

1986

Dear Jim,

6/24/78

There was a period of about an hour and a half early this morning in which I could not sleep although I intended to. I did doze infrequently and I did think a bit only to have the thoughts interfered with by the dozing. I'd gone to bed early to rest more but was up as usual after less than six hours.

Twice yesterday I had difficulty walking straight and had to force myself to walk at all. Once was in the morning, when I took Lil to the grocery store, once after supper when we returned from getting me the step-at-a-time gadgets for easing the withdrawal symptoms of stopping smoking. In the morning, when it had been 16 or more hours since I'd had a cigarette, it was worse, with my head unclear, too. Almost as though I were going to pass out. I got a pack of cigarettes, smoked one and gave the rest to Lil to hide from me. I also got and ate a candy bar for the quick energy, then returned to the car and sat and waited for Lil. It did not influence my head in the evening but I could not walk easily, had to force myself and then at a slow pace. I did force myself for close to a half hour, believing I should for the exercise and help to circulation. But it did tire me. In fact, I was tired before then. Slept sitting up through the last half of the CBS news.

I've not had time for physical exercise more vigorous than walking and have to await the full effect of the herbicides before I return to mowing but I do not think the lack of more vigorous exercise accounts for it. I've begun to swell again and went back on the diuretic this morning. I'm not certain how much is from addiction but I believe some is. Once before I almost split my head when I tried to cold turkey an end to smoking. I don't believe it is all psychological after 50 years of the habit.

Anyway, it is not an easy time for me. Without this it would not be easy, either.

Not being able to return to sleep is rare. Generally I fall asleep almost when my head is down and return to sleep if I awaken without difficulty. Generally I'm not awake or awake again until about 4:30.

I was trying to take stock this morning. As best I could conclude I did conclude that I'm being wasted and that my efforts to deter this have been blunted. I believe that one of the means of blunting this has been your reluctance to let me go after the Government's lawyers. I believe that unless and until we do there is absolutely no possibility that they will not continue to waste me, keep me from doing anything I can call work.

Look back on 1996 for the past two years and ask yourself what do we have that we did not have on its ways as of two years ago? The actual answer is not that we got much, as we did, but that a) we got nothing that we were not getting in any event and that after two years we b) still have to go after what I sought, what was withheld.

If there is no definitive answer to the question "why" I believe what comes closest is your backing off from your Singapore decision to go after the government's lawyers and what they had done. (You may recall I did as much work as a book would have required while you were they and every single bit of it was totally wasted.)

After the last of the deliberate misrepresentations by government lawyers in court you agreed for me to file an affidavit addressing this. I rushed it to you and I made a lengthy effort to explain why I believe it is important for this to have been filed so that they would have ample time to reach before the status call of this coming Monday. If you have filed it you have not told me. I believe you have not filed it.

There are these great time pressures we both face. Each thing we do is at the cost of something we do not do. And we may never know what is right. But I believe, rightly or wrongly, that the approach I've been wanting to take for a long time is the essential one. If I do not know how it would have worked out (although I do have some beliefs on this) I do know how not taking it has worked out. For me it is disastrous. I look back on two years of non-productive work. What has been productive has taken relatively little time. Like 2155 - a hard week and it was over.

What do we have in the Dallas case now? A repetition of 1996, the arrogation of the right to withhold most of the records on the ground they have been provided from HQ files.

Now do you think that in my age and my condition I can fight this as I fought it (getting nowhere) in 1996?

The way we are going they can easily waste the rest of what life I have remaining.

Most of what I had to take time reading in 1996 was not even suited for toilet paper, in terms of my own work. It has other values that mean nothing to me and my work. It was an ~~immense~~ impediment to my work. For not less than a year and a half the litigation has prevented my making any use of what I've obtained in or from it, has prevented my doing any writing. This is a great futility and it represents a way of spending my time that I think we cannot justify.

I think we have to avoid a situation in which we engage in the normal rituals of the law, the intellectual sophistries of lawyers in which they tilt with each other in the ways they are taught. These gain nothing for us and waste much for us.

We should never have permitted the imposing of the consultancy on me. Once we did we would never have permitted the gross and deliberate misrepresentations of it by government counsel. If we now make some efforts along that line the timing is not nearly as good or as right.

This is incredibly abusive of me, as I think you have not stopped to consider. I let these corrupt people waste me and then lie to a judge about it and do nothing but permit myself to be wasted? And what remains of my self-respect if I do nothing in opposition to it?

The time pressures impose great limitations upon us but I am not going to accept all these lies and misrepresentations without a vigorous reaction that I would ~~rather~~ prefer to be in the record. In fact I believe it is essential that it be in the record in the interest of the Act and as one of the means by which we might deter both of us being wasted to nullify our work.

If there is anything wrong with my affidavit on the government lawyers please correct it, have it retyped, and I'll pay for the costs until you recover them. It is possible that from the haste or not being able to locate some of my records I may have made a mistake but I am certain there is nothing in it that is not faithful to the situation. I am also certain that it was an essential prerequisite to the status call that will be over before you can read this. We simply can't be spending all our time defending what ought not have to be defended to begin with and this is what we've been doing. There is no chance I can expect to live long enough to survive the consequences as there is also no chance of my ever getting time for any other work from this kind of procedure.

I do want this filed and I do want the government to have to face it and I do want the judge to be aware of it and I do want it as a means of the judge escaping the consequences of what she has made possible. Above all I do want this as an effort to end what these people have been doing and continue to do to me. Without it they will never stop it. Witness Metcalfe's promising a copy of the Dallas inventory more than two months ago and not providing it, my saying I will not accept their selection of the files I'm to get and their making this selection despite that and without a single word from him to you. Please come to understand that I am perishable and this will never end the way we are permitting it to go. As I told you when I gave it to you you can disown it for all I care, merely provide a memorandum in which you state your client has asked you to file it to bring what your client wants before the court. But I do want it before the judge, as we had agreed not for the first time yet without it being done for the first time.

We also have become rigid and can't. We just can't waste your precious time in ~~xxxx~~ what is essentially quixotic tilting at their windmills. Sure you are now entitled to decent fees and I'm anxious for you to obtain them because of what they can mean to you and to your capabilities. But those fees are safe, with the possible exceptions of the appeals in 1448 and 226. I will want to address these with you separately if I do not get it in writing. I've not yet decided what to do when the Dallas records come today, if they do. I may ignore them except for duplicating the worksheets so I can have

a set for you on Monday. If they come today. They should have been here day before yesterday.

I can see better fees for you and I am anxious for you to get them.

I would also like to be able to figure what future I have and how to make it less inefficient. There is no means of this happening except from damage suits. We have been talking about them for two years. I think the time has come from an abrupt switch to them, letting whatever else has to slide become secondary. I think they can be much less secondary by a change in our tactics and strategy but if they have to become secondary, let them. The real time pressures for me are on these damage suits. I believe the chances of collection are very good if the statute does not run. I believe there may be some reasonable prospect of out-of-court compromises that we could accept. And while the field from which I might be able to obtain an assistant is now considerable narrowed there is nothing aside from a ~~long~~ lengthening of the years I may still expect that does or can mean as much to me as being able to pay an assistant.

If I can face the fact that my physical capabilities are diminished and lose no sleep from this recognition you need not avoid it. It has to be faced or I'll continue to be wasted and the work I might yet do will go undone.

If there are returns from such cases there is no problem with how to use them. Well is two years past the point where I obtained the proof that guarantees a minimum of more than \$5000. I've offered up to 100% of this for fees and that should make the suit no drag on counsel.

But I am concerned about the Shaw decision because it alters all I expected could be. It means that these efforts have to be made while I live and that additional efforts must be made by those who lose from my death. In this case we do not have what Shaw had, a mere estate, although there is that. We have many other considerations I'd like to have time to discuss with you and Howard as soon as he is located in DC and can spare a little time for it.

We have to talk about GHA very soon. I think all it requires of you is obtaining co-counsel and I think you have no real problem there. This has many importances for me.

We have to talk about filing damage suits against those officials who have damaged me and we have to include the archive I will leave as co-plaintiff. This may require a more formal establishment of it. Maybe if Dave's really dynamic chancellor does not run for the nomination he may be able to give this some thought. The man impresses me enormously. He has know-hows and he is a sharp analyst of political matters. We also must, as you said, read the Shaw decision.

We have to make an abrupt shift of emphasis. We have to do it rapidly. We have to find ways in which we can accomplish what we have set out to accomplish without drizzling years away in the effort - and we can. We have to come to an understanding of what can be most productive and not remain in a situation in which we merely react. We may have come to where we should consider abandoning some efforts to concentrate on others. I do find myself wondering about both or all three appeals, Louw/Life pix, which mean ~~little~~ little to me now if it takes any amount of work for you; Spectro and 1448. I'd much prefer that the later two be handled as political matters, which they are, with the minimum effort on the legalities.

We do require more flexibility, not easy when we have no time to sit back and think things through. We can churn the same ground lifting water out of a stream, ~~like~~ like animals do in primitive lands, but that amount of water today means very little to us.

Let us try to find time for sitting down, talking this through and then doing what we agree to. I don't want a situation in which I spend weeks drafting affidavits that get forgotten or a situation in which I have to recognize that it is a futility for me to draft affidavits. The last one is not the only one of these.

After you have time to think of these things I hope you can consult with Howard and Dave about them. They are oppressive and very limiting to me. Best,

RPH

May 16, 1978

Mr. Harold Weisberg
Route 12 - Old Receiver Road
Frederick, Maryland 21701

1 - Legal Counsel
Attention: Charles Mathews

Dear Mr. Weisberg:

1. | Enclosed herewith are 358 pages of documents
 2. | from the Memphis Field Office Sub G File as processed,
 3. | according to the stipulations agreed to concerning the
 processing of field office files. In response to your
 latest request, the entire releasable portion of the Sub
 G file is being forwarded as a review of correspondence
 from you failed to disclose the volume numbers of those
 Sub G volumes which you state you have not received.
 Also there is a discrepancy as to the number of volumes
 to which you are referring. In you letter dated October 20,
 1977, the number you give is six, while in your Motion
 for Partial Summary Judgment, C.A. 75-1996, the number
 given is four.

5. | It is noted that according to FBI records, the
 entire Sub G file was provided to you as a part of the
 enclosure to our letter dated September 29, 1977. Also,
 upon advisement that you had not received certain volumes
 of the Sub G file, a copy of the requested volumes was
 provided to your attorney, James Lesar, at FBI Headquarters
 (FBIHQ) in November, 1977. The FBI poses no objection
 to the release of the Sub G file to you, our handling
 of this matter being based upon our records that all Sub
 G files had been previously provided to you.

6. | The Memphis Field Office Sub G file consists
 of 40 volumes. Pursuant to the provisions of the aforementioned
 stipulations, any documents which had originally been
 directed to FBIHQ would not be released from the field
 office files, unless there appeared on the field office
 copy of the document a handwritten notation which would
 not have been on the document received at FBIHQ. In processing

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Mr. Harold Weisberg

the Memphis Sub G file with regard to these standards, it was determined that 21 of the 40 Sub G volumes did not contain documents which required release. Additionally, one of the remaining 19 volumes (volume 23) was a duplicate of another Sub G volume (volume 22) from which documents were to be released. This results in the release to you of documents from 18 of the 40 Sub G volumes.

Your patience and cooperation are appreciated.

Sincerely yours,

Allen H. McCreight, Chief
Freedom of Information-
Privacy Acts Branch
Records Management Division

- 1 - James H. Lesar, Esq.
1231 Fourth Street, S. W.
Washington, D. C. 20004
- 1 - The Deputy Attorney General
Attention: Ms. Betsy Ginsberg
- 1 - The Deputy Attorney General
Attention: Mr. Doug Mitchell

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NOTE: The entire Memphis Murkin Sub G file as processed is being released to Mr. Weisberg. The Bureau has previously released this file to Mr. Weisberg by our letter dated September 29, 1977, and later delivered to Mr. Weisberg's attorney, James Lear, a copy of the Sub G volumes which we had orally been advised Mr. Weisberg was missing. As Mr. Weisberg contends he still is not in receipt of certain of the Sub G volumes, the Bureau is again making a release of the Sub G file. This release has been thoroughly checked and all volumes of the Sub G file are accounted for in this release. This release is being made at the specific request of Departmental Attorney Betsy Ginsberg.

Memo for John Harting et al for 11/11/77 meeting Harold Weisberg 11/10/77

Last night I finished reviewing a selection of the field office files I had laid aside for special purposes. I will give you some of the questions relating to compliance I noted in them while reviewing them for other purposes.

I think, however, that there is much of the past that is relevant and that while you may want me to forget it because you have ignored it I am not prepared to forget it. I will not have time to organize and reorganize these. They will be off the top of the head.

Aside from the large number of missing attachments in your processing of the FBIHQ files you noted quite a large number of records that were withheld because they were referred to others. These others ranged from the Department to State to CIA. If I have received a single one of these I do not recall it. These go back for months, to the very beginning of the processing more than a year ago.

You have told me verbally that you have had no response. I do not believe this is any more than stonewalling. I believe those records are required for compliance. They are still withheld, which to me means no compliance. I suggested a call or other effort with those you say have not responded. I think they would prefer that to a word from the judge. You have given me nothing showing any effort to obtain response from those people. Moreover, with the determination that this is an historical case and the new directive from the AG now a half-year old there appears to be virtually no exception that can be claimed for those records.

This is true of other police agencies. In June I offered you a compromise, write a letter to the Mounties and have them state in writing that the records relating to the Ray investigation are required to be withheld for real police needs and I would accept their response. You have not given me a copy of any such letter and I am certain of the reason - there is nothing in those records that need be withheld if, indeed, there is basis for it with all that the FBI has leaked and all that was represented to the Tenn. courts over a period of years. The same goes for England and Portugal. For all you have withheld all names when all are public and were they not in my view did not qualify for withholding. The more ridiculous are those subpoenaed as witnesses and those who held press conferences, where you even withheld the names of those who held these press conferences. Add Mexico, for it applies there. Plus the fact that the LA field office files disclose Puerta Villarta investigations and reports that should exist and are not provided, like the 4/10/68 report that a guest there had killed King. I can't imagine an Agent reviewing those kinds of reports without recognizing that something had to follow the initial report to the LA field office. (That was so early in the investigation the laundry marks had just been identified and the LA angle with them.) Include the same with regard to Memphis police, a question I have raised without response and the withholding of those non-secret names. All these aspects relate to compliance and good faith.

The question of crime-scene pictures remains unresolved. I have not had time to check my notes on this. The notes are too voluminous. But I have located the notes to myself if I did not also write you about the fact that the descriptions of these pictures and the number of them do not match what you have provided. There can be no confusion with the pictures the MFO took in November because all of these were prior to the taking of the November pictures. That some were medical pictures neither complicates it nor resolves the problem. The descriptions and the pictures provided are not identical, in fact or in number.

In writing you earlier on the item of surveillance I believe I may have forgotten to give you specifics I think I really do not have to give you on James Earl Ray. Where you originally withheld with Jerry Ray you have not since provided what you withheld. The indications are of a black bag job on the Peppers. I raised this question without any response.

Ray was the subject of such surveillance beginning in London. I have the records that reflect it. This was continued in Memphis where again I have the records reflecting it. This is how the sheriff learned that Ray was about to withdraw from his agreement to cop a plea.

The sheriff intercepted all his mail, including with counsel. He gave all to the FBI. He also gave all to the prosecutor. Jim and I obtained a copy of the written directives on this and put it in the record of the evidentiary hearing. (This is the one I had indexed for Jim in 1975, the index the FBI declined to accept for assistance in processing these records at issue.) Your own records reflect that on occasion the FBI receives copies even before the prosecutor did. I can give you details without and that you do not really need. The interceptions were under Captain Smith, the man responsible for the copying was Administrative SA Lloyd Rhodes, some went to Cal Canale personally and others to one your records note is a graduate of the FBI Academy, Hutchinson. You have not provided the copies of the intercepted letters particularly with counsel. This, too, began in England. To the best of my knowledge the interception of my correspondence with Ray never stopped. He never received my first letter, while I am not about to identify any of my official sources on the chance some were not picked up on surveillance you should know that they are good and accurate ones from the confirmation of even the specific details I gave Tom Wiseman at our first meeting, the one that led to contacting the WFO. I guess I can tell you because of the number of them that my sources ranged from those who were Ray's jailors, those in the same cell with him, to fairly high police officials and to the prosecution. Not every Memphis official was in agreement with the practices. Moreover, while the records I've received do not reflect it, the local agents spent much time with the press. From Jensen down. You are still withholding hidden information Jensen personally gave reporters I know. This is but one example. There are many.

Relatively recently there was a Jack Anderson column relating to one described as an FBI informer by the name of Manfred Baron. It says he was in the Ray cell during the evidentiary hearing. This was October 9 1974. I believe I know "Manfred Baron" as "Pat San Williams." I also was in that cell block at that time. On several occasions Jim was with me. If I believe it is passing strange that with all the alleged concern for Ray's security he and a man of Baron/Williams' reputation were in the same cell I think it is no less strange that you have not provided a single record on this. I know something about this man's career, enough details not limited to a description that is close to unique. Going along with this while there are records indicating some coverage of the evidentiary hearing, even repeated checking with the clerks of court, there is no record of the challenge to the FBI's evidence, even with the existence of records in what I have showing the HQ interest in it. An example is the lab work and Frazier in particular.

The records I have reflect the release to others of records not provided to me. There was a deal worked out with "ling people to let them have some, for which in some cases releases were obtained. I have mentioned this before. I have had no response.

The lack of response extends to the specifics I gave you, as I recall in some cases with copies of records, at our "une meetings. That was a long time ago.

I mentioned that the N.O. field office has relevant records on me in what I wrote you more recently. I believe I also told you that this has to include the matter of the Mexico sketch and the so-called "tramp" picture from "ealey Plaza. I've just thought of something else: it should include what relates to a couple of my more dubious sources who were fixed up for some very dubious work with a well-known FBI/DJ informer in Baton Rouge. They were in touch with me from Baton Rouge while this was going on. They were fixed up by a well-known DJ personality of the period. I met him several times during that period, once by accident. His name has eight letters. Your informer's is six, the famous case is five. On this there are other related withholdings I've specified without response. There should be relevant Memphis records I've also not been given. In fact there is a total void on this from Memphis. In Memphis it should be in more than one set of records.

With the foregoing I've varying degrees of proof. If I can now find it these extend to tape-recorded flink interviews. One once spent until 3 a.m. talking into my tape recorder, turning it off only once that I can recall. This one also was a BNDD informer. Where I have less proof but am fairly confident that if I have to I can provide enough includes other items like the late Judge Battle. I have difficulty believing that the FBI has no records

relating to his untimely death, particularly because it was initially feared to be a homicide. I've interviewed those who were involved when it was believed to be a homicide. Jim was with me when I interviewed one, in his own office, using even his tape recorder, which was better than mine. It is not easy to believe that with all that hung on that mysterious death, and by this I mean what hung for the FBI, it had no records on this and all those records about the woman who bore the insignificant Charles Cabbage a bastard. In addition, Judge Battle had a practice of giving the FBI letters he received. I recall getting only one, one a citizen asked him to forward to Ray's defense counsel. The good judge of sainted civil rights memory apparently believed the FBI was Ray's defense.

You keep telling me that there are no higher-level files to search but there are some that did exist even if you claim there are only the central files, the others being destroyed regularly. An example is the Director's files. How many cabinets of Hoover's were there? Thirty none? Nothing on King or any aspect of this request or the formulation of it by the Department?

I hope we don't get into the kind of situation reflected in the Hitt affidavit. Washington wanted an affidavit attesting to nothing out of the way relating to Ray's rights and illegal seizures of evidence and SAC Hitt provided it from Atlanta. But the agent who did the black-bag job is Burgess, who reported on its successes to Hitt and to the Bureau.

The obit in this morning's Post reminds me of the virtually total anonymity for the late William Sullivan in the more than 440,000 pages I've gone over. He also had no files? He made not a single note that was preserved? Nothing at all with regard to the really intensive political operations against King? And didn't he go to Memphis immediately to take charge? Would you believe it if I told you something like that?

While going over the records yesterday and last night I made a few notes relating to compliance, really non-compliance. I do not attempt to correlate them. I also put aside a few copies I can show you to illustrate the points in some and other instances.

At our meeting after the 11/2 calendar call I told you and Charles that I have been given no record of any investigation of the mailing of the Birmingham bank's safe deposit key from Baton Rouge. It was called to the attention of the N.O.FO. in its 157-10673-263. There is a real problem with this that the FBI would never have ignored: the date given predates Ray's departure from Los Angeles on that trip. It is 12/13/67.

WFO 44-703-47 is incomplete as provided. Whether or not there were more pages this is one of those copied crookedly, eliminating the Serial.

Pictures: If my recollection of the HQ files on others is incorrect among the WFO files that may hold further references are Subs A and D.

There remain the withheld political pictures for which there is the privacy claim I believe is frivolous in general and ridiculous in specifics where you have provided such pictures as xeroxed from the published. (Didn't you copy the copyrighted in that?) You have also withheld the names of those who took the pictures, even where they are known to those in the pictures, more because in some cases they asked permission to take the pictures. One of the photographers is Ernest Withers. He was at the crime scene shortly after the shooting. He also took pictures of individuals who figure in the political files and relating to the strikes. I noted one reference to him to give you reason to believe he was not a total mystery to the BKKK. WFO - 44-1907-318. I'm not certain of the Serial. It is unclear. I am pretty confident there is a separate file on him in Memphis.

He and Louw are not the only black photographers at the crime scene at the time of the crime. (Nor were there no white photographers.) I recall no single mention of Josephine Colfield. I am not certain of the spelling but it is close. She was then with a St. Louis black paper. She later moved to Baltimore. I understand.

This remind me, you have been silent about the question I raised, questions, really, about the withholding from the LA FO record predicting how I was going to wreck the FBI. I believe that record was not the only one, or I think two. The name of the source was withheld. Try the name Charash for accuracy. You don't have to for aise. Not only did you withhold this and continue to withhold it after the AG's statement of policy on privacy- if he is the one he was a very public figure then. He also would fit other parts of the requests. Like CIA.

Atlanta News report. I believe I've raised this before and offered you my copy of it. But you continue to withhold it after all the great attention to the content, much and often on coast-to-coast TV not limited to Dick Gregory. According to Atlanta 44-2586-2495 you personally phoned about this 6/23/77. This also happened to be after the 5/5 AG policy statement. Serials 2552 and 2553 are relevant.

You have not responded to my asking about the guy with the bum steer to the Los Angeles Times. While in the later records you stopped withholding the name Lester Edward Packett failing to replace the earlier ones introduces confusion and uncertainty. When the source was the press I can't see where any exemption applied to begin with.

There are some records relating to a suspect but no responses to me. The source was David Gaines. Two citations are WFO 44-703 (remember I told you that although he lived in the Alexandria territory it was also WFO - and you said there was no Alexandria then?) and Alexandria 44-149. The incident was near here, at the Hawaiian motel near Brunswick, Md. That should be under our local residency and in turn under Baltimore. The Gaineses were redacted after he phoned me. Among the still-withheld records this is at least one. I'd be surprised if there was no Hawaiian checking. Most people would be shocked given what "Harris" said - and pre-existing reason, still withheld, to look into it. In raising this with you earlier I asked you if the right name is Paisley. I would strongly encourage serious consideration of the alternatives with this one and what fits with it. I have done some work on it, including in Louisiana. Jim is well cuad in on it. I have records of FBI records that are relevant that you have not provided. Given the interceptions and copying of Ray's mail to me what he told me is not secret. There is much that can be very embarrassing and to more than the FBI if all of this is aired in court.

No response on Raul Esquivel. I wrote, we discussed this as late as last week and I find in 157-10673-1253, N.O. record I do not recall from HQ files, that Supervisor Long phoned and said he wanted Esquivel interviewed. I recall no interview report.

I told you about my friend Matt Herron and those records not provided from Memphis. I know from him that he was in contact with the FO at the time. He is referred to by the name, by coincidence, "Harris" in one of several records that duplicate what he told the FO, but duplicate it only in part. A still withheld part - and I am not saying this is the only one because it isn't- has to do with what Mark Lane has been misrepresenting and misusing, the yanking of Ed Edditt and the two black firemen. WFO did have a few earlier records on that without reference to what he reported. As you know by now I was completely accurate on this. He is a dependable source even if he is now navigating ships on ecological adventures. If the FBI is still reading newspapers.

Two relevant records are among those I located in those I've gone over since we met. They are 44-1987-90 and probably 132, part of which is lost in xeroxing. It is the last sentence of 90 that appears to refer to "Herron as "Harris."

On the 2d I called B'ham 44-1740-411 to your attention with regard to the sketch from Mexico, which it reports, and the "tramp" picture and with your continuing failure to come up with the copies I left for the FBI with the local resident agent after phoning about it. I recall no copy of Serial 411 from Memphis, to which it was sent, and nothing further by way of investigation. I do not recall receiving the copy of either of the "two photographs of CLAUDE CHESTER McLANE, JR., TAKEN AT MEXICO CITY INTERNATIONAL AIRPORT on April 8, 1968." This is probably because only six copies of each were sent two to two field offices. I recall nothing from HQ files on this. Memphis Sub B 56 is Baltimore's 44-669 of 5/3/68 to Dallas enclosing what I gave the RA. It manages to miss the point with respect

to the King assassination. Dallas' 6/21/68 response to Baltimore, "Memphis Sub E, number unclear, reflects no concern over the non-sequitur. However, it does supply an opinion from the editor of the Times-Herald & once would have thought would not have been lost upon the FBI, in HQ or the various field offices," that the alleged newspaper artist's sketch appeared to have been made by someone who was looking at the photo of the unknown lookalike..." I had the same notion when I phoned the FBI.

This is one of the early items in my requests. If you are going to claim that the FBI was not aware of what I told it even after a newspaper editor knocked them on the head over it I will insist that it be in writing and not what I might call a Hitt-and-run affidavit.

I don't believe that Al Chapman is referred to in this Dallas Airtel but he appears to have called the same thing to Dallas PD attention. I understood before I even met him that he was then a member of the KKK, which a Dallas report states. Whapman was also my first source on these "trap" pictures. He obtained them and others from the photographers.

Meanwhile, what happened to what you have told the court about never, never copying copyrighted pictures, including those copyrighted by non-publication, like Louw's? These were provided by xerox from the set Julie gave D'ham. The rest of that story, not in your files, may interest you. Foreman's sworn version is that it was for a friend of his at Time, which managed to have the Dallas paper's pictures without publishing them. Ray's is that he was offered \$5,000 by Foreman to make an ID of that photographed unknown. As "Raoul."

(Reminds me: N.O. came up with a couple of Raouls. I recall no final investigations. Especially not of the Canadian one who had a criminal record the minuscule part of which is disclosed is fascinating to me from work I've done and the files provided do not duplicate. However, the one suggested to me does exist in Bureau files as well as those of the Criminal Divisions. And the AG and DAG. I have some copies, not from the FBI or directly from them.)

And where are the Baltimore records? I told you there would be others elsewhere. One of the files I specified is those of NY PD. So it says in this Dallas Airtel, with one of the names I gave you, Trent Gough. Many records exist that are relevant and are still withheld.

Atlanta's (157-New) of 4/5/68, which is the mornin' after the assassination, was provided to me from its 157-3094, where it is Serial 1. Now I recall no other record from this file. Its Murkin number is 2306. "Assistant Director SUMMIVANT wants to be advised who wrote KING's last speech." George Horre phoned Hitt at 9:20 a.m., so the Bureau must have been real interested. If I received the answer I do not recall it. I am interested, of course, as I am in any tape or transcript. It is the speech in which he said he was fearing no man, that he had been to the mountaintop, had seen the promised land and was not afraid to be going there. Famous last words, to coin a phrase.

The official line is that the FBI was not then covering King. It did cover that meeting. Those who did were known to my sources, reporters who were also there. Aside from your King operation great effort and time went into the Sanitation workers' strike, of which it was part.

Atlanta 44-2386-124, Bulky, notes enlarged copies of maps of Atlanta and Los Angeles. I don't care about the latter. I have only a portion of one of the former. I have no way of knowing whether or not it is this one or if so is all of it. What I have would fit into a file folder. It did not have to be filed with the Bulkys. I am interested in the map said to have had four places marked. My other written communications about other maps are without response. I've gone into some detail about the New Orleans map that was shunted back and forth ~~XXXXXXXX~~ between Washington and Memphis and I did examine it after it was treated for printing. It has a number of places marked. I believe I told you I photographed

most of those places. Then files and records not provided to me were shown to Gay's first lawyer, former SA Arthur Hanes. I have his notes, which refer to material not yet provided about this map and other evidence. Like phone numbers. The prosecution displayed these materials to him because Judge Battle ordered it.

Birmingham 44-1740, with an unclear number that may refer to a Sub, has a Serial 142 reporting my access to records in 1970 because of C.A. 718-70. I believe there is a similar Los Angeles story. However, the non-compliance on this is fairly widespread, including the WFO's failure to provide the story Bill King arranged to be in the Washington Post.

1248 from there is a signed statement from John Webster De Shazo. However, it is limited to an ID of a picture, as are others obtained then. However, their proffered testimony went much farther. Neither such statements nor SA notes for FD302s covering this other evidence have been provided, although there are rather detailed notes relating to a meeting with an informer such later. Long after the guilty plea. My point is that there have to be other records. I am aware of some of the content that is not congenial to the official explanation of the crime.

Serial 899 relates that Hq phoned and dictated "the attached press release, which he (Supervisor Bill Gunn) dictated to stenographers..." Not provided. Of course I'm wildly curious about the content when this was the procedure and it was the day the FBI lodged charges of the conspiracy it stoutly maintains never existed. 4/17/68. Washington's seeming modesty is also a bit provocative.

Chicago's 44-1114- 404 or 464, which would appear to have been sent to all FOs and was provided by Chicago only, has content the basis of which was not provided by Chicago. If it has been provided from other files I do not recall it. The notes are "...photographs taken by a woman companion of the subject while he was in Mexico in the fall of 1967." I recall and have the photo, from Blake and Wiseman. (It makes it appear that Jimmy ages real fast in comparison with pictures of a few months later. He claims it is not a picture of him, by the way.)

I have written you without response about seeming gaps in the WFO files, of my belief that I was not sent all you later listed, and of the existence of a sort of list I later found when I looked at what you sent after receiving your list. The Memphis record bears no identification. It is headed "THE FOLLOWING DATE LISTS WILL BE MAINTAINED IN THE FOLLOWING FILES:" At the outset additions were typed on. Later they were added by hand. I also asked if this did not apply to the other FOs and if it did why no such lists were not provided. Earlier from Hq files I raised the same question and made the same request based on a Chicago record. I was promised these but have not received them or any assurance they do not exist.

It is my recollection that the Chicago file list from Hq refers to files from which I was not provided relevant records.

From the Los Angeles files there is the ultrafarout without of the name and other information relating to the publisher of the Tuskegee Tribune." I'm sure I mentioned that she is Mrs. Almona Lomax. The record in question is LA 44-1574-U17B.

By the content of Serial 1900 there is relevant information not provided, the FBI's advance information about "a new book due to be released written by former FBI Agent WILLIAM TURNER which relates to the King assassination. McGowan cited chapter and page, which is pretty prescient for a book not yet released. Also relating to Turner and not to him alone the LA office is among those that should have files on the sketch and picture it seems were sent to all FOs (without Hq files reflecting it unless my memory is flawed). I'm sure I told you more, including his use of these pix in San Francisco and by publication.

Serial 1962 on Hq refers to "Bureau letter dated 4/21/76, entitled, "MEDIA RELATIONS, RESPONSE TO CRITICISM OF THE FBI CONCERNING ACTIONS TAKEN AGAINST MARTIN LUTHER KING, JR." I do not recall receiving this. It also reminds me that you have neither provided nor responded about my asking repeatedly for what the FBI gave the Church committee and it

made public. Adams is the one I believe provided the FBI's testimony. I have out aside a news story from FBI files reflecting the fact that what you continue to stonewall me ever was published and requires no special search having been located for and given to the Church committee. This is about and on the events of 3/28/68, the business of authorizing a news story adding King for staying at a white hostelry and the business of no black messiah unless he is chosen by the founding father.

(It is astounding if what has been provided from M.A. on Lane, restricted to what is relevant to the King assassination, is a minor fraction of what exists. If it is not maybe the FBI would like to borrow some of the tapes and other materials people from out there have sent me. He has had very much to say about the FBI. It is if the nature that always attracted FBI interest. It also happens to be very incorrect. Were our positions reversed would you believe there has been compliance from either LA or on the subject of Lane in the King assassination files? Or Abby Man, who has this big special coming up and LA had a single record on it - dating to 1968. Which is to say nothing about others in association with Lane, like Donald Freed, who has written and spoken much about the FBI and the King case. He also has pushed accuracy to a fault.)

Memphis Sub -250 reflects that your people were, too, there. Exactly as I told you if not perhaps the same day. The visit of which I learned was not on hairs and fibrous. How about getting Memphis to finally level on this? Ray was there and the FBI knew it and as of this minute is still seeking to perpetuate its suppression of it. As a result they also have his registration, I think on a 335 card. I spoke to both maids they interviewed, as I now recall about the time they found his registered at the hotel, near or near the day after the shooting. You and Ralph may be interested in knowing, if I have not told you, that this is about where you traced the bear and the bag and the shaving kit. Only to miss the motel when the shaving kit had an address on it? Come on!

Sub M 105 of 10/27/76 appears to refer to me and this suit, to pictures and to other records I can't remember - did you provide them later? Descriptive of other medical pictures is Sub D 105. Prior to my seeing this you asked me by phone about autopsy pictures and the like. I forgot to ask you last week. I hope you have them tomorrow. Except for the third in this list the others are those I told you interest me. These are among those often and publicly displayed by the prosecution and the medical examiner himself. I believe I told you Jim has a videotape of the medical examiner showing these pictures at the Univ. of Arizona. Well, belatedly I have received from the Archives its record of a letter signed by Director Kelly several years ago on this subject. The FBI no longer restricted the Oswald autopsy pictures at the Archives. Yet thereafter withheld these from me?

Serials 563 and 609 appear to relate to other records about which I have written and spoken to you, the appearance of one seeming to be "Vault" and other names in the Memphis area about 2/68. The informer's name does not interest me but more of the information does, as I've told you without response. The other offices addressed have provided no relevant records I can recall seeing.

Sub-D-107 is a rather late withholding of a former fellow prisoner's name despite the AG and despite the use by OPH of Curtis and the alleged reporting of a bounty on King of which Ray is supposed to have known. Between the writing by McMillan, who wrote that he had access to the MPO records and other through the prosecution and the extensive attention to these allegations, treated as a gospel by the Department through its OPH report, there appears to me to have been a waiver if there were basis for these withholdings of names, even known names and as with Curtis before I complained, when it had all been in the press.

Sub-D-81 relates to Stephens and an inferred ID of a picture of Ray. It appears to be a special formulation, to be incomplete, and there is what I am sure has to exist on this because it was aired in the CBS special referred to in this case. On the date of this interview with Stephens or the day before CBS filmed Stephens looking at a Ray picture and reported his words, "Not the guy." Because CBS did not air this for all those years it was possible to tell the British court otherwise and to infer otherwise in this FD302. I do not believe I have been given all there is on this. I can't imagine that when everyone was so

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afraid of being clobbered on prime time by CBS you have no record. Maybe you didn't call it MURKIN, but then I didn't either. You may not be aware of this clobber part because you have also managed not to provide your set of the relevant records. This one we got from the Department. It is in the court record, I believe.

Sub-52 of 4/7/67 is one of several references to the MPO recording the Memphis police radio. Transcripts were in 1-A. If I did not get these I don't really care about them. What I do care about and have not been given is the logs for the time of the crime. Some of those of the police were published. Those of the sheriff became quite relevant over what for some reason I think I can guess was not very pleasing - that Chonaley rather than Dollahite radioed the first account of the finding of the package outside Canipe's. Again I can't imagine the FBI not having these logs and I do want them very much. Aside from the finding of the package there was that deception about the chase of a phoney Mustang. It was to result in a large investigation in which the logs were essential.

New Orleans, 157-10673-765 refers to more than a thousand pages of undated records it had sent to Memphis. This record is from Memphis to New Orleans. It concludes "All of the above material is being returned to New Orleans, which office in the future should submit its own reports." While from the limited descriptions, which may well have been adequate when they were accompanied by this memo, I can't determine that I received these from New Orleans, the length alone leads me to believe I did not. If I did I'd appreciate knowing which each is. You have whatever list told you I had received withheld records from HQ, for example.

Chicago 44-1114 refers to a Baltimore investigation of the records the Memphis police found on Jerry Ray when they arrested him for being drunk on 7/9/68. From no source have I received the results of the tracings of these records. They do include phone numbers. Leads were sent to Baltimore.

Serial 774 refers to a rather provocative thing, the mailing of a letter from a prisoner in Georgia who appears to have had details about the room Ray rented under his brother's alias at 2731 Sheffield, Chicago. Including Ray's use of an alias other than his own. When the FBI had the letter and the envelope I can't imagine it ending without more that this, particularly because it had so intense and proper an interest in Ray's career from the time he escaped from Mopen until the assassination. Savannah was also involved in this inquiry, that being near where Russell was jailed, in Reidsville.

I have no reason to believe that providing new specifics will do any more good that it has in the past but I've again taken time to give you some in the hope that no matter how late a constructive purpose might be served.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Weisberg,)
)
 Plaintiff)
)
 v.) Civil Action No. 75-1996
)
 Bell,)
)
 Defendant)

OFFICIAL TRANSCRIPT
OF HEARING

DATE: March 7, 1978

PAGES: 1 - 9

GLORIA H. HORNING

Official Reporter
6814 U. S. Court House
Washington, D. C. 20001

Prepared for:

PLAINTIFF

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

WEISBERG,)
)
Plaintiff,)
)
v.) Civil Action 75-1996
)
BELL,)
)
Defendant.)

Washington, D. C.
Tuesday, March 7, 1978

The above-entitled matter came on for status call
before THE HONORABLE JUNE L. GREEN, United States District
Judge, at 10:05 a.m.

APPEARANCES:

On behalf of the Plaintiff:

JAMES LESAR, ESQ.

On behalf of the Defendant:

LYNN ZUSSMAN, ESQ.
BETTY GINSBERG, ESQ.

GLORIA H. HORNING
OFFICIAL COURT REPORTER

P R O C E E D I N G S

1
2 DEPUTY CLERK: Civil Action 75-1996, Weisberg v.
3 Bell. Mr. Lesar for the plaintiff, Miss Zussman and Miss
4 Ginsberg for the defendant.

5 MISS ZUSSMAN: Assistant United States Attorney
6 Jay Dugan was handling this case for the Government and, as
7 I am sure Your Honor is aware, Mr. Dugan has left Government
8 service.

9 Betsy Ginsberg, in the Office of Information and
10 Privacy, Civil Division, will be the attorney of record
11 after today.

12 I am handling the status call, because I was
13 assisting Mr. Dugan last summer during the period of the
14 stipulation in the case.

15 THE COURT: I recall that you were.

16 MISS ZUSSMAN: The Government's position in the
17 case is that as a result of the lengthy conference held
18 in the Judge's chambers several months ago, it was the
19 Government's understanding that Mr. Weisberg was to review
20 the approximately 44,000 pages of documents in the Murkin
21 investigation which had already been released to him and
22 to make an inventory or listing of the deletions which he
23 was raising questions about, and the Government components,
24 the Federal Bureau of Investigation, agreed, in the Court's
25 chambers, to go back into its records and to

1 review whatever specific complaints Mr. Weisberg raised.

2 In the months that have passed since that conference,
3 we have been in touch with Mr. Weisberg and with his counsel,
4 Mr. Lesar, but we have not yet received any kind of listing
5 of the complaint that Mr. Weisberg was to generate after the
6 discussion in chambers and that is what the Government has
7 been waiting for, Your Honor.

8 Short of that, the Government could go ahead and
9 prepare a motion for summary judgment in about 30 days.

10 THE COURT: You know, I will be glad to hear from
11 Mr. Lesar on it, because I was under the impression that he
12 was supposed to be doing something else.

13 I was under the impression, from the meeting in
14 chambers, that it was contemplated that Mr. Weisberg was
15 going to decide what future information he wanted, because
16 the Government wanted him to narrow the scope of his request
17 and that, indeed, that was what was contemplated.

18 I don't recall it having to do with anything about
19 past papers at this time.

20 Now, I'd like to hear if I am mistaken.

21 MR. LESAR: Your Honor, I think that our under-
22 standing of what transpired at the in-chambers conference was
23 that Mr. Weisberg would review his notes and his correspon-
24 dence of what he had been provided.

25 His notes on what he had been provided and his

1 correspondence with the FBI, detailing his objections to
2 their processing, both with respect to specific deletions
3 and with respect to documents which are missing or are not
4 there which have not been provided.

5 Since that time, two things have happened:

6 One, Mr. Weisberg began the laborious job of
7 reviewing his notes and has dictated now his notes on improper
8 withholdings and deletions and missing documents --

9 THE COURT: Then I stand corrected. Miss Suzzman
10 is correct in that point.

11 MR. LESAR: Only partially correct.

12 Because what she said was that he was going to go
13 over the 44,000 pages, and that is not true.

14 We have made it very explicit, very true that he
15 cannot do that. The amount of time involved in that would
16 be simply impossible.

17 Indeed, it has already taken him over 100 hours of
18 his time simply to do this task of reviewing his notes and
19 his correspondence and starting to dictate them.

20 In addition to that, at conferences that were held
21 both before the November 23rd conference and at least one
22 conference that I held with Government counsel since that
23 time, we pointed out that there were several specific things
24 for which there was no reason for delay on the part of the
25 Government.

1 We pointed out specifically that the OPR report
2 on the King assassination, which we refer to as the Shaheen
3 report, that that report mentions that the Civil Rights
4 Division of the FBI provided FBI Director J. Edgar Hoover
5 with files, daily summaries on the status of the investigation.

6 We have not received those.

7 And I asked, I think, at the end of January -- I
8 mentioned this specifically and there was to be something
9 done on that. And it has not been done.

10 Last November 11th, Mr. Weisberg selected a list
11 of names of certain prisoners from a list that was provided
12 him by the FBI and the understanding was that the FBI was
13 going to check and see if there was any reason why those
14 names, which were familiar to Mr. Weisberg, and the infor-
15 mation that had been deleted with respect to those persons
16 could not be released.

17 Mr. Weisberg felt that, in all probability, those
18 names and the information relating to them was already in
19 the public domain and there was no ground for withholding
20 them.

21 Furthermore, also on November 11th, the question
22 came up of four sections of sub-section (g) of the memorandum
23 file which were apparently inadvertently not sent to Mr.
24 Weisberg and were supposed to have been provided him and they
25 have not been provided him.

1 So, one, we are proceeding with the work that Mr.
2 Weisberg had agreed to. He has begun the dictation. In fact,
3 has completed a substantial portion of the dictation.

4 Those notes will be typed up within the next couple
5 of weeks and then we will be in a position, I think, to move
6 for summary judgment with respect to a number of matters.

7 It may be that since I have had no response on a
8 number of these matters that we pointed out that I will have
9 to simply put summary judgment motions in with respect to
10 each question of withholding and with respect to the dele-
11 tions.

12 MISS ZUSSMAN: As I think the Court is aware, Mr.
13 Weisberg and Mr. Lesar, and a number of Government counsel
14 have attempted, over a long period of time, to try and
15 resolve whatever issues could be resolved as cooperatively
16 as possible to try and crystallize and narrow the issues that
17 the Court had to concern itself with.

18 However, it does seem, after the last six months
19 and the amount of energy put in on both sides, that there
20 are some very realistic problems with handling the issues
21 in this way.

22 The Government remains ready to cooperate. One of
23 the problems has been changing requests and changing demands
24 for information on the part of the plaintiff.

25 And I do think that perhaps at this time Mr. Lesar's

1 suggestion that as soon as Mr. Weisberg has completed his
2 work, whatever that work is going to be, and Your Honor may
3 recall the Government's generous and unique offer made by
4 Deputy Assistant Attorney General William Schaffer to pay a
5 fee to Mr. Weisberg as a consultant for this work, which is
6 highly unusual --

7 I do think that Mr. Lesar's suggestion is perhaps
8 the most realistic one at this time, that as soon as Mr.
9 Weisberg completes his work, if Mr. Lesar would prepare papers
10 setting forth all of the issues that plaintiff feels are
11 still remaining in this case, then we can file cross-motions,
12 Government counsel, namely myself, has investigated from time
13 to time several specific problems that Mr. Lesar has raised
14 informally and I think the most appropriate way of getting
15 that information before the Court will be in the form of
16 sworn affidavits.

17 THE COURT: Very well. When do you think this will
18 come about?

19 MR. LESAR: Your Honor, there are two problems.
20 One, as I think you may be partially aware from the events
21 that have transpired publicly, Mr. Weisberg has been
22 exceedingly busy.

23 Since the November 23rd conference, he has received
24 approximately 75,000 pages of documents relating to both
25 the JFK and King assassinations, in other cases, not this one.

1 And that has entailed enormous problems.

2 He has had to buy 11 file cabinets to hold the
3 documents. He has had numerous news people --

4 THE COURT: At least this is in the right direction,
5 isn't it?

6 MR. LESAR: Yes, that part is, but we had to fight
7 to get it.

8 THE COURT: That is what he was seeking?

9 MR. LESAR: Yes. The other problem is my rather
10 unique circumstances as the solest of sole practitioners
11 trying to make a transition, but not able to do so, and not
12 yet able to get help, I am under very heavy time pressures
13 now.

14 I have got four cases before Courts of Appeals now
15 and a number of other matters pending. And my guess is that
16 if we can get something before the Court in a month, we'll
17 be doing good.

18 MISS ZUSSMAN: The Government will be ready to
19 respond fully to all issues within 30 days after it receives
20 plaintiff's final papers, Your Honor.

21 THE COURT: As you have heard this Court say many
22 times before, it is a 1975 case. We don't want to live with
23 it the rest of time. So we'd appreciate what efforts you
24 can make.

25 We will take another look at this case in two

1 months. We hope all we have to do is sign some orders after
2 first deciding them.

3 Why don't we see you people on May 10th?

4 MISS ZUSSMAN: Thank you, Your Honor.

5 THE COURT: Ten o'clock?

6 MR. LESAR: Yes, that will be fine.

7 THE COURT: All right.

8 MR. LESAR: Thank you.

9 (Whereupon, the hearing concluded at 10:18 a.m.)
10

11 CERTIFICATE OF REPORTER

12 It is hereby certified by the undersigned reporter
13 that the foregoing transcript is the official record of the
14 above-entitled matter.
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18 OFFICIAL COURT REPORTER

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Rt. 12, Frederick, Md. 21701

11/12/77

Mrs. Lynne Zusman
Chief, FOIA Litigation Division
Civil Division
Department of Justice
Washington, D.C.

Dear Lynne,

In all my FOIA experiences far and away the most genuine gesture of good faith was Bill Schaffner's offer yesterday, to hire me as a consultant, staff and equip me as I wanted and to give me a place to work down there. It impresses me with his intent, as earlier I had been impressed with yours.

It is because of the spirit shown yesterday that I write in haste this morning. We have but one mail a day. It comes and goes at the same time. I don't have to be convinced that all of you want this case over with. I believe I desire this more than any of you. Were this not true I'd not be making any compromises or repeating offers of them after these offers were rebuffed to so long and so often.

If it is my personal feeling that the Department will in the end be better off in following the suggestion Jim first made on the second, make virtually all of the records available, and if I believe that to at least a large degree the judge would agree, as you saw yesterday, when Bill made a real gesture I immediately offered a practical compromise. The judge has imposed a very close deadline. I will do what I can to enable us to avoid a trial but there is a limit beyond which I will not and now cannot compromise. I believe it will be helpful all around if I give you a frank explanation. I think that taking this time now can be constructive and with you and Bill I do not have the prior fears of being misunderstood, of having ulterior purpose read in.

First of all I believe the exemptions to the Act are necessary. I was satisfied with them in the 1966 Act. It is quite literally true that I have censored myself in my own writing to protect those in whose rights to privacy the FBI could not have had less concern. I have no desire for the FBI or anyone else to violate these rights for others. Nor do I believe that legitimate national security secrets should be disclosed. All police do require informants and the identities of these informants need to be protected. If I have seen many illustrations of the unwise, indeed illegal use of such informants I do not question the principle. I have in fact alerted the FBI to its own careless disclosure of identification. In these areas we have no dispute. If I am certain that in all I have gone over there is no real need to claim privacy and if I agree with Jim that the Department's long-range as well as immediate interests are served best by the wholesale abandonment of the privacy claim in this case, you saw yesterday that I am not now pressing on this and if we can resolve all the problems without trial will abandon it. I am not looking for debating point or to humiliate the FBI as it can regard humiliation. I am looking for meaningful and what I can today accept as reasonable compliance.

At the same time I must learn from experience and not permit my willingness to be misused against me as it was in the stipulations. They had quite literally been violated before the negotiations for them commenced. They were violated throughout. I am prepared to prove this. I assure you that if I do there will be official embarrassment. I have no doubt that in this you personally acted entirely in good faith. If I did I'd not be writing. But that this could happen despite your good intentions represents a reality that I confront and have confronted from the first in this and in all other cases.

One of my purposes in writing now is to make a resolution of remaining problems possible because we have so little time. This requires some candor. It will probably lead me into the avuncular. I hope you and Bill will not misread it.

When Jim sought to warn Dugan the Charles of what could confront the FBI Charles actually accused Jim of seeking to blackmail the FBI. We had a meeting at Dugan's suggestion after the calendar call of the second. The offer Bill found acceptable (then was rejected) out of hand. However, yesterday we all learned that in part it was accepted afterward and Jim and I were not told about it. If I had been, with the help I could and would have offered by yesterday all of that, I believe a major part, could have been over. That with all the gestures of cooperation and help I have made and the tremendous amount of time I have taken to write the FBI about this, with countless specifics and despite non-responsiveness this represents a mind-set that continues to be a basic problem. I was, of course, much encouraged by Bill's forthrightness on this yesterday. His recognition of it and his willingness to state his recognition of it may be the most significant aspect of yesterday's meeting to me.

Because of this attitude, because there can be legitimate problems for the FBI in general in some disclosures and I believe for other reasons they are bitter-ending. On the one hand I can and do recognize Harp's concern for prisoners who have spoken to the FBI as genuine on his part. On the other I am entirely without doubt that in no single case is there any danger to any of the prisoners involved. Harp has not interviewed some I have. The actuality is that he began by withholding a prisoner's name when that prisoner had been interviewed by the FBI with total disregard for keeping that fact secret. I learned of it from James Ray's brother John, it was that public. He is still withholding some and all good pictures of that man, Walter Terry Rife, on the claim of privacy. (With pictures alone this as of today extends to xeroxes of many pictures of James Earl Ray and his family.)

I intend this as illustration. Aside from those that are essential now because of the OPR report I am quite prepared to waive on prisoners other than those who have on their own gone public. The Buccelli case I cited yesterday is not the only one.

The same generality applies to informants, whether of the FBI or of the Memphis police. I regard them as exempt - but only if they are not known. Here I have been specific with the FBI. It has been totally non-responsive. Its own Birmingham informant whose name I believe is Morris Davis exposed himself to the House assassins committee. It in turn made Davis available to Mark Lane, who met with him. There is no confidentiality. The investigator of the committee arranged to destroy what little confidentiality the informer had prior to turning him over to Lane. Davis complained about this to the FBI.

Because I knew the FBI would withhold on another informer who is of significance to me I told it in advance that Marrell McCullough was known as an informer. However, they still withheld published pictures of him and the groups he penetrated. I mean by this other pictures when their pictures had been published and they provided copies of those published. One of the problems here is a lack of fidelity in the OPR report and as it relates to the FBI. It did meet with this police informer. Another is that incredible as it may seem the first person to reach King's side after King fell was McCullough, the informer. This leads to a hangup on the Low/Life pictures: I believe they show McCullough crouching over King's body. If I am correct, as I believe I am, this is one of the world's most widely published pictures. The FBI has provided xeroxes of it even though claiming it never does. There are many reasons why the withholding of his and other pictures those in them agreed to ~~xxxx~~ have taken is wrong. If you want I'll take time to give them. My point here is that to the FBI's knowledge there is no legitimate question of either confidentiality or privacy. There are other such cases. I cannot disclose all I know to obtain compliance. In these cases I did because they were important to me. With the McCullough picture I also illustrate how wrongful withholding creates confusions and is the one way in which harm to the innocent can be assured. These cases also illustrate how from Doug Mitchell's review to Bill's policy determinations you have no way of knowing the actualities if the FBI withholds them.

On the second I learned that they withheld from Mitchell to this degree - they did not even provide him with the books that were indexed or tell him that there had been publication in books that have indexes.

The FBI's claim of uselessness of these indexes yesterday is ludicrous and gets to that mind-set it's not an attempt to justify it. This also illustrates the wholesale violation of the stipulations. Among the last records I received was the wholesale obliteration of what is in great and ridiculous detail in Harold Frank's book - and is indexed in it. This by the way is the case in which Jim filled in the withheld names in what I believe was a CRD withholding. Since Frank's book was published another was written about this one man and incident. It labels that man, which gets to one of the dangers from improper withholding. The author of that book is a friend of mine, one of the reporters all of whom were made to look like FBI informers by the withholding of their names. I have undertaken to let him know the right name and to avoid the harm to the innocent to which I have referred.

(Oddly perhaps the one journalistic name in Memphis never withheld is that of a former FBI employee who is a regular source for it. I also know him.)

With regard to this withholding I can make out a case of potential added embarrassment to the FBI because of what is not in the indexed books, as I am certain the Washington FBI FOIA people had no way of knowing. The name of the lawyer, Russell X. Thompson, was withheld. Later the obliteration of his name was removed. Initially he was of counsel to Ray. At that time he was threatened by the judge, now dead and in our requests. It was then arranged for him to counsel with a former FBI agent. Thompson was counsel to the NAACP legal defense fund. When he went to New York to consult with them it was also arranged for this former FBI agent to accompany him, as both bodyguard and counsel. And the only possible significance of the actual events of which Thompson was part is as disinformation, which can be taken to reflect aspects of a conspiracy. But without regard to this, to whether or not it has meaning, I think I have illustrated the continuing problem from the refusal to make any use of the indexes for more than a year after I was assured they were being used. It also shows that the use of the indexes could have had value.

The same attitude extends to what is called "national security." I do not know what Bill had read that he said was national security information but I do tell you I believe there is virtually none in this case. I can give you a fairly decent collection of records of this case that the FBI had stamped as exempt from automatic declassification. There was no basis for it. Determinations can be made only on the basis of factual knowledge of this complex case with such a great volume of records. Outside of Washington there are more than 200,000 FBI records alone.

As it relates to foreign police I believe that without exception the withholdings of names is frivolous. This is only one of the reasons I suggested that late as it is for use of it a list of those subpoenaed for the expected trial could be helpful to the FBI. I told it this more than a year ago. Almost without exception the same is true of the Memphis police. There is no legitimate secrecy. The same names are both released and withheld because in some cases it is possible to determine what name is withheld. There is importance in the names being available because this case is not closed and because I will not live forever. In no case would there be what the Act requires, a "disclosure." In virtually all cases the names are used only in the sense of having given the record to the FBI. With regard to the records themselves there is inconsistency. Hundreds of pages of them have been provided yet as many have been withheld. I believe there has been a waiver and that there was no basis for initial withholding. It was part of a domestic-intelligence rather than a law enforcement operation in addition. Whether or not it is relevant they were all ordered to be disclosed by the Memphis police by a federal district judge. The police then burned them and got away with it. The whole thing is pretty hairy. I'll give you details if you'd like. One should illustrate. The FBI had informers spying on the campaign of a black candidate for the seat won by man who was Nixon's most stalwart supporter after impeachment proceedings began. And that successful candidate hired for his staff the black Memphis police intelligence officer who first had been spying on King and all who

visited him at the ^{place} police where he was killed. This officer was then yanked. While I am virtually alone in believing that withdrawing him was not conspiratorial the handling of the affair by the OPR report can be questioned and I do question it.

You and Bill have problems because of the OPR report. If I appear to be avuncular please do not misunderstand it. I strongly caution against getting worked into a position that can be interpreted as misusing the Act to defend the OPR report. I can see this danger. I bear in mind that I have read such of what it is supposed to be based on, interviewed some of those it sees ex parte, know what it excluded and can cite factual error in it, significant error. In addition, as you should know before next Friday. OPR manufactured a machine for non-compliance in this case. When I tell you this and will give you details I think you can see I am really seeking to avoid trial if I can outside the mal part and am telling you what could be ruinous to you if I kept it for surprise in court. This is opposite Charles' interpretation, blackmail.

I was getting at this yesterday when I ran out off after recommending that your searchers read the series of articles John Crowdsen wrote for the New York Times about January 1976. He was in touch with me as he was in touch with a number of Departmental components including the FBI. He was in touch with me while he was working on the stories from as far away as California. Jim has not exaggerated in representing that I devoted too much unpaid time to the press, even those who write opposite of what I believe. Crowdsen is only one of these. His stories will establish possession of records that now are represented as not existing and thus not found on search. Here, the lack of knowledge of the searchers not their good faith is the question. If you can't get those stories easily I'll take the time to dig my copies out. They give a physical description of the files OPR then had for its "internal re-investigation." That did not begin until after time for compliance with my renewed requests had expired. Those files did not lead to a single paper from them being provided to me. They were in file cabinets and in storage boxes. Thereafter they were transferred to OPR. You will find that when I raised the question of OPR in this case Shaheen filed an affidavit saying he was not supposed to comply. This was about a year ago last July. I have every reason to believe that instead of complying with what by then was a suit in court or returning the files to places like Civil Rights OPR put them in storage. I believe you will find that at the Sutland depot. I am saying that there is no time that either OPR or OPA had these files that they were not clearly within this case and that there was no compliance from them. I am also telling you so you can know before Friday because we will be meeting with the judge the first working day after Friday.

Not unrelated to this is the political part of my requests. I'm running out of time if I am to make the mail. (So please also excuse the typos.) Some of the records not provided to me have been given to others. Some that have been used by the FBI before the Congress, have been testified to and have made international headlines, remain withheld after many repeated requests for just a few so I can avoid error that is possible from secondary sources. The testimony was before the Church committee. The records are known to the FBI as centering around the events of March 28, 1968, a week before King was killed.

Aside from the FBI there are components of the Department that are not in compliance. It might be good to take a look before Friday, which is too close to Monday following. In addition, while in writing to the FBI was not being inclusive but was being illustrative, I have provided it with many specifics of what remains to be complied with, not just those 29 volumes. Given the desire they can clean all of them up by Friday. If they do not there may well be remaining problems on which we will not be able to represent that we have reached agreement when we meet with the judge.... If you have any questions please do ask them or tell anyone else involved to ask. I do want to be able to clear this all up and will do all I reasonably can to that end. Sincerely,

Harold Weisberg

CONFERENCE 11/18/77 - talking paper

I. FBI noncompliance by pretense and subterfuge - and plain stonewalling.

- A. First meeting I specified what was being withheld from first records provided, asked that they be replaced, and to this day they have not been. As a generality this remains true, I have continued to specify the improper withholding and the FBI ignores it. If in all these more than 44,000 pages there has been any replacement after I have specified improper withholdings, I do not recall it and it would have to be minor.
1. In early October, when I obtained a list of the MFO records supposedly provided, I discovered some sections had not been. I wrote without acknowledgment. I took this up with Ralph Harp last Friday. He said they would replace these sections. Only xeroxing was required. I have not received them.
 2. Another example is I was to have had the reprocessed index cards in time to go over them before today's meeting. It didn't happen. And I have had no message about them since that meeting.
- B. To perpetuate these kinds of false pretenses and subterfuges, the FBI pretends there are no indexes. Whether or not there are in FBIHQ, there are in the FOs. First it pretended there are no indexes of any kind, including the FOs, then it fell silent when I proved from FO records that the FOs do indeed have indexes. As recently as the 11/11/77 meeting the FBI pretended there are no indexes.
- C. It has pretended and continues to pretend that the requests are limited to FBIHQ and that compliance is possible from FBIHQ. We have stated all along that the requests are not addressed to FBIHQ alone, that compliance is knowingly impossible from it alone, that most of the relevant records are in the various FOs, and then we proved it with the testimony of the FBI's own witness, SA Howard, in 9/76. The proportion of records, HQ vs. field, is about 3,500 to more than 200,000 from the statement of AG Levi. When I have specified the FOs with relevant records, there is no search of them. Examples:
1. On crime scene pictures, NYC on Low/Life pictures; St. Louis and Baltimore on those of Josephine Colfield
 2. Other suspects, two examples: with "Bill Harris," WFO and Alexandria, with J. C. HARDIN, Atlanta, Birmingham, New Orleans and Memphis, at least
 3. 3. Surveillances - all specified to FBI after claim of nothing in any records:
 - a. pretense means by FBI only
 - b. pretense all is in log in FBIHQThe log shows those approved only. The FBI has been engaging in electronic surveillance since supposed controls were imposed and not asking for permission until surveillance was productive.

There is also the period prior to these supposed controls, when I believe it was not required to have such records.

The FBI has been the beneficiary of tapping and bugging by others, including local police. (An example on which withholding continues since I specified the names is the Milteer/Somerset story. This was done by the Miami police/prosecutor, arranged by Somerset, who was their and the FBI's informer. The results were given to the FBI. It did not even give them to the Warren Commission although this incident was one of the causes of the cancellation of the Miami motorcade just prior to the JFK assassination. Not only does this withholding continue, compliance with such items requires search of the relevant FO files, which has not been done. In this case at the least those involved are in Georgia, Florida, Tennessee and Washington.

3 - continued. It has picked me up in surveillance of others. I have specific knowledge of it from the government. It has had coverage of phones I have used.

There was such surveillance of James Earl Ray and Percy Foreman, at the least, and not only in Memphis. Files I have received show the FBI was given results.

A direct tap on my phone was unwittingly disclosed by a dead short, after the filing of administrative appeals in this case and coinciding with other FOIA cases. Tapper unidentified.

James Earl Ray was also under overt electronic surveillance designed by the Bureau of prisons.

4. The "Tramp" picture/Mexico City sketch: The FBI has not searched the Baltimore field office to a residency of which I gave the pictures in 1968. Pictures still not returned to me. I have specified other FOs that have to be searched to comply with this item. No response after many months. Nor after I cited relevant records by Serial Number indicating existence of other records.
 5. CTIA. By inadvertence the FBI has disclosed FO files not searched. (I believe it also has CTIA files from other agencies and that other components of DJ also have CTIA files.)
 6. Headquarters directs interviews, investigations but no results from FOs, as with New Orleans, Raul Esquivel, a contractor or industrialist, and the "Industrial Canal area." This also involves incomplete N.O. compliance on Recile and Roussel, who became suspects after Louis Lomax stories appeared. This also involves withholdings of the public domain, from my book to the phone book. It continues months after I called it to the FBI's attention, with copies of my writing and of the phone book.
- D. At the beginning I also wrote to illustrate improper withholdings virtually by return mail. Thus in each case identification with the specific Volumes or Sections was specific, virtually automatic. Finally, in June I was promised that some of these would be reprocessed on the completion of the processing of the FBIHQ files. This was not done. Then I was told the absence of Serial numbers made identification impossible. I was not told this all along; it was a means of attempted explanation of doing nothing about the specific illustrations I continued to provide. Then, when I was told Serials are necessary, I provided Serials only to have an absolute and unexplained stonewalling follow. (Earlier I had provided some Serials, but that made no difference.)
- E. I made copies of records and used them at two meetings in June, so there was no question of proper identification by the FBI. It nonetheless has done nothing about those illustrations, either.
- F. I have provided many illustrations of the unjustified withholding of pictures under privacy claims. This claim was made even for pictures of the Rays. There since has not been compliance. It includes other suspects.

NOTES

For Lyano Zuzman and Bill Schaffer on Friday

11/11/77

Jim asked me again last night if I would go over my notes and prepare a list of non-compliances in accord with Bill's offer of 11/11/77. I have thought of it since. I told him I would under a few conditions. First that I have some assurance you can see to it that the FBI's stonewalling is ended. Next that I can do it at home because of the problems and time-waste of travelling. Then that I do it on tape, with you to provide transcripts of the tapes.

Last week I handed Ralph Nary a long memo to John Harting. While because of my limitations, including of time, this had to be off the top of the head and uncorrected, I have heard not a word since. It is specific enough and it addresses compliance. Jim had said I was to be a screaming call from John. I have had nothing.

This morning's news gives me a convenient example of the bitter-ending of the FBI in all of this. It also provides an example of what I could do with the records I have received if I had or were willing to indulge ulterior purposes. This means the potential for embarrassment to the FBI and what it continues to withhold not to inform those without any factual knowledge, like reporters.

Robert Edward Chambliss is currently on trial in Alabama for the bombing of a black church in which four black girls were killed. The FBI never placed charges against him or anyone else on this atrocity. It had at least one publicly-known informant, identified by his Congressional testimony and testified to in the current trial. None of this is in the records provided although Chambliss is as a reasonable suspect.

The bombing of that church is in a tape given to the FBI by Miami authorities. I have for years had an ignored request for a dub of that tape. I have published a transcript of most of it, in Frame-Up. The names of those involved in the tape and the taping, which I also published years ago, remain withheld in the scanty and incomplete records provided. It is quite a long time since I wrote the FBI specifying that all of this is public domain. But it continues to withhold and has made no response, written or verbal, to this and most of what else I have written it about non-compliance.

In ~~Franklin~~ and more than six years ago I published in factoids several of a series of FBI reports. I obtained them at the National Archives, from the Warren Commission archive. One page of that series was withheld. Long after it was available at the National Archives the FBI complied with that FOIA request, confirming what I published, that the page was withheld (outside the Act and only to avoid embarrassment to the FBI. This is the only one of the FBI's responses since I testified to its non-compliance in about two dozen other cases when I testified in this case a year ago this past September.

The main informant was the late Willie Bonarrett. He also was an FBI informant. The man he taped is the late Joseph Adams Wilster, who laid out an account of the church bombing, with names, and who described in advance how both President Kennedy and Dr. King would be killed.

(Now if the FBI read the published books and used the indexes, including that to ~~Franklin~~, it knew these withholdings were improper (and that it was withholding what is public knowledge.)

Not unrelated is a series of other withholdings about which I have written the FBI without response of any kind. Here again there has been FBI embarrassment and it has the visible purpose of withholding because of embarrassment. Jack Nelson of the Los Angeles Times wrote extensively several years ago about its involvement in what he called the setting up of a right-wing extremist in an attempted bombing in Meridan, Miss. in which Kathy Ainsworth was killed instead of the intended victim, a Jewish industrialist. Her capture and convicted associate is Albert Sarrante. He was associated with an older extremist named Thomas. Names and other relevant names are withheld in the entirely inadequate reflection of these suspects in what has been provided. Much more appeared in the newspaper stories on the case than the FBI has provided. The claim to privacy is spurious. Yet the FBI persists in non-compliance long after I took time to spell all of this out in writing.

I have not said anything about Chumblee to it although it continues to withhold what is public. His name came up long after I had written it without response about the others.

There are dozens if not hundreds of such cases about which I have written the FBI, which has remained unresponsive. Where I complained with specifics about the misuse of b2 and 7 c and d, John Harting did say "We should not be using b2" only to immediately claim it much more often instead of 7 c and d. The latter exemptions are used interchangeably when neither is justified.

I have called countless cases to the FBI's attention. Not only have I had no response, in all these more than 44,000 pages I cannot recall a single replacement.

(When I complained that the worksheets were designed for illegibility and offered the FBI a design that would eliminate this incomprehensibility it accepted and used the design only to eliminate information, the names of the analysts. This thereafter precluded my identifying for it the analyst whose attitude guaranteed non-compliance.)

Now when the FBI has been stonewalling, has been close to totally non-responsive after I have given it so many specifics of non-compliance both in individual cases and as general principles, I now need some meaningful assurance that any more time I waste in ~~an~~ an effort to obtain compliance is going to be productive. Its record, which I cannot ignore, is that it will under no circumstances comply voluntarily. As I see it, if it intended to comply it would have responded to all I have written about non-compliance; it would have made at least a gesture of some sort subsequent to our discussions of these matters a week ago.

I say waste because I have had to assume the burden of proof.

If it now replaces any of the many improperly withheld pages I now cannot replace them in my files. It is a physical impossibility for me. As well as the waste of more time because these were deliberate non-compliances.

When Jim undertook to make my actual physical and medical condition known to the Department it was met with an indecency in a ~~Jim~~ Eber affidavit, for which there has not been a retraction or apology after more than a year. The actuality is that for more than two years both legs and thighs have clogged veins, with the return circulation of the veins seriously blocked. If a clot breaks loose it can be instantly fatal. Since then an arterial blockage has been diagnosed. More recently hardening of the arteries. The diagnosis of

angina is not certain. I have been told it is possible. This is what Jim was talking about last week when he said I do not have time.

It more than my age influences how I now opt to spend my time. Perhaps it can also help you understand why I am unwilling without meaningful assurances to undertake what I have reason to believe will result in more wastes of time.

I have wasted what for me now is an enormous amount of time in what has been a futile effort to obtain compliance. This is not limited to the FBI. When I wrote other components my letters were almost always entirely ignored. I recall one non-response signed by Quin Shea and his also non-responsive request of Jim that I not write anyone, that this added burden he imposed on Jim, whom I have not been able to pay.

Jim does not have my subject knowledge, extensive as his is. It is not a reflection of good faith to continue to ignore my specifications of non-compliance and the intent not to comply or to protest that only counsel should provide specification of non-compliance. I regard this as a totally unnecessary imposition upon him. It has been the higher-level dodge by which my specifications have been ignored, leading to the present situation for you and for Jim and me.

Despite all the time I have taken to spell all of this out to this day I have not had any request for aid from the appeals or reviewing authority. This has made a rubber stamp of appeal and review.

Here the indexes we were told we being used and in fact were not used provide an example. Check the index to Name-Up under Milster and you'll see the point and that the indexes are useful. Much more is in a limited edition, all about Barnes, Kingsworth et al. and Somerset. But not as much as I can now testify to.

This leads to motive I can attribute to the improper withholdings. As I have told you my interest is in compliance, not in debating points. So let me give you explanations other than concern over the copyright aspect of what is involved in the withholding of what is claimed to be exempt because of copyright.

With the Newfield scope it is that the catalogue discloses that the sight of the se-

called murder rifle was set grossly wrong for the distance. In combination with the catalogue for the rifle and the ammunition and the manufacturers instructions with the rifle the sight could not be depended upon, in the condition in which the evidence reached the FBI lab, because it had not even been screwed onto the rifle firmly enough to be adjusted to the eye. The specifications on the ammunition and the illustrations after firing and impact indicate that a useful specimen is left. The lab claims there were insufficient marks. (Without rebuttal I have produced a qualified expert witness who testified to the contrary after examining the fatal remnant of bullet.) The lab records I have received do not reflect any test firings or even the testing of the rifle to determine if it had been fired at all. Yet the wrong rifle, the one the lab certified could not be fired without removal of a deposit of cosmoline, did have its barrel swabbed by the lab to determine if it had been fired.

The present basic problem is not that my subject knowledge is required for compliance. If I believed for a minute that this were the actuality I'd have grabbed at Bill's offer to hire me as a consultant. I have no question at all of his good faith in making the offer. My question is can it mean anything when I have this very long record of FBI stone-walling in ~~the~~ the face of my having already done it so many times, as the beginning of this memo illustrates.

As long as I can hear the wild elephants trampling in the forest and see no corral being constructed to confine them I see no point in spending any more time this way. I have told the FBI this often enough only to relent and give it more illustrations. Only to have them ignored, too. (I did this with other components more than a year ago.)

As it is I work a long day still without being able to keep up with my own work. I work when I travel, even when as I shortly will do, when I have my weekly blood-test. I mean this literally. I work while I wait to be called in then while the blood is taken and then for the time required to be sure I'm not hemorrhaging because of the high level of anticoagulant. I work when I use the exercycle, as required when the weather is bad. There is much I want to do. So what time I have is precious to me. I want no more wasting of it, as I hope you can understand.

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	

Route 12 - Old Receiver Road
Frederick, Md. 21701

December 22, 1977

Mr. William Schaffer
Assistant Chief, Civil Division
Department of Justice
Washington D. C. 20530

Dear Bill:

Several days ago I received the three CRD records I presume are the subject of Quinlan Shea's earlier letter releasing them.

As provided to me they give you other and serious problems. Because of your total nonresponsiveness, they also present me with a conflict of interest I cannot ignore. From your nonresponsiveness I have no basis for assuming good intentions and every reason to believe the consultancy situation into which I have been forced is merely another device for noncompliance and for further stalling. However, I believe you should be aware of what I see from having read these CRD records. Because of the actualities of our situation, I write you with less length and detail than is possible, intending only to make you aware.

It is not my responsibility that the Department persists in keeping its people uninformed or that all my prior efforts directed toward informing it have been rebuffed. Because of deliberate stalling in the past, we are now confronted with some 50,000 pages. About so great a mass it is not possible to inform you fully.

The withholdings in these records are ludicrous. This will make the Department look even worse because the records themselves are of dubious honesty. To one not a subject expert, one like you, they may appear to be authentic breast-beating. To me they are as much of a cover-up as CRD dared attempt at that late date.

This will probably seem extreme to you so I illustrate.

One of the purposes of the CRD review was to determine whether or not there was any FBI connection of any kind with the King assassination.

Murphy's long report has but a single sentence on the assassination. It consumes less than a full typed line of space. In it he says only that King was killed. This sentence is the report's sole basis for stating there is no FBI connection of any kind with the King assassination. It then recommends against any reinvestigation. It has no mention at all, for example, of the fact that Hoover authorized a campaign to drive King from the white-owned Rivermont Hotel, the name of which is not even mentioned, to the Lorraine, where he was killed.

This is not the only total suppression of a "connection" from Murphy's report. It also is not the most serious one. There is a vast difference between saying the FBI killed King and saying it had no connection, no matter how indirect, with the assassination. I have gone on such shows as Good Morning America to state that there is no reason to believe the FBI killed King or had him killed. But this is far from the same thing as saying there is no basis for an investigation of the assassination from the FBI's records or in the light of what the Department did not know eight years earlier.

Withholdings in these CRD records include what you will find in virtually all King biographies. These withholdings are based on claims to (b)(1) and (7)(C).

There is no case in which the name of the ostensible cause of the FBI's "investigation" on spurious "national security" grounds is not obliterated. The name is Levison. (Moreover, the FBI has released some of the records on which the Murphy

report is based without such obliterations.) There is no basis for obliterating his name. It is public domain and long has been. This also is to cite but one illustration.

While the (b)(1) excisions are of such length it is impossible to be certain of their content, an obvious flaw is the total lack of mention of the FBI's penetrations with informers, its own and those of the local police. When it is known, can this be (b)(1) information? Can this be the kind of thing you told us you are satisfied meets the (b)(1) requirements? (Again - a single illustration.)

Whether Murphy kept the information from Pottinger and thus the Attorney General or whether it is withheld under a spurious claim to exemption, it is not secret that the FBI had penetrated King's organizations, nationally and locally, with both "sources" and actual informers. I could, if I had the desire, identify at least one in the Atlanta SCLC headquarters. The FBI has already released enough about this informer to make identification possible for me by a couple of phone calls.

The Church committee limited itself to the bugs and taps so these records just given to me are limited to bugs and taps. There were informers. I know the identifications of some.

Some of the excisions are ridiculous. I am not taking time for detail nor am I now going to tell you, as I have in the past, what I may need in court. Take my word for it or not, I am making you aware.

This kind of thing is inevitable when in a case the Attorney General has ruled is historic, a case in which millions of words have been written in many books and countless news and magazine articles, you have people who are without minimal subject knowledge making the decisions.

The FBI did not tell Doug Mitchell that there were books on the subject, nor did it give him its copies. At the same time he could not have read the records that I have been provided without knowing of most of the books. He then, clearly, was incurious about them or their content. As a result he withheld and after my appeals continues to withhold what was published years ago. I mean precisely the same information as was published, not the FBI's pretense of different information, and in these most recent CRD records, too.

In more than a year there has been no response to my appeal from the childish withholdings from CRD records provided then and sworn to be all that existed. If Sallian Dougherty worked in a vacuum, this might be understood. But on FOIA matters and especially in historic cases you are not supposed to work in a vacuum. I can and if necessary will show that CRD withheld what was repeatedly on coast-to-coast TV and in many written accounts and still withholds it.

With Murphy and CRD intentions in this case there is an illustration that may help you understand the position in which I see the Department. Les Payne, a friend of mine and a Pulitzer reporter on Newsday, carried forward my work on information and leads I provided when illness prevented my doing it myself. In the course of this and for purposes of checking to get what the Department had to say on these specific facts, he phoned CRD and spoke to Murphy. The purpose of his call, which is more than merely relevant in the records about which I write, is not even indicated in Murphy's record of "outside contact."

When you arranged for us to meet with the review and appeals people, it was not for me to inform them but for them to say what they had done. That there never was time for Mitchell to speak is no loss because his work speaks for itself. However, I believe it might have been more productive if he had learned about the shortcomings and limitations of his work. Even if this had been limited to telling him that in what it calls a "reading bibliography" the OPR report lists six books on

the subject without mentioning mine, the only one not in accord with the Department's explanation of the King assassination. (Naturally enough, neither the CRD staff nor the OPR crew sought to interview me or to ask for any information.)

When you first proposed that I be your consultant and limited this to the records provided by the FBI, I told you that it could not lead to compliance with the requests because there was extensive noncompliance other than by the FBI. In this letter I am citing the most recent of the continuing illustrations. To put it another way, despite all I've tried to tell everyone everywhere in the Department, in the most recent records released, the same unjustifiable withholdings continue.

Aside from the biographies and the multitudinous news and magazine articles, thousands of pages of which supposedly were reviewed in this case, there are other sources for Doug Mitchell and Salliam Dougherty to have consulted. They were acting in an historical case. As examples, there are the FBI's own leaks going back more than a decade, its releases to others that the Shea office has reviewed, and the staff of the OPR report who could have been consulted.

I believe that you should be aware that any determination of good faith and due diligence in this matter may be evaluated against the Department's knowledge, not just mine.

Perhaps also you can see what Jim and I have repeatedly warned the Department and you personally about - it has made a mockery of the entire Shea operation. (Yes, I am aware of his and your Congressional testimony relating to FOIA.)

The more I am toyed with, as I have been throughout this long matter, the more I am abused by such unjustifiable withholdings as I again find in these three most recent records, the less comfortable I am trying to go down the middle and in taking time to try to keep others and the subject in balance. For one example - and there are others - there is an irresponsible Congressional committee and it is hot after the Department and the FBI, whether or not you know about it. On the 22nd I took some time to help counsel for some of its police victims. In context, this means defense of the Department and particularly of the FBI, as in time you will know if you do not now. I will be taking more time to provide this lawyer with more records.

These newest withholdings, in part the subject of public Congressional testimony, including by the FBI, rather than protecting privacy endanger the innocent. By the withholding of the public domain, the Department tells all who may read these records that other names are withheld, not those that are public. The average researcher or reporter is not going to assume official incompetence or worse, is not going to assume, for example, that the Levison name is withheld when it is public. This will inevitably lead to conjectures about the wrong persons.

Your Frankenstein grows daily.

As I continue going over my notes whenever I can, it is becoming absolutely certain that I told you and your people and the judge the truth, that the notes I made relating to compliance were merely illustrative, for Jim, and not intended to be inclusive. That would have been, as I told you, an impossibility with more than 50,000 pages.

With regard to CRD and other divisions and the FBI, I tell you again that there are withholdings all involved know or should know are unjustified. I am not going to do the FOIA work of these other components. I will give you what my notes show relating to the FBI.

I do continue this work whenever I can.

Sincerely,

Harold Weisberg

1/18/76

Mrs. Lynne K. Zusan
Civil Division
Department of Justice
Washington, D.C. 20530

Dear Lynne,

I am not clear on what you meant by a letter on Monday. Although Jim had to phone me a number of times yesterday I did not think to ask him. I would rather not ask him for a few days so he can ease off a bit. He won't tell you but he has not been well for several weeks and he had to put in bad hours even for him to prepare for Monday. He phoned me 5 a.m., knowing I'd be up, to tell me his car would not start and make other arrangements for our meeting. He had not yet been to bed then.

His calls were about arranging the delivery of the records. I finally suggested that Moschella discuss this with me, after Moschella declined to phone our local postmaster. On the last call Jim told me that Moschella had told him he could not get through, that all he got was an odd kind of busy signal. However, I did make all the arrangements with the local postmaster because the volume of the shipment is greater than a rural route man can carry in his car and because the post office does not send its trucks into the country. But I anticipate no troubles, at least not on this end because I tried to see to it immediately that the FBI would have no problems at this end. They wanted to use United Parcel, which does come here, but the pine trees in our long lane block their trucks, which are too high.

I doubt I'll be able to get back on the review of my notes before next week. Maybe by the end of this week. Preparing for Monday took much time and led to the stacking of still more paper. I will have to make an effort to clear a couple of inches off my desk before I can get to those papers. I anticipate that there will be many calls later today relating to the FBI's JFK releases, particularly if they indulge themselves. Last time it took most of more than the first day. And we have guests. The two women you saw with me as I left the courtroom are here using and copying my records for a doctoral thesis. They return to their university tomorrow night. Tomorrow morning will be taken up by my weekly blood checking.

If what you wanted to know is how much time I've put in it is about 100 hours. Not much either side of this number.

I don't recall but I think I suggested to you Monday that you speak to Jim about what I sent him relating to Section 60. This is the last sheet of notes I've gone over. And the worksheets with all the Sections and notes. With 60 I also made another review of the Section itself.

There were many interruptions yesterday. I wrote Jim further about the situation. Because of the interruptions I may have forgotten some things and others may not be clear but if either is the case we'll discuss it and he can then discuss it with you or Petalfo.

The week before the in camera meeting I wrote Bill, with copies to you and the FBI, and asked for a sign of good faith from the FBI. There has been no response. I gather from Jim that the FBI also has dispersed the agents who were working on this. That can present some difficulties I'm sure were not lost upon the FBI. However, while thinking about today's releases when I awakened this morning it occurred to me that your Division can make a show of good faith in this that means no real work for it. One of the items of the requests had to do with surveillance. The response was evasive and non-responsive as it relates to me at the least. I wrote the FBI at some length about this. I also discussed it with Harting and others. I have had no response. It cannot possibly be because they did not comprehend. So I suggest that you get the FBI to respond to that letter from me and to do it fully and promptly. So you can know, whether or not I was the target is irrelevant and I know for sure of having been picked up on other surveillances. Sincerely, Harold Weisberg

COMMUNICATIONS SECTION

MAR 9 1964

TELETYPE

FBI WASH DC

FBI DALLAS

7-38 PH CST URGENT 3-9-64 LJM

TO DIRECTOR 105-82,555

FROM DALLAS 100-10,461 4-P.

LEE HARVEY OSWALD, AKA - IS - R - CUBA.
INTERNAL SURVEILLANCE
RE FIGUR OF MARINA OSWALD.

INTERNAL SECURITY - RUSSIA

ON MARCH EIGHT, SIXTYFOUR, [REDACTED]

ADVISED AS FOLLOWS:

WILLIAM A. MC KENZIE CONTACTED MARINA AND WARNED HER NOT TO LET ANYONE IN HER HOUSE THAT SHE DOES NOT KNOW.

MRS. FORD CONTACTED MARINA REQUESTING MARINA CALL HER WHEN ROBERT OSWALD LEFT SO SHE COULD COME OVER.

MARINA CONTACTED MRS. FORD AND ADVISED TWO REPORTERS CAME BY BUT SHE WOULD NOT OPEN DOOR AND TOLD THEM TO CONTACT MC KENZIE. MARINA SAID SHE SAW MARTIN IN HER DREAMS LAST NIGHT AND ASKED MRS. FORD TO CHECK ON MEDICATION TO HELP CONTROL SEXUAL DESIRE. SHE SAID IF MARTIN HAD NOT BEEN STERILIZED SHE WOULD NEVER HAVE BEEN INTIMATE WITH HIM. MARINA SAID MARTIN IS A STRONG MALE SPECIMEN AND THAT IS WHY SHE WAS ATTRACTED TO HIM. SHE DESCRIBED LEE HARVEY OSWALD AS A WEAKER MALE SPECIMEN WITH A WEAKER NERVOUS SYSTEM. MARINA SAID SHE WAS ASHAMED OF HER HUSBAND. MARINA ASKED MRS. FORD IF SHE THOUGHT GEORGE DE MOHRENSCHILD WAS AN APPROPRIATE PERSON. MRS. FORD SAID SHE HAD NEVER HEARD HOW GEORGE WAS IN BED.

END PAGE ONE

9 MAR 18 1964

3.7 N 11 USA

COPIES DESTROYED

21 FEB 20 1972

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

REC'D

MADON

J.P. [Handwritten signatures and initials]

REC 6, 105-82555-2514

C.A. 77-1996 EXHIBIT 8

PAGE TWO

MARINA MENTIONED WANDA MARTIN AND THAT WANDA MUST HAVE KNOWN SOMETHING WAS GOING ON. MARINA SAID MARTIN ACTS NOW AS IF EVERY THING WAS A LIE. MRS. FORD SAID THAT IF DECLAN FORD BECOMES MARINA-S MANAGER DECLAN CANNOT USE MC KENZIE AS A PERSONAL ATTORNEY. MARINA SAID SHE EXPECTS ROBERT OSWALD SHORTLY AND WILL PROBABLY GO TO THE CEMETERY TODAY.

LATER MARINA CONTACTED MRS. FORD STATING ROBERT AND FAMILY HAD JUST LEFT. MARINA REPEATED WHAT ROBERT OSWALD TOLD HER ABOUT HER INFORMATION THAT HAD JUST COME OUT THAT LEE HARVEY OSWALD HAD BEEN SEEN DRINKING COCA COLA TEN MINUTES AFTER THE SHOTS WERE FIRED THAT KILLED PRESIDENT. MARINA EXPRESSED DOUBT THAT OSWALD COULD HAVE BEEN THAT CALM. MARINA ALSO MENTIONED THAT SOMEONE HAD SEEN A MAN RUN ACROSS THE YARD OF THE BUILDING. MARINA SAID THAT ROBERT IS A RELATIVE AND SOMEHOW WANTS TO CLEAR HIS BROTHER. MARINA SAID IT IS HARD TO BELIEVE THAT IT WAS NOT LEE WHO COMMITTED THE CRIME AND SHE WILL NOT TRY TO EXONERATE HIM, QUOTE "IF HE IS GUILTY, HE IS GUILTY" UNQUOTE. MRS. FORD SAID SHE BELIEVES THE GOVERNMENT IS TRYING TO FIND THE TRUTH OF THE MATTER AND MARINA AGREED. MRS. FORD SAID DECLAN FORD THOUGHT THERE WAS MORE THAN ONE PERSON DOING THE SHOOTING AND THOUGHT THERE WERE TWO. MARINA SAID SHE DOUBTED LEE HAD AN ACCOMPLICE. MRS. FORD WARNED MARINA NOT TO PUT HERSELF IN THE POSITION OF LEE-S MOTHER, MARGUERITE OSWALD, AS TO LEE-S INNOCENCE. MARINA SAID SHE WOULD LIKE TO FIX LEE-S GRAVE WITH FERN AND FLOWERS LATER.

RECEIVED DIRECTOR

END PAGE TWO

PAGE THREE

MARINA SAID SHE FEELS LEE DID IT /SHOT THE PRESIDENT / AND FURTHER THAT HE TOOK A SHOT AT WALKER AND FURTHER SHOOTING ON HIS PART COULD HAVE BEEN EXPECTED. SHE SAID SHE FEELS THIS AS HE CAME TO SEE HER ON THURSDAY EVEN THOUGH SHE DID NOT SEE HIM TAKE THE RIFLE AT THAT TIME. MARINA THEN SAID SHE FELT SURE LEE DID THE SHOOTING BUT WONDERED IF SOMEONE ELSE WAS SHOOTING ALSO. SHE THEN SAID BULLETS SHOULD HAVE BEEN DIFFERENT IF THERE WAS MORE THAN ONE. MARINA SAID THAT QUOTE "THE BOY UNQUOTE CLAIMED LEE HAD A PACKAGE BUT SHE DID NOT SEE LEE CARRYING A PACKAGE WHEN HE CAME TO SEE HER / ON THURSDAY / SHE SAID HE WAS ALWAYS IN VIEW AND COULD NOT MAKE THE PACKAGE DURING THE TIME HE WAS AT THE PAINE RESIDENCE. SHE AGAIN EXPRESSED DOUBT WONDERING WHY LEE CAME TO SEE HER ON THURSDAY. MARINA SAID SHE THINKS LEE WANTED TO DO IT BUT PERHAPS THERE WAS SOMEONE ELSE IN ADDITION TO HIM. SHE THEN SAID SHE IS SURE THE BULLETS WILL BE COMPARED. DURING CONVERSATION MRS. FORD AND MARINA BOTH SAID QUOTE "ONLY GOD KNOWS UNQUOTE AND STATED THAT IF RUBY HAD NOT SHOT LEE, PERHAPS LEE WOULD HAVE TOLD THE STORY.

LATER MRS. FORD CONTACTED MARINA AND INDICATED SHE THINKS ROBERT OSWALD PROBABLY TOLD MARINA ABOUT THE THINGS THEY MENTIONED BEFORE AS ROBERT IS NOW SYMPATHIZING WITH HIS MOTHER. MARINA SAID ABSOLUTELY NOT AS ROBERT TOLD HER THAT MARGUERITE OSWALD WOULD LIKE TO SEE HER BUT THAT SHE SHOULD NOT MEET WITH MRS. OSWALD UNDER ANY CIRCUMSTANCES. MARINA SAID ROBERT CLAIMS HIS MOTHER IS CRAZY. MARINA SAID ROBERT WAS LEE-S BROTHER AND WOULD BE HAPPY TO FIND SOME INFORMATION IN DEFENSE OF LEE AND AS HIS WIFE SHE WOULD

END PAGE THREE

RECORDED-INDEXED
OCT 23 1963

PAGE FOUR

LIKE THIS TOO. MARINA SAID SHE FEELS SURE ROBERT WOULD NOT
GIVE HER ADDRESS TO MARGUERITE OSWALD.

PHYSICAL SURVEILLANCE WAS DISCONTINUED AT TEN AM
ON MARCH NINE, SIXTYFOUR.

[REDACTED] ADVISED ON MARCH EIGHT, SIXTYFOUR,
HE WAS UNABLE TO OBTAIN ANY PERTINENT INFORMATION.

INFORMANT COVERAGE CONTINUING.

END

NNH

FBI WASH DC

CC-MR. SULLIVAN

MAR 10 3 45 PM '64
RECEIVED DIRECTOR
FBI WASH DC

UNITED STATES GOVERNMENT

C.A. 77-1996

EXHIBIT 9

Memorandum

TO : Mr. DeLoach

DATE: 6/15/70

FROM : A. Rosen

- 1 - Mr. DeLoach
- 1 - Mr. Rosen
- 1 - Mr. Walley
- 1 - Mr. Scatterday
- 1 - Mr. McGowan
- 1 - Mr. Bishop

SUBJECT: BERNARD FENSTERWALD, JR.
NAME CHECK REQUEST

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

MURKIN

Special Agent in Charge of the Memphis Office, in connection with the James Earl Ray case, has requested a name check on Fensterwald, who is the head of a private group called "The Committee to Investigate Assassinations." This request is on behalf of Assistant Attorney General Clyde Mason, the state prosecutor assigned to the Ray case, who had asked for information concerning Fensterwald.

Fensterwald, former chief counsel to Senator Long's committee on wiretapping, was the subject of applicant-type investigations by the Bureau in 1949 and 1959, which developed that the names of his mother and sister appeared on a list of delegates and members in 1942 of the Southern Conference for Human Welfare, cited by the House Committee on Un-American Activities, and in 1956, while employed by the State Department, Fensterwald and his mother traveled to the Soviet Union for a vacation. No other derogatory data was developed. Fensterwald, in addition to his former State Department employment, was chief counsel of the U.S. Senate Committee on the Judiciary; Subcommittee on Administrative Practice and Procedure (Long Committee), and our contacts with him clearly showed he was unscrupulous, untrustworthy and anti-FBI and sought to involve the Bureau in wiretapping probes by Long's Committee. He allegedly leaked information to Fred Cook, long-time FBI critic, for an article by Cook which appeared in "The Nation," dealing with wiretapping by Government agencies.

44-38861-

A United Press International release in January, 1969, reported on the founding of the new committee to investigate assassinations, stating that Fensterwald was one of the members thereof together with District Attorney James Garrison of New Orleans, and William Turner (ex-Agent and extremely anti-FBI). Fensterwald was quoted as stating the purpose of the committee is "to embarrass or force the Government to make investigations they have been putting off since November 22, 1963," and indicated the committee's position was that there was a conspiracy in Dallas in connection with the assassination of President Kennedy and that there were "strong footprints" of a conspiracy in connection with the shooting of Dr. Martin Luther King.

NOT RECORDED

JUN 19 1970

RES:cs (7)

CONTINUED - OVER

JUN 17 1970
NAME CHECK

5/5 JUN 24 1970 6-16-70

Memo to Mr. DeLoach
Re: Bernard Fensterwald, Jr.

The attached letter to Memphis sets forth brief biographical data concerning Fensterwald and his employments, together with the data developed during the investigations concerning his mother and sister as well as his trip to the Soviet Union in 1956, which it is believed the Special Agent in Charge, Memphis, should orally furnish to Assistant Attorney General Mason.

For his own information and guidance, the letter furnishes Memphis information concerning Fensterwald's anti-FBI attitude and his association with Turner.

RECOMMENDATION:

That the attached letter, if approved, be forwarded to Special Agent in Charge, Memphis.

P *P* *JRM* ✓ *JRM* *A*
OK
D

JUN 10 1970

FBI

Date: 6/5/70

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

Via AIRTEL _____
(Priority)

TO: DIRECTOR, FBI (44-38861)
FROM: SAC, MEMPHIS (44-1987)(P)
SUBJECT: MURKIN

Re Memphis airtel to Bureau, 5/8/70.

For the information of WFO, subject JAMES EARL RAY is now being represented by J. B. STONER of the National States Rights Party; RICHARD J. RYAN, a Memphis, Tennessee, attorney; and BERNARD FENSTERWALD, JR. An article appearing in a Memphis newspaper indicated that FENSTERWALD is from Washington, D.C. and heads a private group called "The Committee to Investigate Assassinations." According to the article, FENSTERWALD worked for the Senate Judiciary Committee from 1957 until 1968.

Assistant Attorney General CLYDE MASON, Memphis, Tennessee, the state prosecutor assigned to the JAMES EARL RAY case, has asked that we furnish him any information available concerning FENSTERWALD and his political linkings.

LEAD

WFO

*WFO lead to be assigned EX-110
6/10/70 spec REC-31*

58

AT WASHINGTON, D.C. Will prepare a brief outline of BERNARD FENSTERWALD's professional background including any information to indicate association with leftist and racist groups in order that this information may be made available to the District Attorney General at Memphis, Tennessee

Airtel _____

Re: _____

- 2 - Bureau
- 2 - WFO
- 2 - Memphis
- A.S.D. JCH:jlj
- (6)

17 a. Comm
JUN 8 1970

Spec. Del. _____

Approved: _____

Special Agent in Charge

Sent _____

M

Per _____

EX-110

SAC, Memphis (44-1987)

6/16/70

REC 33

Director, FBI (44-38861) — 5883

MURKIN

Re your airtel 6/5/70 captioned as above.

Bernard Fensterwald, Jr., was the subject of applicant-type investigations in 1949 and 1959, which developed the following information which you may orally furnish to Assistant Attorney General Clyde Mason. Fensterwald was born August 2, 1921, in Nashville, Tennessee, graduating from Harvard University in 1942 with a Bachelor of Science degree and thereafter attending Harvard Law School, Harvard University, where he was awarded a Bachelor of Laws degree in 1949. The names of his mother and sister appeared on a list of delegates and members in 1942 of the Southern Conference for Human Welfare, which has been cited by the House Committee on Un-American Activities. In 1956, while employed by the State Department, Fensterwald and his mother traveled to the Soviet Union. In addition to his employment by the State Department, Fensterwald was also employed as chief counsel of the U.S. Senate Committee on the Judiciary; Subcommittee on Administrative Practice and Procedure (the Long Committee). He has also been employed on the staffs of a number of Senate committees.

MAILED 25
 JUN 16 1970
 COMM-FBI

For your own information and guidance, our contacts with Fensterwald have made it clearly evident that he was unscrupulous, untrustworthy and anti-FBI and frequently endeavored to draw the FBI into conflicts around the country by his requests of various telephone companies and other sources who might have information of wiretaps and other technical surveillances by the FBI. In January, 1966, in connection with hearings scheduled to be held in San Francisco, Fensterwald indicated that ex-Agent William Turner would be one of the witnesses he intended to call in connection with the extent of FBI wiretapping. As you are aware, Turner is extremely anti-FBI

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

GHS:cs (9)

NOTE: See memo Mr. Rosen to Mr. DeLoach, 6/15/70, captioned "Bernard Fensterwald, Jr., Name Check Request," GHS:cs.

[Handwritten initials and signatures]

JUN 23 1970
 MAIL ROOM TELETYPE UNIT

Letter to SAC, Memphis
Re: Murkin

and has an unsavory background. Fred J. Cook, in an article in the December, 1965, issue of "The Nation," dealing with wiretapping by Government agencies, allegedly obtained information for his article from Fensterwald, whom he quoted several times.

Insure that you are alert to furnish the Bureau under the above caption any information coming to your attention concerning the activities of the "Committee to Investigate Assassinations" or activities of any of the members thereof. (77-44206)

LOOK

PUBLICATION OF COWLES COMMUNICATIONS, INC. 488 MADISON AVENUE NEW YORK NY 10022 MU 8-0300

Subscription
and Information Service

Mr. Tolson
✓
11/7/68

November 7, 1968

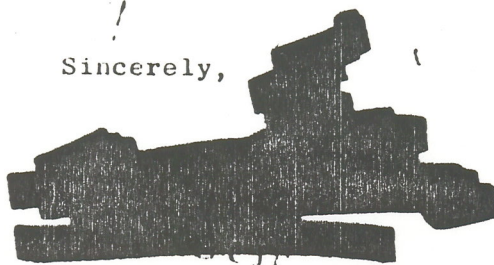
Public Information Officer
Department of Justice
Federal Bureau of
Investigation
Constitution Avenue & 10
Street, Northwest
Washington, D. C.

34-11718-1853
EX-11000

Dear Sir:

Advance tearsheets are enclosed of
Part II, "The Story of James Earl
Ray and the Plot to Kill Martin
Luther King." This will appear
in Look's November 26 issue -- out
Tuesday, November 12.

Sincerely,



5367

LR/ct
Enc.

ENCLOSURE ATTACHED

REC-15

NOV 8 1968

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

Memorandum

TO : Director
Federal Bureau of Investigation

DATE: SEP 23 1966

FROM : Jerris Leonard
Assistant Attorney General
Civil Rights Division

JL:JHF:dcr

DJ 144-72-662

SUBJECT: James Earl Ray - Subject;
Martin Luther King, Jr. - Victim.
Conspiracy Against Rights
CIVIL RIGHTS

This is to confirm the telephone conversation of this date between [redacted] of your Bureau and Mr. Flannery of this Division, concerning information to be released by the R.C.M.P. with respect to their assistance in apprehending the fugitive James Earl Ray.

"Assuming that the prosecutive authorities of Shelby County, Tennessee, have no objection to the release of such information, on the basis of the prior court order limiting pre-trial publicity, or otherwise, it is our view that the R.C.M.P. should limit their release of information to their role in apprehending the fugitive; and that their other investigative activity, particularly with respect to whether Ray was part of a conspiracy to kill Dr. King, should not be discussed."

REC-66 11/1 58861-586
9/25/66

C.A. 77-1996

EXHIBIT 11

FBI

Date: 12/12/75

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

in
27
AIRTEL

AIRMAIL

(Precedence)

TO: DIRECTOR, FBI (44-38861)

FROM: SAC, BIRMINGHAM (44-1740) (C)

MURKIN

Enclosed for the Bureau are the original and three copies of an LHM containing information received from a confidential source of the Birmingham Office relating to the assassination of Dr. MARTIN LUTHER KING, JR.

One copy of this LHM is being disseminated locally to the U. S. Attorney, Birmingham.

INFORMANTS

Identity of Source

File Where Located

BH T-1 is [REDACTED]

This informant was contacted on 4/18/74 and he said he would be willing to assist this Bureau on a confidential basis concerning violation of Federal and/or local laws that might come to this attention. It is noted that he has an extensive criminal record and is known to associate with much of the criminal element in the Birmingham area.

- 2 - Bureau (Enc. 4) (RM)
- 1 - Detroit (Enc. 1) (info) (RM)
- 1 - New Orleans (Enc. 1) (info) (RM)
- 1 - Birmingham

CBS:bkc
(5)

ENCLOSURE
REC-9 40-2 P (1) - 6011
The confidential source is
1-CRD name Davis who advised on 5/31/77 that he can be identified
1-CRU to the HSCA as the source of the
090F information he furnished. See BH
12/17/75 teletype 5/31/77 and BH airtel 6/1/77
JC/jet

12 DEC 15 1975

79 JAN

7 1975 see file copy.

Approved: _____

K/AS
Special Agent in Charge

Sent _____

M _____

Per _____

01472 1512119 BH0152 1512119

PP HQ

DE BH

P 3121 5Z MAY 77

MAY 31 5 25 PM '77

RECEIVED
FEDERAL BUREAU
OF INVESTIGATION
COMMUNICATIONS SECTION

Assoc. Dir.	
Dep. AD Adm.	
Dep. AD Inv.	
Asst. Dir.:	
Adm. Serv.	
Crim. Inv.	<i>PH</i>
Fin. & Pers.	
Ident.	
Intell.	
Laboratory	
Legal Coun.	
Plan. & Insp.	
Rec. Mgnt.	
Spec. Inv.	<i>PH</i>
Tech. Servs.	
Training	
Public Affs. Off.	
Telephone Rm.	
Director's Sec'y	

FM BIRMINGHAM (44-1140) (RUC)
TO DIRECTOR (44-38861) PRIORITY

BT

CLEAR

MURKIN

REBUCAL TO BIRMINGHAM MAY 18, 1977, REQUESTING CONTACT WITH FORMER BH 1079-PCI, TO DETERMINE IF HE CAN BE IDENTIFIED TO THE HOUSE ASSASSINATION COMMITTEE (HAC) AS THE SOURCE OF INFORMATION REGARDING LIBERTO, ET AL.

SOURCE WAS UNAVAILABLE FOR CONTACT MAY 18-30, 1977. ON MAY 31, 1977, HE ADVISED SA PATRICK J. MOYNIHAN THAT HE CAN BE IDENTIFIED TO THE HAC AS THE SOURCE OF THE INFORMATION HE FURNISHED. HE FURNISHED THE FOLLOWING INFORMATION GRATUITOUSLY:

HE IS DISENCHANTED WITH THE HAC AND BELIEVES IT IS TOO POLITICAL. HE HAS NOT TALKED TO THEM (MR. EDDIE EVANS) IN ABOUT THREE WEEKS. EVANS DESIRES SOURCE TO BE IN TOUCH TELEPHONICALLY AT LEAST TWICE A WEEK BUT IS NEVER AVAILABLE WHEN SOURCE PUTS HIMSELF OUT TO MAKE THESE CONTACTS.

REC-126

1-0-70 AAG Comm. (PH) (Liberto) (Evans)
(Evans) (PH) (Liberto)
HIA (PH) 6/1/77

20 JUN 13 1977

JUN 14 1977

6224

PH

PAGE TWO BH 44-1740

SOURCE DISAPPROVES OF ALL THE TV PUBLICITY THZ HAC RECEIVED IN BIRMINGHAM, ALABAMA, AND MEMPHIS, TENNESSEE, A FEW WEEKS AGO, AND AGAIN BELIEVES THEY ARE "TOO POLITICAL."
THROUGH THE HAC, HE HAS MET MARK LANE. SOURCE HAS NO USE FOR LANE AND ARGUED WITH HIM ON THE OCCASION WHEN THEY MET.

SOURCE HAS CONDUCTED INVESTIGATION HIMSELF IN MEMPHIS, TENNESSEE, RECENTLY. JAMES EARL RAY LEFT BIRMINGHAM MARCH 30, 1968, AND WENT DIRECTLY TO MEMPHIS, TENNESSEE, ON MARCH 30, 1968. HE STAYED AT MRS. DEATON'S ROOMINGHOUSE ON PEABODY STREET IN MEMPHIS, AND SOURCE INTERVIEWED HER APPROXIMATELY THREE WEEKS AGO.

SOURCE DEVELOPED A "LIBERTO MAN" WHO SHOWED SOURCE THE ABOVE ROOMING HOUSE. SOURCE HAS NOT FURNISHED THIS INFORMATION REGARDING THE DEATON ROOMINGHOUSE TO HAC SINCE THEY HAVE NOT BEEN IN RECENT CONTACT WITH HIM.

INFORMATION FURNISHED BY THIS SOURCE IN THE FUTURE WILL BE RECORDED AT BIRMINGHAM AND FORWARDED IF APPROPRIATE.
AIRMAIL COPES BZING FURNISHED MEMPHIS AND NEW ORLEANS.
BT.

1128

1512119 8H0152 152119 MAY 31 5 25 PM '77

RECEIVED
FEDERAL BUREAU
OF INVESTIGATION
COMMUNICATIONS SECTION

HQ
12 BK

P 312115Z MAY 77

FM BIRMINGHAM (44-1143) (RUC)
TO DIRECTOR (44-33861) PRIORITY
SI
CLEAR
MURKIN

REBUCAL TO BIRMINGHAM MAY 13, 1977, REQUESTING CONTACT
WITH [REDACTED] TO DETERMINE IF HE CAN BE IDENTIFIED
TO THE HOUSE ASSASSINATION COMMITTEE (HAC) AS THE SOURCE OF
INFORMATION REGARDING LIBERTO, ET AL.
[REDACTED] WAS UNAVAILABLE FOR CONTACT MAY 13-30, 1977. ON
MAY 31, 1977, HE ADVISED SA PATRICK J. MOYNIHAN THAT HE CAN
BE IDENTIFIED TO THE HAC AS THE SOURCE OF THE INFORMATION HE
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POLITICAL. HE HAS NOT TALKED TO THEM (MR. EDDIE EVANS) IN
ABOUT THREE WEEKS. EVANS DESIRES [REDACTED] TO BE IN TOUCH TELE-
PHONICALLY AT LEAST TWICE A WEEK BUT IS NEVER AVAILABLE WHEN
[REDACTED] PUTS HIMSELF OUT TO MAKE THESE CONTACTS.

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THROUGH THE HAC, HE HAS MET MARK LANE. [REDACTED] HAS NO USE FOR LANE AND ARGUED WITH HIM ON THE OCCASION WHEN THEY MET.

[REDACTED] HAS CONDUCTED INVESTIGATION HIMSELF IN MEMPHIS, TENNESSEE, RECENTLY. JAMES EARL RAY LEFT BIRMINGHAM MARCH 30, 1968, AND WENT DIRECTLY TO MEMPHIS, TENNESSEE, ON MARCH 30, 1968. HE STAYED AT MRS. DEATON'S ROOMINGHOUSE ON PEABODY STREET IN MEMPHIS, AND [REDACTED] INTERVIEWED HER APPROXIMATELY THREE WEEKS AGO.

[REDACTED] DEVELOPED A "LIBERTO MAN" WHO SHOWED [REDACTED] THE ABOVE ROOMING HOUSE. [REDACTED] HAS NOT FURNISHED THIS INFORMATION REGARDING THE DEATON ROOMINGHOUSE TO HAC SINCE THEY HAVE NOT BEEN IN RECENT CONTACT WITH HIM.

Mr. John Hartingh
FBI-FOIA Unit
J. Edgar Hoover Bldg, Rm 6982
Washington, D.C. 20535

11/8/77

Dear John,

This is one of the specifics you all asked for at our last meeting. It also is one I've raised in the past without response.

Because of all the material when I last wrote you about this I did not have time to check my files. Since then I have had occasion to. I've learned what I think your people should have realized, that when I referred to Bunt I really meant Morris Davis.

Your people also should have been aware, as Doug Mitchell should have been aware if DJ review is to be anything other than a rubber stamp, that the Davis identity was not secret. He had been in touch with the House assassins, the Bureau then asked for an okay to disclose his name in the records for the assassins committee, and in fact that committee made him available to Mark Lane. How in the face of these facts could you claim any exemption?

One of the results ~~is~~ is to introduce much confusion in these records when there need be none. An example is in Birmingham 44-1740, in part beginning about Serial ~~222~~ 2229 and going on for a while and at other points you should have no trouble locating. The obliterations add to the confusion, especially those I believe to be neither necessary nor justified. If you'll examine what you have done to Serial 2240 I think you'll find an illustration.

Here there is reference to an unreferenced, unidentified LHM and covering airtel of the time of the King assassination. This Serial, 2240, is dated years later, 12/20/76. It thus is impossible to identify and locate these records, if they have been released to me, as they should have been.

I believe that in the processing of these files, which was after our stipulations, you violated those stipulations as well as the AG's 5/5/77 directive. Whether or not others agree and without regard to where we will be going on all of this or how, I have present need for use of these records. Their form makes any use an invitation to error. It also limits any use, safe or unsafe. I therefore ask that your people go over all those that are relevant to the Davis-Prosch-Liberto-Aeromarine-House committee-Lane records and reprocess them in accord with the stipulations.

There is reason to believe that aside from these Birmingham records there are Memphis records of which I have no recollection at all. This leads me to believe that they are not in the Memphis records that you did provide. I believe that my confusion involving Bunt comes from his being in Memphis.

The Prosch case, by the way, is largely public at least from the time he was indicted on well-publicized charges over his cache of weapons. I have long had a file on him. I have reason to believe that whether or not related to him or to him alone there are records not provided that parallel these kinds of accounts. My information is from an FBI field office, not Memphis or Birmingham. There was a circularization, according to this information, of suspicions relating to one big in guns and of that political coloration, as I now recall also connected with support of Governor Wallace. Maybe in connection also with fund raising.

Sincerely,

Harold Weisberg



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

May 17, 1978

Mr. Harold Weisberg
Route 12
Frederick, Maryland 21701

Dear Mr. Weisberg:

Reference is made to your Freedom of Information Act (FOIA) request for information pertaining to Yuri Ivanovich Nosenko by letter dated March 9, 1978.

As you are aware, the documents which were presented to the President's Commission on the Assassination of President Kennedy (Warren Commission) by the Federal Bureau of Investigation (FBI) and various other federal agencies were placed in the custody of the Archivist of the United States in the National Archives and Records Service (NARS) at the conclusion of the Warren Commission's investigation. Pursuant to Public Law 62-318 these documents were to be reviewed periodically to determine if additional information could be made available to the general public. The last review was in December, 1975, at which time Warren Commission Documents 451 and 651 were determined by the FBI to no longer warrant classification and were made available to the general public. These documents were not included among the approximately 98,000 pages of John F. Kennedy Assassination material released in December, 1977, and January, 1978. Although you may have had a previous opportunity to review these documents at NARS, I am enclosing copies of them at this time. Our inventory worksheets pertaining to the Kennedy Assassination material, in connection with the FOIA release, show the documents were withheld on the basis of Title 5, United States Code, Section 552, Subsection (b)(1). This is in error and the claim for withholding the documents on this basis is hereby withdrawn. There is no duplication charge involved in this release.



C.A. 77-1996
EXHIBIT 13

Mr. Harold Weisberg

Please be advised that a review of the file pertaining to Yuri Ivanovich Nosenko is being conducted to determine if any additional material can be released to you under the provisions of the FOIA. It should be noted that much of the file is classified pursuant to Executive Order 11652 and the current review is being made to determine if current classification is warranted.

Sincerely yours,

Allen H. McCriegt/mv

Allen H. McCriegt, Chief
Freedom of Information-
Privacy Acts Branch
Records Management Division

Enclosures (2)

FD-302 (Rev. 1-25-60)

FEDERAL BUREAU OF INVESTIGATION

Oswald, Lee H., Russian Period

Other Individuals and Organizations
Involved or InterviewedDate 2/28/64

Oswald, Marina - 1

The following information was furnished on
February 26 and 27, 1964, by YURI IVANOVICH NOSENKO:

NOSENKO said he was Deputy Chief of the Tourist Department, Second Chief Directorate of the Committee for State Security (KGB) at the time of his defection February 4, 1964, at Geneva, Switzerland, and held the rank of Lieutenant Colonel. He said the Second Directorate of the KGB is concerned with the internal security of the Union of Soviet Socialist Republics (USSR).

NOSENKO advised he was familiar with the visit of LEE HARVEY OSWALD to the Soviet Union in the Fall of 1959 and supervised the handling of the KGB file on OSWALD in the Tourist Department.

NOSENKO stated that when OSWALD arrived as a tourist in the Soviet Union the KGB had no current interest in him and possessed no information that OSWALD was a member of the Communist Party, USA, elsewhere, or that he was a member of any pro-Soviet organization. NOSENKO advised that upon arrival in Moscow OSWALD contacted Intourist, the official Soviet travel agency. OSWALD informed representatives of the Intourist that he desired to remain in the Soviet Union. Thereafter, OSWALD's case was referred to the Seventh (Tourist) Department, Second Main Directorate, KGB.

NOSENKO related OSWALD was discouraged from remaining permanently in Russia. It was suggested to him that he complete his visit as a tourist and return to the United States. It was further suggested he could thereafter make application through routine channels at the Soviet Embassy in the United States for admission as an immigrant to the Soviet Union.

NOSENKO said OSWALD was not regarded by the KGB as being completely normal mentally nor was he considered to be very intelligent. He stated it was the desire of the KGB that OSWALD depart from Russia as early as convenient but no effort was made to curtail his visit or to inconvenience him during his stay in Russia. NOSENKO stated,

On 2/26 and 27/64 at Fairfax County, Virginia File # WFO 105-37111

by SAs MAURICE A. TAYLOR, DONALD E. WALTER, Date dictated 2/28/64
and ALEKSO POPTANICH:kls

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

DECLASSIFIED
E.O. 11652, Sec 56

By: MWS NARS Date: 3/1/87

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to
File No.

WASHINGTON 25, D.C.

March 4, 1964

LEE HARVEY OSWALD
INTERNAL SECURITY - R - CUBA

On March 3, 1964, Yuri Ivanovich Nosenko advised that at the time of Oswald's arrival in the Union of Soviet Socialist Republics (USSR) in the Fall of 1959, he (Nosenko) held the position of Deputy Chief, First Section, Seventh Department, Second Chief Directorate (counterintelligence), KGB (Committee for State Security). This particular Section, of which he was then Deputy Chief, handled the KGB investigations of tourists from the United States and British Commonwealth countries.

The First Section, at that time, and at present, contains fifteen or sixteen officers, holding ranks of Junior Case Officers, Case Officers and Senior Case Officers. At the time of President John F. Kennedy's assassination, Nosenko stated he then held the position of Deputy Chief, Seventh Department, (Tourist Department), Second Chief Directorate, with the rank of Lieutenant Colonel. The Seventh Department, consisting of approximately ninety Case Officers, is responsible for KGB investigations of tourists from all non-communist countries.

Prior to Oswald's arrival in the USSR he was completely unknown to the KGB, according to Nosenko. In this connection he pointed out that immediately upon issuance of a visa to a person to visit the USSR, the Seventh Department (Tourist), Second Chief Directorate, KGB, is notified. At that time a preliminary evaluation is made of the individual and a determination made as to what action, if any, should be taken by the Tourist Department. Oswald's background was not of sufficient importance for the Tourist Department to have any advance interest in him and Nosenko stated that his first knowledge of the existence of Oswald arose in about October, 1959, when Kim Georgievich Krupnov, a Case Officer in his section, reported to him information which Krupnov had received from an Intourist interpreter. It was to the effect that Oswald, an American citizen who had

C.A. 77-1996

EXHIBIT 14



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to
File No.

~~Secret~~

WASHINGTON 25, D.C.

March 4, 1964

Classified by 2040 Rev. 7/13/77

Exempt from GDS, Category 2, 3

Date of Declassification Indefinite

LEE HARVEY OSWALD
INTERNAL SECURITY - R - COBA

USSR COBI
D.C.

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DECLASSIFIED BY 4913
ON 5/8/78
BY MM

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Date 2/28/64

The following information was furnished on February 26 and 27, 1964, by YURI IVANOVICH NOSENKO:

U.S.A.

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On 2/26 and 27/64 at Fairfax County, Virginia File # WFO 105-37111

by SAs MAURICE A. TAYLOR, DONALD E. WALTER, Date dictated 2/28/64
and ALEKSO POPTANICH:Kls

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

Senator ABOUREZK. I welcome you both to the committee hearings. Please proceed.

Mr. McCREIGHT. In deference to your tight schedule, I have a very brief statement which I would like to read into the record.

TESTIMONY OF ALLEN H. McCREIGHT, INSPECTOR, DEPUTY ASSISTANT DIRECTOR, FREEDOM OF INFORMATION AND PRIVACY ACTS BRANCH, FEDERAL BUREAU OF INVESTIGATION, ACCOMPANIED BY MICHAEL HANIGAN

Mr. McCREIGHT. Mr. Chairman and members of the Subcommittee on Administrative Practice and Procedure, in response to the focus of your letter dated September 2, 1977,¹ concerning (1) the investigatory records exemption, and (2) the delay in answering requests, I have limited my opening remarks to those matters.

First, let me respond to your concern regarding the delay in answering requests. Hearings by your colleagues in the House of Representatives, specifically the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary, late in the summer of 1976, led to the FBI's submission of a proposal to eliminate the FBI's backlog of FOI/PA requests and to create a permanent operation capable of making timely, dispositive responses to all future requests.² This proposal was to be implemented during fiscal year 1977, at a cost of several millions of dollars, which expenditure was absorbed by the FBI from existing funds. The objectives of this proposal were ambitiously targeted for achievement 1 year after submission of the proposal.

During early 1977 the FBI tested, selected, and trained additional personnel to expand our permanent complement from 200 personnel to 375 personnel. Necessary equipment and additional space within FBI headquarters were obtained.

As of May 1, 1977, the expanded permanent operation had become a reality. On May 2, 1977, 198 law trained special agents selected from various field divisions of the FBI arrived in Washington, D.C., to assist in elimination of the backlog of requests. Subsequently, an additional 84 law trained special agents were temporarily assigned to headquarters to complete the task. The last of the contingent of agents returned to their field assignments September 30, 1977. Their considerable efforts, dubbed Project Onslaught, allowed this agency to rapidly move toward elimination of the backlog.

All that remains to complete the last of the processing undertaken during Project Onslaught is final duplication of some materials to be released, finalizing consultations with other agencies regarding appropriate disposition of their documents surfaced during processing, and a limited amount of classification review work associated with some of the more voluminous requests. Therefore, the FBI expects to be making timely responses to all FOI/PA requests within a few weeks upon clearing the final paperwork associated with Project Onslaught.

I do wish to point out that the permanent complement projection is based on receipt of an average of 62.4 requests per workday; and, although we have been able to absorb with existing personnel a 15-

¹ See exhibit 124, p. 883 of the appendix.

² See pp. 783, 784 of the appendix.

percent increase in requests calendar year 1976, any co received could disrupt this

As for the other primary "the investigatory records to these hearings a copy explains our efforts to int based upon 2 years of expa ance and judicial decisions 7 of the Freedom of Inform

While interpretation of e cerning on which reasonable resolution of basic issues an is a considerable step tow the Freedom of Informatio are involved because the I consider any personal requ cerning himself to be a P records concerning the ind system; that is, records "l laws", then the FBI will FOIA, wherein exemption is explained in title 28, C (b). Thus a requester obtai and is granted the broadest tion. However, as indicatc is not to be limited by t releases are encouraged wh tions are not to be appli interests or serious damag may be reasonably anticip appropriate excisions.

The FBI is committed t of Information and Privacy of money and manpower matters. Due to the natu ment—we work mostly wi be the most important on government, we must als of those sensitive law en interest in insuring affecti

Thank you.

Senator ABOUREZK. Th Committees rarely can sider legislation in gener However, I think we are formation Act case with request for my own file.

I have some questions Bureau pertaining to my chronology of my efforts

³ See exhibit 115, p. 876 of the s

percent increase in requests to date this calendar year as compared to calendar year 1976, any continuing significant increase in requests received could disrupt this projection.

As for the other primary area of concern, identified in your letter as "the investigatory records exemption," the FBI has submitted prior to these hearings a copy of our FOI/PA reference manual, which explains our efforts to interpret and apply all FOI/PA provisions, based upon 2 years of experience and available administrative guidance and judicial decisions, including those pertaining to exemption 7 of the Freedom of Information Act.

While interpretation of exemption 7 clearly involves matters concerning on which reasonable men may differ, the FBI's effort attempts resolution of basic issues and narrows the areas of controversy, which is a considerable step toward fair and informed administration of the Freedom of Information Act and the Privacy Act. Both statutes are involved because the policy of the Department of Justice is to consider any personal request by an individual for information concerning himself to be a Privacy Act request. However, should the records concerning the individual be contained within an exempted system; that is, records "pertaining to the enforcement of criminal laws", then the FBI will process the personal request under the FOIA, wherein exemption 7 becomes applicable. This interpretation is explained in title 28, Code of Federal Regulations, section 16.57 (b). Thus a requester obtains from the FBI the benefit of both statutes and is granted the broadest possible access allowed by law and regulation. However, as indicated in the FOI/PA reference manual, access is not to be limited by the strict letter of the law. Discretionary releases are encouraged where public interest is involved; and exemptions are not to be applied, unless real harm to important public interests or serious damage to the personal rights of individuals may be reasonably anticipated, were the record to be released without appropriate excisions.

The FBI is committed to effective implementation of the Freedom of Information and Privacy Acts. This is borne out by the expenditure of money and manpower dedicated to full-time handling of these matters. Due to the nature of our mandate—criminal law enforcement—we work mostly with exemption 7 and feel this exemption to be the most important one. While we are committed to openness in government, we must also balance this commitment with protection of those sensitive law enforcement tools which also serve the public interest in insuring effective law enforcement.

Thank you.

Senator **ABOUREZK**. Thank you.

Committees rarely can discuss specifics. Usually we have to consider legislation in general terms and amendments to legislation. However, I think we are fortunate to have a specific Freedom of Information Act case with which we can deal today. That case is my request for my own file.

I have some questions specifically directed to the actions of the Bureau pertaining to my request. I will begin by reading to you a chronology of my efforts to obtain my particular file.¹

¹ See exhibit 115, p. 876 of the appendix.

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So, that was our position.

Beyond that, about not acknowledging letters and that sort of thing, Mr. Chairman, if you are looking for a Department of Justice representative to defend that sort of practice in 1969, 1970, or any other time, I am not going to do it.

Senator ABouREZK. I understand that you would not want to, but we are informed that Mr. Weisberg still has 25 FOIA requests that to date have not been answered.

Mr. SCHAFER. Mr. Chairman, I can respond to that in part.

We had a meeting in my office with Mrs. Zusman, the Chief of the Information and Privacy Section in the Civil Division, Mr. Weisberg, and his attorney. Cases like Mr. Weisberg's are not the routine freedom of information requests. I can assure you that the Department is going to try to do something about his requests as a whole rather than treating them piecemeal and processing them in strict chronological order, and this sort of thing.

It is a unique request. It is a case of unique historical importance. Mr. Weisberg does have reason to complain about the way he was treated in the past. We in the Civil Division are going to try to do something to straighten out all of those cases.

Mrs. ZUSMAN. Mr. Chairman, I would like to expand on Mr. Schaffer's comments. I am Chief of the litigating section that you referred to and have been in charge of the section for approximately 7 weeks. I would like to explain a little bit of the background of that meeting so that you can understand how importantly we in the Civil Division take our responsibilities under the Attorney General's guidelines sent to the Federal agencies as a memorandum on May 5. I am sure you and your staff are familiar with this document.

Mr. Weisberg has had for some time a number of lawsuits pending. I became acquainted with him in the late spring—early summer when I was asked to assist the assistant U.S. attorney who was primarily responsible for one of the pending Weisberg lawsuits. I did meet in my office with Mr. Weisberg and his attorney, Mr. Lesar, and representatives of the FBI. We had several sessions. Excuse me; Mr. Weisberg did not come. It was his counsel, Mr. Lesar who met with us. Then we had a subsequent meeting involving a number of hours where we drafted a stipulation by the parties setting forth a variety of tasks and how they would be performed by the client agency, the Bureau, in trying to satisfy the types of information and the timing of the release of the information, and so forth, in Mr. Weisberg's very voluminous request.

This fall Mr. Lesar and Mr. Weisberg contacted me and said that they had some problems in regard to the stipulation—which is being carried out and is being fulfilled by the FBI as well as other questions. I invited them to my office. At that time I discussed with them a number of problems. I picked up the phone and called Mr. Schaffer's secretary. I said, "If Mr. Schaffer is in now, we are coming downstairs. Hold him there. I think there is somebody that he should meet."

Mr. Schaffer did make the time to see Mr. Weisberg and Mr. Lesar. We spent quite a bit of time discussing the problems. This is the type of effort that we are now putting forth. We are a little bit hampered because, of course, primarily the Civil Division is in the litigation business. But, in this particular area of the law, we have to also put a

lot of our efforts into and into mediation based on a misunderstanding which they think an misunderstood some

In other words, wide broad area where wide number of lawsuits by counsel. It can be very power. This is some

Another case that national newspaper request for a large number dead, in the enterta Roosevelt. After the question arose: What from the files concern

It turned out the v talking about 25 page thousands and thousand plaintiff's counsel, but personnel under my the request, to ask me

Plaintiff's counsel material I found in the national newspaper, v material, which did not the FBI personnel su would want to ranc that they were so ol confidential source as they were willing to w

That is how it began sample. That materia with his client. They investment financially would be able to get v

This is the kind of v Senator ABouREZK. there to satisfy him.

Mrs. ZUSMAN. You Mr. SHEA. Mr. CH Weisberg, that he is believe, John Kenned my more senior attor consultant to the peo over a year. As a res approximately 20,000 released to Mr. Weisbe for public inspection in

So, the wheels may problem that is presen Senator ABouREZK. Mr. Shea, you and oth

and that sort of Department of Justice 1969, 1970, or any

ould not want to, but FOIA requests that

o that in part. asman, the Chief of Civil Division, Mr. Weisberg's are not the assure you that the out his requests as a processing them in

historical importance. out the way he was going to try to do

to expand on Mr. ng section that you n for approximately background of that ntly we in the Civil Attorney General's orandum on May 5. is document.

of lawsuits pending. -early summer when : who was primarily suits. I did meet in fr. Lesar, and repre- is. Excuse me; Mr. asar who met with g a number of hours tting forth a variety he client agency, the ation and the timing h, in Mr. Weisberg's

ed me and said that tion—which is being ll as other questions. -cussed with them a called Mr. Schaffer's e coming downstairs. at he should meet." sberg and Mr. Lesar. ems. This is the type a little bit hampered a is in the litigation we have to also put a

lot of our efforts into attempts at settlement where it is appropriate, and into mediation and arbitration. Very often, plaintiffs file lawsuits based on a misunderstanding of the information that they are seeking, which they think an agency should have, but it doesn't. Or they have misunderstood something that has been deleted, et cetera.

In other words, what I am trying to indicate is that there is a very broad area where we are trying to be innovative as to reducing the number of lawsuits by working directly with plaintiffs and with plaintiffs' counsel. It can be very successful. It does depend upon a lot of manpower. This is something we are working for.

Another case that is an example of this approach occurred where a national newspaper represented by Washington, D.C., counsel made request for a large number of files on a number of celebrities long since dead, in the entertainment field and, in addition, Franklin Delano Roosevelt. After the Bureau processed the entertainment figures, the question arose: What was it that the plaintiff requester really wanted from the files concerning the former President, Franklin Roosevelt?

It turned out the way the FBI maintained its file system, we were talking about 25 pages of FBI files index citations and thousands and thousands and thousands of pages of files. It became possible for plaintiff's counsel, based on the previous relationship with FBI personnel under my supervision in working on the other aspects of the request, to ask me to sample at random from the files; which I did.

Plaintiff's counsel accepted my representations as to the type of material I found in the sample. We talked about what his client, a national newspaper, was looking for, which was specifically personal material, which did not appear to be there. The final stage was when the FBI personnel suggested to me that I ask plaintiff's counsel if he would want to random sample from these files because it was felt that they were so old and the nature was such that privacy and confidential source aspects just were not relevant in this area, and they were willing to waive this consideration.

That is how it became resolved. Plaintiff's counsel did pick a random sample. That material was Xeroxed. He did look at it. He consulted with his client. They determined that it was not worth his client's investment financially to pursue it because it did not appear that he would be able to get what he wanted to get.

This is the kind of work we are trying to do now.

Senator ABOUREZK. You are saying there wasn't enough scandal in there to satisfy him.

Mrs. ZUSMAN. You said it, Senator; I did not.

Mr. SHEA. Mr. Chairman, could I mention, in the context of Mr. Weisberg, that he is requesting both Martin Luther King and, I believe, John Kennedy assassination materials. I have had one of my more senior attorneys acting both as an ongoing reviewer and consultant to the people processing the file at the Bureau now for over a year. As a result of this ongoing process, there have been approximately 20,000 pages of FBI records that have been, not only released to Mr. Weisberg on the King assassination, but are available for public inspection in the FBI's reading room.

So, the wheels may grind a bit slowly, but we are addressing the problem that is presented by these voluminous requests.

Senator ABOUREZK. I would like to return to some policy questions. Mr. Shea, you and others from the Justice Department and the FBI

FROM: C. D. DeLoach
SUBJECT: ASSASSINATION OF THE PRESIDENT

I had a long talk this morning with Congressman Gerald R. (Gerry) Ford (R. - Michigan) in his office. He asked that I come up to see him. Upon arriving he told me he wanted to talk in the strictest of confidence. This was agreed to.

Each Ford told me he was somewhat disturbed about the manner in which Chief Justice Warren was carrying on his Chairmanship of the Presidential Commission. He explained that the first mistake that Warren made was his attempt to establish a "one man commission" by appointing a Chief Counsel, Warren Olney, that was his own protege. Ford stated that after the mention of Olney's name by the Chief Justice, at their first meeting, Allen Dulles, former Director of CIA, protested quite violently. Because of Dulles' protest, the other members told Warren that they would like to know more about Olney prior to giving their consent.

On the occasion of their second meeting, Ford and Hale Boggs joined with Dulles. Hale Boggs told Warren flatly that Olney would not be acceptable and that he (Boggs) would not work on the Commission with Olney. Warren put up a stiff argument but a compromise was made when the name of Lee Rankin was mentioned. Warren stated he knew Rankin and could work with him.

Ford told me that he was currently having problems inasmuch as the majority of the members of the Commission desired to go along with the recommendation made in Deputy Attorney General Katzenbach's letter to the Commission dated 12-9-63. In this letter, Katzenbach recommended that the Commission make an immediate press release pointing out that the FBI report clearly showed there was no international conspiracy or collusion and that Oswald was a loner. Ford stated he was a minority of one that did not want to give out any press release until the Commission had had a thorough opportunity to review and discuss the FBI report. (I noted that the report was on his desk at the time of our meeting.)

- 1 - Mr. Belmont
- 1 - Mr. Rosen
- 1 - Mr. Evans
- 1 - Mr. Sullivan
- 1 - Mr. Jones

CONTINUED NEXT PAGE

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Piece of Oswald's Shirt Found Snagged in Rifle

By JERRY O'LEARY, Jr.
Star Staff Writer

A fragment of Lee Harvey Oswald's shirt was snagged in the rifle that killed President John F. Kennedy, the FBI report of the assassination states.

Disclosure of this evidence against the 24-year-old Oswald, himself slain two days after Mr. Kennedy's death, is regarded as one of the most solid pieces of evidence of his guilt.

Officials said wisps of brown shirt material were caught in metal parts of the 6.5 mm. Italian-made carbine found on the fifth floor of the Texas School Book Depository Building a few minutes after the fatal shots were fired on November 22.

Wore Brown Shirt

When Oswald was arrested two hours later, he was wearing a brown shirt of the same material. Oswald claimed he had changed his shirt in his rooming house after leaving the assassination area, but this proved to be untrue.

FBI crime laboratory technicians determined by microscopic and other scientific means that the fragment of shirt material came from the shirt the ex-Marine was wearing.

Other solid evidence that Oswald was the President's

assassin also is in the 75-page report, which was presented to a presidential investigating committee last night.

Oswald's finger prints were found on the rifle; a handwriting analysis showed he bought the gun under an assumed name on March 20 from a Chicago mail order house and his finger prints were found on cardboard boxes on which the sniper apparently braced himself for the shots that wounded Tex. Gov. Connally and killed President Kennedy.

Report Not Released

The report was given the commission by the Justice Department after an exhaustive review. Chief Justice Earl Warren, head of the seven-man commission, has requested that the report not be made public until the commission has reviewed it and "taken whatever action is deemed appropriate."

Meanwhile, the Senate yesterday unanimously approved a resolution giving broad powers of subpoena to the commission. Under the resolution, now before the House, the commission would have the power to force testimony from any reluctant witnesses by granting immunity.

Although the FBI, and the Justice Department and

Commission continued to withhold comment on the contents of the report. It was learned that the report concludes there can be no doubt of Oswald's guilt.

The report also concludes that Oswald acted alone and had no connection with Jack Leon Ruby, the 52-year-old night club operator who shot him on November 24 in the basement of Dallas Police Headquarters.

Ballistics Comparison

Included in the report is the ballistics comparison that the fatal shots fired at President Kennedy came from the gun Oswald bought under an assumed name.

Officials close to the investigation said the report actually contains little that already has not been made public about the tragedy. However, it is reportedly accompanied by photographs and other exhibits of evidence that have not been seen by the public.

It also disclosed yesterday that the FBI gave a routine "risk list" of Dallas area residents to the Secret Service in advance of the President's ill-fated trip to the city where he met his death, but the list did not contain the name of Oswald.

Oswald's presence in the Dallas area was known to the FBI, which had talked to him in New Orleans on August 10 after Oswald was involved in some pro-Castro activity.

FBI Interviewed Wife

Subsequently, after Oswald returned from a trip to Mexico in early October, the FBI made two calls to the Irving (Tex.) house where Oswald's wife and child were living. Agents did not see Oswald but did talk to his Russian wife, Marina, and the friend with whom she lived, Mrs. Ruth Palne.

Mrs. Palne told the FBI Oswald was working in the school book warehouse but this was before anyone knew the President's motorcade would pass the building.

The FBI did not know at that time that Oswald had bought a rifle under the false name of "A. Hidell," a spokesman said.

The FBI had no evidence or reason to suspect Oswald of being a spy or a saboteur at

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

the time the "risk list" was furnished and there was nothing in his background to tab him as a potential assassin, the spokesman said.

Name Not in Files

There were thousands of people in the classification Oswald occupied just before the President was shot but there was no practical reason to keep him under surveillance, the FBI spokesman said.

Oswald's name was not in the files of Dallas police, it was pointed out.

It is now regarded as probable that Oswald was the sniper who fired a shot through a window of the home of rightist retired Gen. Edwin Walker in Dallas on April 10, missing Mr. Walker by about an inch. Mrs. Oswald has told the FBI her husband came home excitedly that night and told her he had tried to kill Mr. Walker.

- The Washington Post and Times Herald
- The Washington Daily News
- The Evening Star
- New York Herald Tribune
- New York Journal-American
- New York Mirror
- New York Daily News
- New York Post
- The New York Times
- The Worker
- The Wall Street Journal
- The National Observer
- People's World

Date: 5 10 1967

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OK against the above who already realized that Oswald was the President's assassin.

Sept-12-1968

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EXHIBIT 20

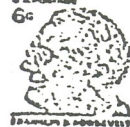
DEAR SIR;

I WOULD LIKE TO RESPECTFULLY CALL YOUR
HONOR'S ATTENTION TO THREE ARTICLES WRITTEN
ABOUT ME SINCE YOU ISSUED YOUR ORDER
AGAINST PUBLICITY IN THE INSTANT CASE.
ONE ARTICLE IS IN THE AUGUST ISSUE OF
THE READERS DIGEST BY MR. JEREMIAH
O'LEARY, I AM SURE YOU WOULD AGREE
THAT THIS ARTICLE COULD NOT HAVE BEEN
WRITTEN WITHOUT THE ASSISTANCE OF
SOMEONE IN THE JUSTICE DEPT.

THE OTHER IS A PICTURE OF ME IN A
LATE EDITION OF A TABLOID CALLED THE
INQUIRER. THIS IS A TYPICAL PICTURE
WHICH THE LAW AUTHORITIES HAVE BEEN
REPEASING OF ME, IN THIS INSTANCE THE

1.

J. RAY
MEMPHIS, TENN.
COUNTY, TENN.



Hon. W. Preston Battle - Judge.
Criminal Court Bldg.
Memphis, Tenn.

REGISTERED

PICTURE WAS TAKEN AND RELEASED BY THE
SHAWBY COUNTY SHERIFF OFFICE, IT SHOWS ME
MANACLED UP, A BULLET PROOF VEST ON
AND LOOKING LIKE I JUST BEEN PULLED
OUT OF THE RIVER, THE ACCOMPANYING STORY
DOES NOT RELATE TO ME, THE THIRD STORY
CAME OUT IN WEDNESDAY'S COMMERCIAL APPEAL
THE 12TH. OF SEPT. BY MR. WILLIAM BRADFORD
HUIE. I THINK ALMOST ANYONE READING
BETWEEN THE LINES WOULD INTERPET THIS
ARTICLE AS MEANING THE ONLY THING I AM
INTERESTED IN IS MONEY AND IN MY GREED
FOR IT I AM GOING TO WELY EXPOSE SOMEONE
OR ORGANIZATION SUCH AS WAS MENTION IN
THE NEWSPAPER ARTICLE, I WOULB LIKE
TO SAY FOR THE RECORD BOTH PUBLIC
AND PRIVATE, I DONT KNOW ANYONE TO
EXPOSE. AND I WANT TO DISASSOCIATE

2.

MYSELF FROM THIS ARTICLE, I HAD PROMISED
TO MR. HUIE THAT I WOULD TELL HIM WHERE
I HAD BEEN AND WHAT I HAD DONE AND THATS
ALL, THAT I DIDNT CARE WHAT HE WROTE
BUT NOT TO QUOTE ME. ALSO I CERTAINLY
DIDNT ASK FOR THE ARTICLE OR ANY OTHER
PRE TRIAL STATEMENTS FROM MR. HUIE.
I REALISE YOUR HONOR DOES NOT HAVE JURISDICTION
OVER NATIONAL PUBLICATIONS LIKE THE DIGEST,
BUT I WOULD THINK SO IN THE PICTURE RELEASING
AND THE HUIE RELEASE. I HAVE SAID NOTHING
SINCE I ARRIVED HERE THINKING THESE
STORIES WOULD STOP UNTIL AFTER THE TRIAL
BUT APPARENTLY THEY ARE NOT, THEREFORE IN
THE NEAR FUTURE I AM GOING TO HAVE AN
ATTORNEY FILE SOME LIBEL SUITS, AND
CONTRADICT SOME OF THE OUTRIGHT LIES.

I AM ALSO SENDING THESE STORIES AND
PICTURES TO THE ETHICAL COMM. OF THE ABA
I BELIEVE IF THESE TYPE OF ARTICLES DONT
STOP I MITE AS WELL WAIVE THE TRIAL
AND COME OVER AND GET SENTENCED,

I REALIZE THAT MR. HANES SHOULD BRING
THIS UP BUT I THINK UNDER THE CIRCUMSTANCES
I HAD TO.

I AM ALSO WRITING HIM TODAY ABOUT THIS MATTER.

SINCERELY

James Earl Ray