District

⁵⁸ J. App. 89-90.

⁵⁹ J. App. 90.

⁶⁰ J. App. 91. The affidavit also averred that in a dilemma because it is in possession would fully justify the withholding of the records, but it cannot disclose this evidence information which itself requires the same this issue, see text *infra* at notes 73-77.

represented to us on appeal, that the documents in issue have been suppressed, not on account of their "substantive content," but because release to appellant would reveal "vital national security information concerning the organization, function and communication intelligence capabilities of the N.S.A."⁶¹ But the Boardman affidavit furnishes precious little that would enable a determination as to whether the materials withheld actually do bear on the agency's organization, functions or faculty for intelligence operations. Rather, it merely states, without any elucidation whatever, that compliance with appellant's demand would reveal "certain functions and activities . . . protected from mandatory disclosure by Section 6,"⁶² and would "jeopardize national security functions the agency was established to perform."⁶³ Barren assertions that an exempting statute has been met cannot suffice to establish that fact,⁶⁴ yet one will search the Boardman affidavit in vain for anything more.

Not only does the Boardman statement fail to indicate even in the slightest *how* agency functions might be unveiled, but it also lacks so much as guarded specificity as to the "certain functions and activities"⁶⁵ that might

⁶¹ Memorandum in Support of Defendants' Motion to Dismiss or, in the Alternative, for Summary Judgment, at 9 n.5, Record on Appeal (docket entry 12).

⁶² See text *supra* at note 59.

⁶³ See text *supra* at note 59.

⁶⁴ See note 55 *supra* and accompanying text.

⁶⁵ See text *supra* at note 59. In contrast, an affidavit supplied by the Central Intelligence Agency in *Goland v. CIA*, *supra* note 54, indicated that the substantive content of withheld information pertained to protected matters, and was sufficiently detailed to support their nondisclosure pursuant to Exemption 3:

[T]he deleted portions of the [requested document] contain detailed descriptions of (1) "intelligence collection

be revealed. From aught that appears, the documents may implicate aspects of the agency already well publicized.⁶⁶ Suppression of that sort would frustrate the pressing policies without even arguably advancing countererations.⁶⁷

Before this court, NSA has endeavored deficiencies of its presentation in the District we have noted, the agency has identified

and operational devices . . . still utilized" of procurement and supply . . . unique to Community" which "are currently utilized concepts of intelligence methodology" essential elements remain viable"; (4) special intelligence operations, including the "foreign countries involved"; and (5) "ceremonial methodologies of a friendly foreign government." *Id.* at 21.

⁶⁶ See note 49 *supra* and accompanying text.

⁶⁷ See *Ray v. Turner*, *supra* note 46, at 4 (D.D.C. 1978) (50 U.S.C. § 403(d)(3) (1976) invoked to protect data not compromised by provision of H.R. Rep. No. 1380, 93d Cong., 2d Sess., 1974, at 7 (E), regarding "investigative techniques," 5 U.S.C. § 552(b) (7) (E) (1976), interpreted to include routine techniques and ready well known to the public"); 120 Cong. Rec. 11,274 (1974) (remarks of Senator Hart) (protective techniques and procedures applicable to Government). See also 120 Cong. Rec. 3666 (1974) (remarks of Representative Reid) ("[T]he court have a duty to look behind any claim of exemption too often in the past has been used to cover up embarrassment even in foreign policy matters, are fully known by other countries but in our own—supposedly the most democratic a the world").

of its concern the publication of information in such detail that its interception capabilities with respect to particular communications circuits might be exposed.⁶⁸ Were NSA able to establish its claim in that regard, immunization by Section 6 at least to that extent would be assured.⁶⁹ But the appropriate occasion for such an undertaking was during the proceedings before the District Court, in the context of de novo consideration of appellant's demand.⁷⁰

Aside from their bearing on the substantive decision ultimately to be made, NSA's averments on appeal have significant ramifications for the conduct of the litigation. In particular, they compellingly evince the feasibility of further elaboration of the agency's public affidavit. We acknowledge, of course, that public explanations of a determination to withhold need not "contain factual descriptions that . . . would compromise the secret nature of the information,"⁷¹ but we see no reason why NSA's open and informative representations to this court could not have been enounced in the initial affidavit.

⁶⁸ See text *supra* at note 48.

⁶⁹ Partial disclosure still might be possible if the compromising sections of the requested documents were susceptible of deletion. See 5 U.S.C. § 552(b) (1976); *Ray v. Turner*, *supra* note 46, at 4 & n.7 (concurring opinion); *Irons v. Gottschalk*, 179 U.S.App.D.C. 37, 41, 548 F.2d 992, 996 (1976), *cert. denied*, 434 U.S. 965, 98 S.Ct. 505, 54 L.Ed. 2d 451 (1977); *Vaughn v. Rosen*, *supra* note 42, 157 U.S.App.D.C. at 343-345, 484 F.2d at 823-825. Significantly, NSA indicated in response to interrogatories that no review had been made to identify segregable elements of the records. J. App. 48.

⁷⁰ See text *supra* at notes 51-56.

⁷¹ *Vaughn v. Rosen*, *supra* note 42, 157 U.S.App.D.C. at 346, 484 F.2d at 826.

draft.⁷² And we suspect that the public developed further still without untoward agency's statutory mission were it to exercise ingenuity.

The importance of maximizing adversarial suits such as this cannot be gainsaid.⁷³ of the information-requesters to the fullest is essential to the efficacy of de novo review of the agency's action.⁷⁴ Not insignificant and the court, if sufficiently informed, means of liberating withheld documents, missing the agency's legitimate interests. discovery may be employed to develop

⁷² At oral argument, counsel for NSA suggested that the requester's arguments will be—what can sharpen its claim accordingly. At most, it buttresses the need for supplementation of affidavits during the course of trial-court proceedings during the course of prompting of unnecessary and consequent remands. In any event, we find no notion that an agency should advance just so much essential to establish the applicability of a claim when it is able, without endangering activities remain secret, to supply publicly further detail might aid the de novo determination on disclosure. The availability of the desired documents. The agency may confidentially anticipate its lack of its supporting papers.

⁷³ See *Ray v. Turner*, *supra* note 46, at 10, *ring opinion*; *Phillippi v. CIA*, 178 U.S.App. 546 F.2d 1009, 1013 (1976); *Vaughn v. Rosen*, 157 U.S.App.D.C. at 344-345, 484 F.2d at 824-825.
⁷⁴ See 120 Cong. Rec. 17019 (1974) (reman Kennedy) (ex parte showing by agency show "where the court determines that involvement counsel in that aspect of the case would itself national security"). Compare *Haltin v. Helms* at 10-11 & n.5.

basis of nondisclosure or the lack of it.⁷⁶ As we have also said, “[t]he court may . . . require the agency to submit under protective seal affidavits that are more detailed than those made available to the plaintiff,”⁷⁶ and after scrutiny thereof “the court may order release of any portions of these *in camera* affidavits that it determines will present no danger of unauthorized disclosure.”⁷⁷ These salutary devices were abruptly aborted in the case at bar by unquestioning reliance upon the conclusory Boardman affidavit.

It is much too soon to tell whether NSA can establish its claims by more detailed public or classified affidavits, or whether *in camera* review of the controverted documents themselves will become essential to the resolution proper.⁷⁸ What is clear, however, is that the Boardman affidavit was inadequate to discharge the burden firmly placed by Congress on agencies that would withhold records in the face of proper Freedom of Information Act requests.⁷⁹ Indeed, the District Court’s uncritical acceptance of the affidavit deprived appellant of the full *de novo* consideration of its records-request to which it is statutorily entitled.⁸⁰ Insofar as the sixteen documents

⁷⁶ See *Ray v. Turner*, *supra* note 46, at 43 (“[I]nterrogatories and depositions are especially important in a case where one party has an effective monopoly on the relevant information”).

⁷⁷ *Ray v. Turner*, *supra* note 46, at 44 n.61. See *Phillippi v. CIA*, *supra* note 75, 178 U.S.App.D.C. at 247, 546 F.2d at 1013. Compare *Halkin v. Helms*, *supra* note 49, at 15.

⁷⁸ *Ray v. Turner*, *supra* note 46, at 44 n.61.

⁷⁹ See *id.* at 23-29; text *supra* at notes 52-56.

⁸⁰ See text *supra* at notes 52-56.

⁸¹ The District Court’s failure to take the “hard look” necessary to assure adherence to congressional purpose,” *Ray v. Turner*, *supra* note 46, at 47, is apparent from its opinion. Noting simply that “Mr. Boardman insists that [r]elease of

admittedly withheld are concerned, this litigant return to the District Court.

III

Appellant raises a second issue on this appals concerns NSA’s claimed inability to locate perments in addition to the sixteen it is known in hand. More precisely, appellant argues th circumstances the agency’s single affidavit interrogatories-responses claiming thorough searches did not suffice to meet its burden in additional discovery was imperative, we are sure that all relevant records have been unagree that NSA did not demonstrate the u of other materials sufficiently to entitle it judgment.

Appellant’s first request, made in December tended to all documents bearing on its activ transmission of information about appella agencies, governments and individuals. That soon broadened to include items relating to founder. In January, 1975, NSA informed ap it had neither established a file or record on jects nor passed on any information of either response, according to the Boardman affidavit, “based on negative results of searches cond request by the NSA organizations having fil reasonably have contained information or rec kinds requested.”⁸¹ On five subsequent occas

any record or portion thereof would disclose about the nature of NSA’s activities including its and that Pub. L. No. 86-36 is an Exemption 3 District Court entered judgment for P further ado. *Forming Church of Scientology v.* note 4, 434 F.Supp. at 633.

⁸¹ J. App. 85.

lant specified additional subjects and submitted further details that might aid in locating pertinent materials. In each instance, Boardman reported, agency units "that could be reasonably expected to contain records of the kind described" were instructed to search their files,⁸² and supposedly "thorough searches" repeatedly failed to ferret out data of the kind demanded.⁸³

Subsequently, appellant learned in the course of discovery in a Freedom of Information Act proceeding against the Department of State and the Central Intelligence Agency that sixteen documents encompassed by appellant's request had been provided to CIA by NSA and that NSA had advised against their release. Once informed of that development, NSA contacted CIA to obtain identifying details; and an ensuing search uncovered fifteen of the sixteen which, Boardman said, "were found in warehouse storage, not retrievable on the basis of subject matter content."⁸⁴ NSA later obtained a copy of the sixteenth from CIA.

Beyond revelations affording this much light, the Boardman affidavit contained little else material to the

⁸² J. App. 85, 87-88. On one other occasion, NSA was advised that appellant possessed a State Department airgram, dated several years earlier, that had been forwarded to NSA. Appellant sought clarification with respect to disposition of the airgram; and with information obtained from the Department of State the airgram was located. Boardman avows that "since the airgram was not directly required in the conduct of NSA business, it was not located in any operational file where a reasonable search . . . might have located it." J. App. 86. It seems ironic that a document more likely to be releasable because of unimportance to "NSA business" is one that probably will not be found during a "reasonable" search. Indeed, it raises some question, to say the least, about the agency's understanding of "reasonableness."

⁸³ J. App. 86-88.

⁸⁴ J. App. 89.

processing of appellant's several requests,plies to appellant's interrogatories were uninformative in that respect.⁸⁵ They searches were made by departments in after materials expectably might represent organization of the agency's files precluded the basis of information furnished by averments superficially similar did pass first of our recent *Goland* decisions.⁸⁶ competence of any records-search is a matter upon the circumstances of the case, and here give rise to substantial doubts about NSA's search endeavors. More specifically question whether further search procedure able and within the agency's ability to expending a whit more than reasonable judgment, then, was improper because an rial fact—the adequacy of the search—the record.⁸⁷

The Boardman affidavit informs us that no central index to all of the Agency's records have records in alphabetical order by subject matter. Other files are in chronological order of these, only some, not all, have indexes or subject matter of the records they cover way, however, did Boardman attempt characteristics of NSA's general filing systemicular searches conducted for appellant. says, though over and over, is that although

⁸⁵ About the only bit of information relevant is that set forth in text *infra* at note 90.

⁸⁶ *Goland v. CIA*, *supra* note 54. See note 100.

⁸⁷ See text *infra* at notes 94-100.

⁸⁸ J. App. 83-84.

quests were in vain,⁸⁹ and that, we believe, does not satisfactorily dispel the questions arising in the present situation. The fact that nothing pertinent is found on a file search might suggest, of course, that nothing pertinent was on file, but here there is a countervailing circumstance arguing powerfully the other way.

Despite searches in some number, fifteen responsive documents conceded in NSA's possession were passed by, and but for help from another intelligence agency seemingly would never have come to light. NSA tells us that its "files . . . are oriented to subjects of foreign intelligence interests and are not structured to permit retrieval by subjects of the type included in [appellant's] Freedom of Information Act request."⁹⁰ NSA adds that "[t]he fifteen records found in warehouse storage [were] not retrievable on the basis of subject matter content. Only the identifying data supplied by the CIA enabled NSA to locate copies of the records here."⁹¹ The difficulty with this attempted explanation is that it generates more problems than it solves.

On the one hand NSA states that some of its files are indexed or alphabetically arranged "by name, title, or subject matter"—details appellant supplied profusely—and on the other hand it declares that its files "are not structured to permit retrieval by subjects of the type included in [appellant's] requests." And notwithstanding the latter representation, which would appear to immediately doom any search whatsoever for appellant, NSA professes to have conducted several, and to have done so "thoroughly." On a broader scale, since NSA's prime mission is to acquire and disseminate information to the intelligence community, it seems odd that it is without

⁸⁹ J. App. 83-91.

⁹⁰ J. App. 42.

⁹¹ J. App. 89.

some mechanism enabling location of many type appellant asked for, particularly with details as extensive as those furnished. Even modes of subject-matter classification, it appears why NSA might not have searched of "subjects of foreign intelligence interests be involved. Presumably, CIA was able to fifteen documents on clues no different from provided NSA by appellant and, in turn, to for NSA; just why NSA could not have done own is hardly evident from what NSA has far.⁹³ If there was no other way, just why resort to this process of cross-communication with respect to other documents demanded is not at all clear. NSA has never clarified search procedures it employed were the only feasible and, everything considered, it has noted an unavoidable inference that its have left something to be desired.

Lest we forget, the District Court litigation by summary judgment. It is Freedom of Information Act cases as in a "[s]ummary judgment may be granted on ing party proves that no substantial and are in dispute and that he is entitled to matter of law."⁹⁴ It is equally settled in dual law that

⁹² See text *supra* at note 90.

⁹³ The circumstances under which appellant NSA's possession of these documents could indicate that it was not truly ignorant of the documents. The Central Intelligence Agency in the course of discovery in other proceedings had it obtained these materials from NSA but had admonished CIA that release should be basis of Exemption 1. See Exhibit L to Com

⁹⁴ *National Cable Television Ass'n v. FCC*, 156 U.S.App.D.C. at 94, 470 F.2d at 186 (foot

[T]he party seeking summary judgment has the burden of showing there is no genuine issue of material fact, even on issues where the other party would have the burden of proof at trial, and even if the opponent presents no conflicting evidentiary matter. “[T]he inferences to be drawn from the underlying facts . . . must be viewed in the light most favorable to the party opposing the motion.”⁹⁵

So, to prevail in a Freedom of Information Act suit, “the defending agency must prove that each document that falls within the class requested either has been produced, is unidentifiable, or is wholly exempt from the Act’s inspection requirements.”⁹⁶

When the agency “has not previously segregated the requested class of records production may be required only ‘where the agency [can] identify that material with reasonable effort.’”⁹⁷ And, of course, in adjudicating

⁹⁵ *United States v. General Motors Corp.*, 171 U.S.App.D.C. 27, 48, 518 F.2d 420, 441 (1975) (footnotes omitted), quoting *United States v. Diebold*, 369 U.S. 654, 655, 82 S.Ct. 993, 994, 8 L.Ed.2d 176, 177 (1962). Accord, *Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 160, 90 S.Ct. 1598, 1609-1610, 26 L.Ed.2d 142, 155-156 (1970); *Bowland v. Washington*, 168 U.S.App.D.C. 402, 405, 514 F.2d 824, 827 (1975); *Bloom-garden v. Coyer*, 156 U.S.App.D.C. 109, 114-116, 479 F.2d 201, 206-208 (1973); *Nyhus v. Travel Management Corp.*, 151 U.S.App.D.C. 269, 281, 466 F.2d 440, 442 (1972).

⁹⁶ *National Cable Television Ass’n v. FCC*, *supra* note 55, 156 U.S.App.D.C. at 94, 479 F.2d at 186 (footnotes omitted).

⁹⁷ *Goland v. CIA*, *supra* note 54, at 26-27, quoting *National Cable Television Ass’n v. FCC*, *supra* note 55, 156 U.S.App.D.C. at 100, 479 F.2d at 192. See H.R. Rep. No. 876, 93d Cong., 2d Sess. 5-6 (1974); S. Rep. No. 854, 93d Cong., 2d Sess. 9-10 (1974). But *cf. Vaughn v. Rosen*, *supra* note 42, 157 U.S.App.D.C. at 348 & n.23, 484 F.2d at 828 & n.23 (encouraging agencies “to create internal procedures that will assure that disclosable information can be easily separated from that which is exempt”).

the adequacy of the agency’s identification efforts, the trial court may be warranted agency affidavits, for these “are equivalent when they aver that all documents have or are unidentifiable as when they aver documents are exempt.”⁹⁸ To justify the finding, however, supporting affidavits must be “tively detailed” and non-conclusory and must be “in good faith.”⁹⁹ Even if these conditions are met, the agency must show that the requester may nonetheless produce the documents, and if the sufficiency of the agency’s identification procedure is genuinely in question, summary judgment is not in order.¹⁰⁰

NSA did not shoulder the burden cast by the judgment movants by these salutary production efforts. Instead, the agency’s cause, the record in its nebulous state, fails to establish the absence of a triable issue of fact. To establish the absence of a triable issue of fact, the agency must show that the searchers NSA made.¹⁰¹ To

⁹⁸ *Goland v. CIA*, *supra* note 54, at 24.

⁹⁹ *Id.* (footnote omitted), quoting *Vaughn v. Rosen*, *supra* note 42, 157 U.S.App.D.C. at 346, 484 F.2d at 828.

¹⁰⁰ See text *supra* at notes 94-96.

¹⁰¹ The situation here is significantly varied from that presented in *Goland v. CIA*, *supra* note 54, decided March 28, 1979. When *Goland* was first decided, the record on appeal incorporated affidavits from the court, the record on appeal incorporated affidavits from the court, the reasonableness of the agency’s search, but the affidavits were conclusory. *Id.* at 26-31. The court’s error in the grant of summary judgment found out awaiting discovery efforts by the requester. The hope of falling upon something that might justify the affidavits. *Id.* at 31.

On rehearing, the court adhered to that judgment. The emergence—about a year after the District Court’s judgment—of numerous affidavits sought by the requesters, and the agency’s failure to produce them, was not a basis for

of inability to retrieve the requested documents in the circumstances presented is to raise the specter of easy eral months more in releasing them. *Goland v. CIA*, No. 76-1800, (D.C. Cir. Mar. 28, 1979), at 2-12 (opinion on rehearing). Additional unopposed affidavits filed by the agency on rehearing explained that because these items were unindexed and largely in storage among 84,000 cubic feet of inactive data at a retired-records center, they were irretrievable by normal procedures; and that they were located only because a law librarian had chanced upon them during the course of independent research on unrelated projects. *Id.* at 3-4, 8. Very importantly, long before these materials were unearthed the District Court's adjudication on the search issue had achieved finality, and had passed beyond that court's power to alter on account of after-discovered evidence. Fed. R. Civ. P. 60(b). Consequently, whatever evidentiary reflections the sudden appearance of the newly-found documents might normally have had on the caliber of the original search were necessarily tempered by the deep-rooted policy fostering the stability of judgments. See *id.* at 8.

Goland acknowledged that "the discovery of additional documents is more probative that the search was not thorough than if no other documents were found to exist," *id.* at 8, and that "the delay in disclosing the documents at least arguably evidences a lack of vigor, if not candor, in responding to Freedom of Information Act requests," *id.*, but concluded simply that these inferences provided too weak a basis for a remand under 28 U.S.C. § 2106 (1976) for proceedings envisioning possible reopening of the District Court's final judgment, even assuming the propriety of that course of procedure. *Id.* at 8-12. See *Really Acceptance Corp. v. Montgomerie*, 284 U.S. 547, 52 S.Ct. 215, 76 L.Ed. 476 (1932). In the case at bar, however, we encounter none of these strictures, for unlike *Goland* there is no problem of evidence outside the record on appeal. When the District Court ruled, it had before it all of the vital information tending to indicate that NSA's search was less than painstaking—location of the fifteen documents after communication with the Central Intelligence Agency, in the milieu of grave uncertainty as to just what the prior searches had involved and faced. See text *supra* at notes 80-93. And we must remain advertent to the consideration that on NSA's motion for summary judgment appellant was entitled to the benefit of all favorable inferences

circumvention of the Freedom of Information Act if any requesters will be better informed on the particulars of data that may have clandestinely by a governmental intelligence be sure, an agency is not "required to [files] in response to" a demand for information it does have a firm statutory duty to make efforts to satisfy it.¹⁰⁴ If the agency can responsibly by laxity in identification desired materials, the majestic goals of the Act pass beyond reach. And if, in the face of requests and positive indications of oversight an agency can so easily avoid adversary search techniques, the Act will inevitably be evaded. In the situation before us, undiscussed of NSA's ill-elucidated assertions of in its searches would threaten to excuse from the operation of the Act.

We conclude, then, that the case warrants an exhaustive account of NSA's search procedure advanced. That reckoning is now due, and a practicable it should be made on the 1 Following that, it may well become necessary to be drawn from those circumstances. See text *supra* at notes 95-97. The difference between the two cases is that the court dealt with the portent of post-judgment for either Rule 60(b) or § 2106, and here the with the impact of record evidence and evidence the availability of summary judgment.

¹⁰² See also note 82 *supra*.

¹⁰³ *Goland v. CIA* (opinion on rehearing), at 7.

¹⁰⁴ See text *supra* at note 97.

¹⁰⁵ See text *supra* at notes 51-56.

District Court to entertain *in camera* affidavits¹⁰⁶ in order to assess de novo whether NSA has met its burden. The end result of that degree of attention to the problem by the litigants and the court may be origination of search procedures at once efficacious and reasonable. The Freedom of Information Act summons at least a conscientious effort in that direction.¹⁰⁷

The summary judgment for NSA is reversed. The case is remanded to the District Court for further proceedings consistent with this opinion.¹⁰⁸

So ordered.

¹⁰⁶ See text *supra* at note 56. *In camera* review of the sixteen known documents may become an integral part of the effort to ascertain why they might have been overlooked during the initial searches.

¹⁰⁷ We repeat the admonition that "[a]gencies should continue to keep in mind . . . that 'their superior knowledge of the contents of their files should be used to further the philosophy of the act by facilitating, rather than hindering the handling of requests for records.'" S. Rep. No. 854, *supra* note 97, at 10, quoting Attorney General's Memorandum on the Freedom of Information Act 24 (1969).

¹⁰⁸ Our action is not to be taken as an instruction to the District Court to *order* NSA to canvass its files for responsive records. We remand simply for fuller enlightenment on the agency's procedures to determine whether they failed and, if so, to direct it to try anew, this time utilizing reasonable search procedures that might more fully comport with the fundamental purposes of the Act.

