UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,

Plaintiff

v.

UNITED STATES DEPARTMENT OF JUSTICE

Defendant

CIVIL ACTION NO. 75-1996

AFFIDAVIT OF HORACE P. BECKWITH

I, Horace P. Beckwith, being duly sworn, depose and say as follows:

(1) I am a Special Agent of the Federal Bureau of Investigation (FBI), assigned in a supervisory capacity to the Freedom of Information-Privacy Acts (FOIPA) Branch, Records Management Division, FBI, Washington, D. C. I have direct responsibility for supervising the processing of plaintiff's request. The following statement is made upon personal knowledge and information made available to me in my official capacity as a Unit Chief of the FBI.

(2) This affidavit is submitted in response to instructions of the Court on June 26, 1978, which required the Government to provide a detailed answer to a letter from plaintiff's attorney dated November 3, 1977. This letter included a twelve-page list of issues and complaints concerning the processing and scope of the material released to him pursuant to his FOIA requests for information pertaining to the assassination of Dr. Martin Luther King, Jr. (Murkin)

(3) The files relating to the assassination of Dr. Martin Luther King, Jr. were processed under the commitment that the material was of historical interest. The documents were analyzed from the position that maximum disclosure was

necessary to insure public awareness of the facts of this investigation. In most instances this position led to the diminishing of the privacy rights of individuals for the purpose of releasing the greatest amount of material under the FOIA. The balance between the public's interest in disclosure and the private interests in non-disclosure were generally resolved in favor of disclosure. However, in certain instances the nature of the information or the circumstances surrounding the information caused a decision to be made in favor of non-disclosure. The limited exercise of the privacy exemption was considered necessary to protect some individuals. Although this was processed as an historical case, the people involved are only insulated by a period of ten years. This lack of time made the privacy evaluation difficult to make in some instances.

(4) The items set out in the above-mentioned list constitute a compilation of issues contained in plaintiff's correspondence with the FBI regarding the Murkin matter. In order to provide a more complete response to each item appearing on the list, plaintiff's actual letters were reviewed and analyzed. The following are the specific items quoted directly from plaintiff's list, with our response set out below each item:

LETTER OF DECEMBER 20, 1976

1. "Speech by Canale, assisted by John Carlisle, address to the regional meetings of the State Bar dated January 15, 1971. No justification, already public records."
2. "Claim that police pictures are confidential source. 7(D) No justification, already public records."

In response to Items 1 and 2, forty-eight crime scene photographs, which were furnished to the FBI by the Memphis Police Department (MPD), were initially denied plaintiff pursuant to (b)(7)(D) at the request of MPD. Subsequent to a later contact with MPD by the FBI Memphis Field Office, MPD advised that they no longer had reservations regarding the release of the photographs. On February 11, 1977, these

photographs were furnished to plaintiff's counsel.

3. "Autopsy pictures and pictures taken at the hospital earlier. No justification, public records; also, James Lesar purchased videotape prepared by medical examiner."

These photographs have been withheld as they depict Dr. King's nude, wounded, and blood-splattered body on an operating table. Release of the photographs is believed to constitute an absolutely unwarranted invasion of the privacy of Dr. King's family. By letter dated October 17, 1977, plaintiff was advised that although the Department of Justice Office of Privacy and Information Appeals upheld the denial of the photographs, they had recommended that these photographs be made available for plaintiff to review. On November 18, 1977, plaintiff reviewed these photographs at FBI Headquarters, but was not furnished copies. There is no information in FBI files concerning a videotape prepared by the medical examiner which was purchased by Mr. Lesar.

4. "Ray's "personal records," missing serials. 7(C) public domain."

Additional information on James Earl Ray from Headquarters and from the FBI Memphis Field Office files was released to plaintiff on August 8, and August 30, 1977. If the information which he seeks was not included in those releases, plaintiff is requested to furnish additional information and serial numbers of the missing documents, as it is not possible to make an accurate search of the approximately 49,000 pages of Murkin material based on the above information supplied by plaintiff.

5. "Deletion of Jerry Ray's name."

6. "In volumes 9 and 10 the name of the DA's investigator."

In response to Items 5 and 6, plaintiff is requested to furnish the specific serial numbers that correspond to these documents so that we may locate them and reevaluate the deletions.

7. "Serial 1062 - Worksheets do not disclose withholding of entire pages."

8. "Serial 1290, 1059, 1066, 1113. No exemptions, embarrassment is not an exemption."

In responding to Items 7 and 8, plaintiff cites the above serials as referring to attachments that have not been provided. Plaintiff has received inventories of all records contained in the Murkin and related files. Any attachments which plaintiff states are missing are either not contained in FBI files, or are not retrievable through our records system. There has been no attempt to withhold documents that we have been unable to locate. Occasionally, attachments to a document become separated from the cover document and are never returned to the proper location. Logical locations for missing attachments have been searched, but they were not located. This imperfect situtation as to raw FBI investigative files has been explained to plaintiff orally on several instances.

9. "Withholding FBI Agents names. No provisions of the Act. People assigned to the review have no knowledge of the case. H. W."

In some instances the names of Special Agents who were in the field offices investigating various leads were removed pursuant to (b)(7)(C) to protect them from possible harassment and to prevent public exposure which would affect their ability to perform their responsibilities as law enforcement officers. Beginning in Section 86 of the FBI Headquarters Murkin file and continuing throughout the processing of the field office files, the names of FBI Special Agents were left in the text of the documents, upon reconsideration due to the historical interest in this matter. To locate and reprocess those pages on which Special Agents' names had

previously been removed would be exceedingly time consuming without the benefit of adding any information of a substantive nature to the release. However, if plaintiff can show cause as to why he needs this information and can state the specific serials involved, those pages will be reprocessed.

LETTER OF MARCH 22, 1977

1. "Section 36, withheld all seven pages of serial 3348. Justification - 'not within scope of request'."

This document has not been provided to plaintiff, in that even though it is contained in the Murkin file, there is no connection to the assassination of Dr. King. This document is part of an investigative situation involving organized crime figures in Detroit, Michigan, which arose during the intensive Murkin investigation. The FBI Atlanta Field Office asked the FBI Detroit Field Office if the situation involved Murkin. Detroit responded that there was no connection between the two investigative matters. There are no reasonably segregable portions of this document which could be released. It is a document on an organized crime investigation and its release would identify sources in that investigation. As a service to the plaintiff, he was provided an oral briefing on the contents of this document.

2. "Four requests, dated back to 1969. Withholding information from 4/15/75 request."

All records pertaining to the assassination of Dr. King which are retained at FBI Headquarters and FBI Field Offices in Atlanta, Birmingham, Los Angeles, Memphis, New Orleans, and the Washington, D. C., Field Office as well as records pertaining to John Ray, Jerry Ray, James Earl Ray, and Carol and Albert Pepper in the Chicago and

St. Louis Murkin files, have been reviewed pursuant to the Freedom of Information Act in compliance with plaintiff's numerous requests in this matter. All releasable portions of these documents along with inventory worksheets, which list and describe every document contained in the files have been furnished to plaintiff. If the information which plaintiff seeks has not been furnished to him subsequent to his letter of March 22, 1977, he is requested to restate those areas in which he has not been satisfied.

3. "Entire FBI H. Q. file."

The entire FBI Headquarters Murkin file, consisting of 91 sections and 4 sections of public source information, known as Sub A, have been reviewed and all segregable portions of these files, along with inventory worksheets which list and describe every document, have been released to plaintiff.

4. "Cointelpro - sanitation workers - invaders files."

By teletype dated July 7, 1977, FBI Headquarters instructed the FBI Memphis Field Office (MFO) to conduct a search of their indices for records identifiable with the Murkin investigation, James Earl Ray, the Invaders, and the Memphis Sanitation Workers Strike (MSWS). These records, which consisted of 121 sections on Murkin, one section on James Earl Ray, six sections on the Invaders, and 29 sections on MSWS, were forwarded to FBI Headquarters by MFO airtel dated July 13, 1977, and were subsequently processed for release to plaintiff. By letters dated August 19, and 30, 1977, and September 15, and 29, 1977, plaintiff received a total of 11,170 pages of records from the MFO on the above-listed subjects. Any records not sent to FBI Headquarters for processing are not retrievable through the MFO records system. Attached

as Exhibit B is a copy of an affidavit of Special Agent Burl F. Johnson of the MFO, who caused the indices search to be conducted and supervised the packaging and transmittal of these records to FBI Headquarters.

5. "Sub A; News story by Les Payne."

The Sub A file, which contains newspaper clippings and wire service releases, consists of four sections containing 612 pages, all of which were disclosed. Apparently, plaintiff seeks a news story which is not contained in FBI files.

6. "Requests for photographs dating back to 1969. Repeated request 4/15/75. Provided serials to photographs but did not supply photographs. Forty photographs referred to in an earlier serial. Has not been informed that those more recently supplied are those referred to in serial 146."

All photographs contained in the Murkin material have been released to plaintiff, with the exception of the Time/Life photographs and the autopsy photographs. The autopsy photographs were withheld as the release would constitute an absolutely unwarranted invasion of the privacy of Dr. King's family. This denial was upheld by the Office of Information and Privacy Appeals, Department of Justice.

The Time/Life photographs were withheld as their release is currently a matter of litigation. This Court's order to release the photographs is under appeal by the Government.

However, both sets of photographs were made available for plaintiff's examination.

LETTER OF MAY 9, 1977

1. "Records on Harold Weisberg relating to overthrow of government."
2. "Records on contents of Harold Weisberg's garbage."

Items 1 and 2 relate to plaintiff's request for his personal records and are not being addressed herein as they are not pertinent to the Murkin

investigation and are not within the scope of the litigation in this matter. Plaintiff is advised that any further questions regarding his personal request should be directed to Mr. Doug Mitchell, Office of Privacy and Information Appeals, United States Department of Justice.

3. "Names which are not secret are masked. James C. Hardin and Blackie Austin."

Based on the limited information provided by plaintiff, it is not possible to make an accurate search of the approximately 49,000 pages of Murkin records for documents in which this information is contained. Plaintiff is requested to furnish the serial numbers that correspond to these documents so that they may be located and the deletions reviewed.

4. "Continuing obliteration of the names of special agents when they are not secret."

The names of Special Agents were removed under (b)(7)(C) to protect them from possible harassment and to prevent public exposure which would affect their ability to perform their responsibilities as law enforcement officers. Beginning in section 86 of the FBI Headquarters Murkin file and continuing throughout the processing of the field office files, the names of FBI Special Agents were left in the text of the documents, upon reconsideration due to the historical interest in this matter. To locate and reprocess those pages in which Special Agents' names had previously been removed would be exceedingly time consuming without the benefit of adding any information of a substantive nature to the release. However, if plaintiff can show cause as to why he needs this information and can state the specific serials involved, those pages will be reprocessed.

5. "Serial 4306 - The Judge Casey paragraph on page 2."

In Serial 4306 (a copy of which is attached

hereto as Exhibit C) information concerning Judge Casey was denied pursuant to (b)(7)(C), as release of such would constitute an unwarranted invasion of privacy. In addition, the information was withheld because portions were given by Judge Casey in confidence and therefore, were considered as information which could be withheld pursuant to (b)(7)(D). The withholding of this information allows for the protection of the relationship which existed between the FBI and the Court, without actually depriving the public of any information relevant to the investigation.

6. "Reference to memoranda, which was not included."

7. "Records relating to Ray's arrest and to the notification of H. Q. and the A. G. Statement issued on his arrest."

Items 6 and 7 deal with plaintiff's complaint that certain documents have not been provided to him. Plaintiff has received inventories of all records contained in the Murkin and related files. Any documents or attachments which plaintiff states are missing are either not contained in FBI files, or are not retrievable through our records system. There has been no attempt to withhold documents that we have been unable to locate. Occasionally, attachments to a document become separated from the cover document and are never returned to the proper location. Logical locations for missing attachments were searched, but they were not located. This imperfect situation as to raw FBI investigative files has been explained to plaintiff orally on several occasions.

8. "Promises by FBI and letter signed by Kelley for material from Memphis field office."

By letters dated August 19, August 30, September 15, and September 29, 1977, plaintiff received a total of 11,170 pages of information from the Memphis Field Office files. These releases

consisted of material on the Murkin investigation, James Earl Ray, the Invaders, and the Memphis Sanitation Workers Strike.

9. "Cointelpro files. Have agents working on them who are not familiar with case, feel compelled to withhold names of informers, some are in Memphis prosecution court records."

The Cointelpro files have been processed for disclosure separately and apart from the Murkin files. With respect to the withholding of the names of informers, each instance is considered individually, based on the contents of the communication. Upon receiving adequate documentation that information withheld in this serial is in the public realm, the deletions in dispute will be reassessed.

LETTER OF MAY 15, 1977

1. "Section 57 - Left side of the pages are missing."

Section 57, along with the inventory worksheets, was reduplicated and provided to plaintiff by letter dated August 8, 1978.

2. "Columbus serials - The names of Billet - Buccelli were masked. Public record - Pittsburgh press of 4/13/77."

Based on the limited information provided by plaintiff, it is not possible to make an accurate search of the approximately 49,000 pages of Murkin records for the documents in which this information is contained. Plaintiff is requested to furnish the serial numbers that correspond to these documents so that they may be located and the deletions reviewed.

3. "Serial 4442 - Sides and bottom are also missing."

Serial 4442 is contained in Section 57, a complete copy of which was reduplicated and furnished to plaintiff by letter dated August 8, 1978. On

page 2 of this serial, there is mention made of a press release that Mr. DeLoach read to the Deputy Attorney General over the telephone prior to releasing it to the wire services. This press release is not contained as an attachment to serial 4447, and apparently never has been, as there is no documentation appearing on this serial denoting attachments of any kind.

4. "Serial 4447 - Press release related to DeLoach not attached."

Serial 4447 consists of five pages and five pages were released to plaintiff. Plaintiff has also received inventories of the contents of all the Murkin and related files. Any attachments which plaintiff states are missing are either not contained in FBI files, or are not retrievable through our records system. There has been no attempt to withhold documents that we have been unable to locate. Occasionally, attachments to a document become separated from the cover document and are never returned to the proper locations. Logical locations for missing attachments were searched, but they were not located. This imperfect situation as to raw FBI investigative files has been explained to plaintiff orally on several occasions.

5. "Unrecorded memorandum following serial 4453 - reference to earlier record. Date of record 5/13/68. Date of FOIA request 1969."

Plaintiff claims additional information should be available. The document which plaintiff describes is not included in the Murkin and related files.

6. "Section 58 - Illegibility of most serial numbers. Incomplete and reverse order."

Section 58 has been reduplicated and was provided to plaintiff by letter dated August 8, 1978. For plaintiff's assistance, serial numbers have been clarified.

7. "Serials 4552 - 4545 not provided, not indicated as withheld."

These serials are filed in Section 58 which was reduplicated and provided to plaintiff by letter dated August 8, 1978.

8. "Serial 4521 is described as of 5 pages, dated June 7. Nothing of this description was provided. Cannot make out the serial, of 4 pages dated 6/6."

Serial 4521 consists of two separate communications: an incoming teletype from New York dated June 6, 1968, of four pages, and an outgoing teletype to Los Angeles dated June 7, 1968, of one page. On the worksheet, the date and description of the latter communication, along with the total page count was listed. This serial is attached hereto as Exhibit D.

9. "Serial 4501 - 4505 were not provided. Not indicated as withheld. 6/17/68 memo from Rosen to DeLoach refers to attachments not provided. Can't make serial out."

Serials 4501 through 4505 are contained in Section 58, which was reduplicated and provided to plaintiff by letter dated August 8, 1978. Serial 4505 was originally referred to the Civil Rights Division, Department of Justice for their review, and was released to plaintiff by letter dated June 8, 1977.

Regarding the Rosen to DeLoach memo dated June 17, 1968, our records reflect that three separate memoranda correspond with that description. Plaintiff is advised that to address the problem of the missing attachments, more information is needed to locate the proper documents.

10. "Unnecessary obliteration of names. 4460 "Fat Man" is known. Name is McDouldton."

The deletion made in serial 4460 (a copy of which is attached hereto as Exhibit E) are pursuant to (b)(7)(C) in order to protect a third party who had been assured of confidentiality against an unwarranted invasion of privacy. Upon receiving adequate documentation from plaintiff that this information is in the public realm, the deletions in dispute will be reevaluated.

11. "Serial 4515 - public official Mawnsell. Name of public official who held press conference."

Deletions made in serial 4515 (a copy of which is attached hereto as Exhibit F) were made to protect four third-parties against unwarranted invasions of privacy. Three of the parties are law enforcement officers who cooperated in some way with the FBI, and whose names were excised to protect them from possible harassment and public exposure. The fourth party's name was contained in information supplied to the FBI by New Scotland Yard, Great Britain, which requested a name check on that individual. To divulge his name in this document would clearly be an unwarranted invasion of this person's privacy. Upon receiving adequate documentation from plaintiff that this information which has been withheld is in the public realm, the deletions will be reassessed.

12. "Jerry Ray's wife. In earlier serials not withheld, can lead to confusion."

Based on the limited information furnished by plaintiff, it is not possible to make an accurate search of the approximately 49,000 pages of Murkin records for the documents in question. Plaintiff is requested to supply the specific serial numbers that correspond to these documents so that we may locate them and reevaluate the deletions.

13. "Serial 58 attachments are not attached. Last number is 4559."

Serial 58 consists of only one page and has no attachments, therefore, it is believed that plaintiff is addressing section 58, not serial 58. The serial scope of section 58 is from 4501 to 4575. Plaintiff was furnished a complete copy of this section by letter dated August 8, 1978.

LETTER OF MAY 16, 1977

1. "Section 59 - Tops of pages all black, illegible."

Section 59, along with the inventory worksheets was reduplicated and provided to plaintiff by letter dated August 8, 1978.

2. "Serial 4662 - Obliterated name of British detective Phillip Birch. Name in newspaper print. 7(C)."

Serial 4662 was originally released with the name of Detective Sergeant Phillip Birch deleted pursuant to exemption (b)(7)(C), taking into account privacy considerations and his being a law enforcement officer. After reevaluation by the FBI, the name penned in over the deletion and this serial was re-released to plaintiff's counsel on May 20, 1977. A copy of the cover pages of serial 4662 with Detective Sergeant Birch's name appearing in the text (page 2, paragraph 1, line 6) is attached hereto as Exhibit G. The attachments to this serial, consisting of several pages, are not included in this exhibit, as no deletions were made therein.

3. "Aero-Marine obliterated."

4. "Withholding Majorie Fetter's name."

Based on the limited information provided by plaintiff on Items 3 and 4, it is not possible to make an accurate search of the approximately 49,000 pages of Murkin records for the documents in which plaintiff states these deletions were made. Plaintiff is requested to furnish the specific serial numbers that correspond to these documents so that we may locate them and reevaluate the excisions.

5. "Replacement of Section 59."

Section 59 and the corresponding inventory worksheets were reduplicated and provided to plaintiff by letter dated August 8, 1978.

LETTER OF MAY 21, 1977

1. May 1968, gave SA Lichtinger copies of a sketch and picture copies of which have not been provided. Might be in Baltimore F.O., should be relevant records pertaining to these. Will contest B(2) exemption."

By letter dated December 1, 1977, plaintiff was provided four Baltimore Field Office documents and one FBI Headquarters document, which represent all of the material pertaining to photographs and an artist's sketch of alleged suspects in the Murkin matter. No deletions were made from this material.

2. "Withholding the names of James Hardin, Paul Bridgemen, Majorie Fetters."

Based on the limited information provided by plaintiff, it is not possible to make an accurate search of the approximately 49,000 pages of Murkin records for the documents in which plaintiff states the above names were deleted. Plaintiff is requested to furnish the specific serial numbers that correspond to these documents so that we may locate them and reevaluate the excisions.

3. "Serials from other agencies having no FOIA/PA backlog."

At this time plaintiff has received all documents which had been referred to other Government agencies, and returned to the FBI for release. By letter dated June 8, 1978, plaintiff was advised that CIA documents located in FBI files had been returned to the CIA for their direct response to plaintiff.

LETTER OF MAY 26, 1977

1. "Serials 4692 of 14 pp. 7(C)(D)."

2. "Serials 4694 of 10 pp. 7(C)(D)."

In response to Items 1 and 2 serials 4692 and 4694 were withheld in their entirety as this information consists of reports received from another law enforcement agency. Exemption (b)(7)(D) has been asserted to protect the confidential relationship with another police component and the information obtained from that component.

Exemption (b)(7)(C) was asserted in conjunction with (b)(7)(D) to protect the identities of the individual law enforcement officers and the third parties who were interviewed and furnished information concerning the activities of James Earl Ray. When the FBI receives information from another agency, we can only assume that there was an implied if not expressed assurance of confidentiality and to divulge these parties' names would clearly be an unwarranted invasion of their privacy.

3. "Serial 4664 - Canadian Mounties 7(D) - public domain."

The names of Royal Canadian Mounted Police (RCMP) personnel who contributed to the identification, location and apprehension of James Earl Ray were deleted pursuant to exemption (b)(7)(C) to protect these individuals from possible harassment and public exposure which would inevitably affect their ability to perform their responsibilities as law enforcement officers as well as to protect them from an unwarranted invasion of their personal privacy.

Upon receiving adequate documentation that the names withheld in this document are in the public realm, these deletions will be reconsidered.

Exemption (b)(7)(D) was never applied to information withheld in this document. A copy of the page of the inventory worksheet on which serial 4664 is listed, along with a copy of serial 4664, is attached hereto as Exhibit H.

4. "Serial 4667 - 4681 - Non-existing exemption."

Serial 4667 contains information received from the Legal Attache in London. The first paragraph of this document warns that any divulgence of this information could jeopardize a source. Although some portions of this document were withheld pursuant to (b)(7)(D) to protect the informant and (b)(7)(C) to protect the privacy of an individual mentioned in the information received from the informant, all segregable portions of this document have been released to plaintiff.

In serial 4681 the deletion was made to protect the name of an official of New Scotland Yard pursuant to (b)(7)(C). Release of this name would not only constitute an unwarranted invasion of his personal privacy, but could also subject this person to possible harassment and public exposure which would inevitably his ability to perform his responsibilities as a law enforcement officer.

A copy of these two serials is attached as Exhibits I-1 and I-2.

In plaintiff's letter, he states that "the non-existing exemption, 'other'" is used for these serials. On the inventory worksheets, there are columns which the Research Analyst may check to designate which exemptions are approximately cited for each document. There are columns provided only for the more frequently used exemptions. The column headed "other" is provided for the Research Analyst to list any exemptions applied for which there are not designated columns. "Other" was not utilized in either of these serials, in that the only exemptions cited were (b)(7)(C) and (b)(7)(D). A copy of the inventory worksheets for these serials is attached hereto as Exhibit I-3.

5. "Serial 4673 7(C) Stories and pictures in the papers."

In serial 4673 (a copy of which is attached hereto as Exhibit J) names of U. S. Bureau of Prisons official have been withheld pursuant to (b)(7)(C) and (b)(7)(D) in order to protect these individuals who furnished information to the FBI as unwarranted invasion of their personal privacy and from possible harassment and public exposure which would affect their ability to perform their duties as law enforcement officers.

Upon receiving adequate documentation that the names of these individuals are in the public realm, these deletions will be reconsidered.

6. "Serial 4675 - 4677 - name masked 7(a)."

Plaintiff's letter of May 26, 1977, disputes the application of exemption (b)(7)(D) to protect the name of a third party in serials 4675 and 4677 (copies of which are attached hereto as Exhibits K-1 and K-2. In these serials, deletions were made pursuant to (b)(7)(C) and (b)(7)(D) to protect the identity of a third party who had furnished information to the FBI. Release of this information would not only constitute an unwarranted invasion of his privacy, but would reveal the identity of a party who had cooperated with the FBI. The privacy of a person interviewed has traditionally been protected by the FBI on the basis that the information was received confidentially. Persons interviewed often assume, quite logically, that the information they furnish is for the assistance of the FBI only in the fulfillment of its responsibilities and that their identities and their cooperation with the FBI will not be publicly exposed.

7. "Masking of Ray's medical records."

Plaintiff is requested to furnish the specific serial number that corresponds to this document so that it may be located the deletions reviewed.

8. "Memo to Vinson. Follows 4692. Agent who compiled that Atlanta report is masked. Public record in the lawsuit."

In some instances the names of Special Agents who were in the field offices investigating various leads were removed pursuant to (b)(7)(C) to protect them from possible harassment and to prevent public exposure which would affect their ability to perform their responsibilities as law enforcement officers. Beginning in Section 86 of the FBI Headquarters Murkin file, and continuing throughout the processing of the field office files, the names of FBI Special Agents were left in the text of the documents, upon reconsideration, due to the historical interest in this matter. To locate and reprocess those pages on which Special Agents' names had previously been removed would be exceedingly time consuming without the benefit of adding any information of a substantive nature to the release. However, if plaintiff can show cause as to why he needs this information and can state the specific serials involved, those pages will be reprocessed.

Upon receiving adequate information that the name of this Special Agent has been publicly identified in connection with the Murkin investigation, this deletion will be reevaluated.

LETTER OF MAY 28, 1977

1. "Section 62 - wants a statement on each exemption claimed by Goble. Is entitled to it. No exemption specifics. Replacement of Section 62 with all unjustifiable withholdings eliminated. Blanket claim to 7(C)(D) and b(3). Not a single reference to a single claimed exemption."

Section 62, serial 4760. Plaintiff desires a statement on each and every exemption per page in this 260 page St. Louis report dated June 25, 1968. The exemptions cited in this report are (b)(3), (b)(7)(C), and (b)(7)(D). A brief description of each exemption will be provided to explain its

application to excised portions of the documents.

(b)(3) third person requests for FBI arrest records should be denied on the basis of (b)(3), Title 28, U. S. Code, Section 534. These include pp. HH through RR.

(b)(7)(C) Title 5, U. S. Code, Section 552, (b)(7)(C) which exempts information the disclosure of which would constitute an unwarranted invasion of privacy has been asserted to protect names, background data, and other identifying information of certain third parties. To release to plaintiff names of certain third parties appearing in our files would reveal that those persons were of FBI interest or that they were in some way connected, with an FBI investigation and would violate their rights to privacy. When individuals are interviewed in connection with an FBI investigation, there is an expressed assurance of confidentiality or the circumstances are such that the assumption can safely be made that an assurance of confidentiality was implied.

(b)(7)(D) Title 5, U. S. Code, Section 552, (b)(7)(D) allows for a deletion of material that would disclose the identity of a confidential source and confidential information furnished only by the confidential source. In most instances exemption (b)(7)(D) has been asserted in conjunction with exemption (b)(7)(C) to protect the identities of persons interviewed. Exemption (b)(7)(D) has also been asserted to protect the identities of confidential informants of the FBI who furnished information on a regular basis. The privacy of a person interviewed has traditionally been protected by the FBI on the basis that the information was received confidentially. Persons interviewed often assume, quite logically, that the information they furnish is for the

assistance of the FBI only in the fulfillment of its responsibilities, and that their identities and their cooperation with the FBI will not be publicly exposed. The fear of such exposure often inhibits this cooperation of otherwise conscientious citizens. This consideration has been met by the traditional willingness and ability of the FBI to assure persons interviewed that their identities would be protected. The consideration is also recognized under the statute, which exempts material from confidential sources and reinforces their right to privacy. This recognizes the reality that the identity of a source may be determined from an analysis of the information furnished by the source. This is particularly true when the analysis would be made by a knowledgeable person, familiar with the facts and circumstances which the information involves. Therefore, the identity of confidential sources, both interviewees and informants, and any information which would tend to identify such sources has been deleted from the material released to plaintiff.

The above exemptions (b)(7)(C) and (b)(7)(D) apply either singularly or jointly to the remaining pages not withheld pursuant to (b)(3). This statement addresses the overall "blanket exemption" policy which plaintiff describes as non-compliance. Further into this affidavit plaintiff addresses specific instances of problems pertaining to Section 62, serial 4760 St. Louis report, June 25, 1968; and these questions will be answered according to plaintiff's numerical sequence.

2. "Serial 4698 - 7(C)(D) withholding not justified."

3. "Serial 4699 - 7(C)(D)."

In response to Items 2 and 3 serials 4698 and 4699 were withheld in their entirety, as this information consists of reports received from another law enforcement agency, the RCMP.

Exemption (b)(7)(D) has been asserted to protect the information which has been received in order to protect the FBI's relationship with this other agency, which is vital to effective law enforcement. These cooperative exchanges stem from longstanding assurances of confidentiality between law enforcement agencies. This relationship would be irreparably damaged by failure to honor this policy. Exemption (b)(7)(C) was used in conjunction with (b)(7)(D) to protect the identities of the third parties who were interviewed. When the FBI receives information from another agency, we can only assume that there was an implied if not expressed assurance of confidentiality, and to divulge those names would not only be a clearly unwarranted invasion of these parties' personal privacy, but could also jeopardize future cooperation from other law enforcement agencies.

4. "Withholding of typed FBI notation on a letter in which Mr. Hoover asked for a cartoon printed in a publication, favorable to the Bureau. 7(C) unreasonable."

Plaintiff's letter of May 28, 1977, designates this serial as the unrecorded serial prior to serial 4702. This serial (a copy of which is attached hereto as Exhibit L) which is the second unrecorded serial between serial 4699 and 4700, is a letter from Director Hoover to the Honorable Thomas L. Boardman, editor of the Cleveland Press. A deletion has been made on the bottom of this letter pursuant to (b)(7)(C) to withhold personal information regarding Mr. Boardman. This information is in no way linked to the Murkin investigation and would, if released, constitute an unwarranted invasion of Mr. Boardman's privacy.

5. "Serial 4708 - Withholding of the names of Bureau of Prisons officials on Ray's security. Names were published, withholding of official names in connection with official duties. 7(C)."

In serial 4708 (a copy of which is attached hereto as Exhibit M) names of U. S. Bureau of Prisons

officials have been withheld pursuant to (b)(7)(C) in order to protect the identities of individuals who provided information to and were seeking the cooperation of the FBI in matters concerning the incarceration for James Earl Ray. Although the release of these names would be an unwarranted invasion of these parties' privacy, these deletions will be reevaluated upon receiving adequate documentation from plaintiff that the names are in the public realm.

6. "Serial 4725 - Names of public officials performing public functions withheld - 7(C)."

In serial 4725 (a copy of which is attached hereto as Exhibit N) the names of third parties who were interviewed and furnished information to the FBI were protected pursuant to (b)(7)(C), as the release of these names would constitute an unwarranted invasion of these parties' privacy. When an individual is interviewed, his privacy has traditionally been protected by the FBI on the basis that the information was received confidentially. Upon receiving adequate documentation from plaintiff that this information is in the public realm, these deletions will be reevaluated.

7. "Serial 4755 - Obliterated names of all registered at the Rebel Motel where Ray stayed. 7(C) same standard not applied to Black Lorraine Hotel."

In serial 4755 the names and addresses of the parties who were registered at the New Rebel Motor Hotel on the same date that James Earl Ray was registered under the name of Eric S. Galt were deleted pursuant to (b)(7)(C) as these individuals had no connection to the case and were not implicated into the assassination investigation. Plaintiff is requested to furnish the serial number of the document in which the names of those registered at the Lorranie Hotel were deleted so that the document may be located and reviewed.

8. "Section 62, Serial 4760 - Table of Contents missing - no claim to any exemption."

Section 62, serial 4760. Plaintiff reports that serial 4760 has two tables of contents of which he received only one. There are two tables of contents in serial 4760: 1) an administrative table of contents, and; 2) an investigative report table of contents. The plaintiff has previously been furnished both of these tables in his original request. He is again being furnished these documents with the same exemptions (b)(7)(C) and (b)(7)(D). A copy of the tables are attached hereto as Exhibit O.

9. "Cover page H - Withheld four full paragraphs of what Judge Casey said in connection with Ray not knowing of the success of his appeal in which Judge Casey was overruled, and of his successful escape attempt two weeks after this favorable appeals ruling. No exemption specified."

In section 62, serial 4760, page H, information concerning Judge Casey was denied pursuant to (b)(7)(C), as release of such would constitute an unwarranted invasion of privacy. In addition, the information was withheld because portions were given by Judge Casey in confidence and therefore, were considered as information which could be withheld pursuant to (b)(7)(D). The withholding of this information allows for the protection of the relationship which existed between the FBI and the Court, without actually depriving the public of any information relevant to the investigation.

10. "Pages I through M, without any exemption."

In section 62, serial 4760, pages I through M, information concerning Judge Casey was denied pursuant to (b)(7)(C), as release of such would constitute an unwarranted invasion of privacy. In addition, the information was withheld because portions were given by Judge Casey in confidence and therefore, were considered as information which could be withheld

pursuant to (b)(7)(D). The withholding of this information allows for the protection of the relationship which existed between the FBI and the Court, without actually depriving the public of any information relevant to the investigation.

11. "Page N, withholding was not an informant and not an exclusive source."

Section 62, serial 4760, page N, plaintiff is addressing the content of what was "not withheld" to determine whether or not the information that was given came exclusively from an informant. The information was deleted pursuant to exemption (b)(7)(D) to protect the identity of a confidential source and the confidential information furnished by the confidential source.

12. "Page O - Withholding of the "re" before interviewed, or "contacted." Name is that of a known convicted criminal, released long ago - no exemption being applicable."

Section 62, serial 4760, page O. Plaintiff questions the withholding of the name of "a known convicted criminal, released long ago." The plaintiff believes that "no exemption being applicable" for the deleted information. The information furnished by the prisoner was furnished in confidence and exempted from disclosure pursuant to exemption (b)(7)(D). The fact that the plaintiff can piece together identifying data does not make the identifications in question automatically part of the public domain. After receipt of adequate documentation from plaintiff concerning information in the public domain, we will reevaluate the documents for their releasability.

13. "Page T - same withholding of "re." Withholding of a number of a building. Later pages withholding of the account of the arrest. Already released and public domain."

Section 62, serial 4760, page T. Plaintiff questions the deleting of the number of a building. The (b)(7)(D) exemption is applied to the excision where the release of this information would pinpoint

the location and further lead to the identity of the source of information. The fact that the plaintiff can piece together identifying data does not make the identifications in question automatically part of the public domain. After receipt of adequate documentation from plaintiff concerning information in the public domain, we will reevaluate the documents for their releasability.

14. "Page FF - Person who was supposed to see Ray's sister withheld. What exemption?"

Plaintiff questions as to what exemption is applicable for the deletions on this page. Exemption (b)(7)(D) was asserted to protect the identity of a confidential informant of the FBI who furnished information on a regular basis.

15. "Page TT - Carol Pepper's father's name is withheld. At least dozen pages referring to Jerry Raynes as her father is public domain. What exemption?"

Section 62, serial 4760, page TT. Plaintiff questions the withholding of information relating to the "father" of Carol Pepper. After releasing information revealing the relationship between Carol Pepper and the excised individual, it is noted that the identity of this person is not necessarily the "natural father of Carol Pepper." Exemption (b)(7)(D) is applied to deleted this information that would disclose the identity of a confidential source and confidential information furnished only by the confidential source.

16. "Page WW - Names withheld public, no privacy exemption."

Section 62, serial 4760, page WW. Plaintiff claims that the names deleted on page WW are in the public domain. The fact that the plaintiff can piece together identifying data does not make the identifications in question automatically part of the public domain. After receipt of adequate documentation from plaintiff concerning information in the public domain,

we will reevaluate the documents for their releasability.

17. "Page AAA - Carol Pepper's father's purchase of his small place. Purchase public and recorded. Within what exemption?"

Section 62, serial 4760, page AAA, plaintiff refers to the "publicly"-recorded property foreclosure sale and questions why any excisions were made. Exemption (b)(7)(D) has been asserted in conjunction with exemption (b)(7)(C) to protect the identities of persons interviewed in connection with an FBI investigation. When an individual is interviewed, there is an expressed assurance of confidentiality or the circumstances are such that the assumption can safely be made that an assurance of confidentiality was implied.

18. "Table of Contents of next section - names of all the criminals whose convictions are public record are withheld - no privacy question."

Section 62, serial 4760, pages 2 - 3 of the investigative report table of contents. Plaintiff questions the names deleted whose convictions are public records. Although the records may indeed be in the public domain, that does not mean that the FBI has that information in its files. Exemption (b)(7)(D) has been asserted in conjunction with exemption (b)(7)(C) to protect the identities of persons interviewed in connection with an FBI investigation. The release of these names after interviews were conducted in confidence, could jeopardize future efforts to obtain valuable information from prisoners. It could also result in harassment and possible physical reprisals against any prisoner who cooperated with the FBI. Although the name is deleted, all pertinent information obtained from the prisoner has been released. The identity of the prisoner is especially critical if the prisoner continues to be incarcerated at this time.

19. "Page 20 - What is withheld has been released."

Section 62, serial 4760, page 15, plaintiff requests an assurance that names deleted are not public

and had not been released to him earlier. Based on the request for assurances by plaintiff, it is not possible to make an accurate search of the approximately 49,000 pages of Murkin records to verify that deletions are not in the public domain or that the same deletions had not been released to him at another date. Plaintiff is requested to furnish the serial numbers and pages in the Murkin files, while cross referencing them with information in the public domain. Upon our receipt of the above information, the reevaluation of the excised portions will be performed to determine the releasability of the documents.

20. "Page 15 - Reference to Owens who was arrested with Ray - withheld."

Section 62, serial 4760, pages 15 - 27. Plaintiff's questions refer to the deletions on the above pages as "ridiculous" and "a Goble carelessness." The excised materials released to plaintiff were processed at that time under the experience and guidelines afforded the personnel involved with that project. The fact that the plaintiff can piece together identifying data does not make the identification in question, or even parts of their interviews, automatically part of the public domain. After receipt of adequate documentation from plaintiff verifying the information as being in the public domain, we will reevaluate the described documents for their releasability.

21. "Page 59 - Withholding of a date, where a former fellow inmate claims to have spoken to Ray after his escape in St. Louis. Has been released. Privacy exemption for the calendar."

Section 62, serial 4760, page 59. Plaintiff refers to the exemption (b)(7)(D) being used as a "privacy exemption for the calendar." The concern for this excision is the pinpointing of specifics which relate to certain prisoners who supplied information and were interviewed by the FBI in connection with an

FBI investigation. When an individual is interviewed, there is an expressed assurance of confidentiality or the circumstances are such that the assumption can safely be made an assurance of confidentialty was implied.

22. "Page 71 - Withheld name of the "cat man" who is dead. Place of birth, date of birth also withheld."

Plaintiff questions the "well known name of the cat man" being withheld. The exemptions on this page are (b)(7)(D) asserted in conjunction with (b)(7)(C) to protect the identities of persons interviewed and information received on a confidential basis in an FBI investigation. The fact that the plaintiff can piece together identifying data does not make the identifications in question or even parts of their interviews automatically part of the public domain. After receipt of adequate documentation from plaintiff verifying the information as being in the public domain, we will reevaluate the described documents for their releasability.

23. "The hall in which a prisoner was incarcerated in the Missouri pen is withheld. How does it meet requirement of 7(C)(D) or B(3)."

Section 62, serial 4760. Plaintiff makes reference to deletion of "the hall in which a prisoner was incarcerated." The exemption of (b)(7)(D) is used as concern for this excision in the pinpointing of specifics which relate to the source of the information. When individuals are interviewed in connection with an FBI investigation, there is an expressed assurance of confidentiality or the circumstances are such that the assumption can safely be made that an assurance of confidentiality was implied.

24. "103 entire pages missing - no exemption."

Section 62, serial 4760, pages 101-103. Plaintiff makes reference to a missing page number 103 of a three page interview. After retrieval and review of the original working copy, this three-page interview is being provided in its entirety. Excisions from these pages are made pursuant to exemptions (b)(7)(C)

and (b)(7)(D) to protect the identities of persons interviewed in connection with an FBI investigation. When an individual is interviewed, there is an expressed assurance of confidentiality or the circumstances are such that the assumption can safely be made that an assurance of confidentiality was implied. A copy of document is attached hereto as Exhibit P.

25. "Interviews of James Earl Ray's father, which conclude with a reference to the agents' explanation of the harboring statute. How can 7(C)(D) or B(3) apply."

Section 62, serial 4760 concerning the interviews of James Earl Ray's father, Jerry Raynes. Plaintiff questions the exemption used for the excision following the explanation of the Federal Harboring Statute. Exemption (b)(7)(D) is applied to a brief portion of the information furnished by Jerry Raynes. The deleted material was provided in confidence with the understanding it would be treated in confidence. Therefore, this material was afforded an exemption under (b)(7)(D). The remainder of Jerry Raynes' information was released.

26. "Jump from 166 to 174 - no exemption, no claim to any exemption. Refers to Jerry Raynes daughter Carol; some John and the people who bought St. Louis house."

Section 62, serial 4760, pages 167 through 173. Plaintiff suggests there is no explanation or exemption for non-disclosure of pages 167 through 174. Although in the table of contents the reference to "bank records" is disclosed, the information contained on those pages and the source of the information are exempt from disclosure pursuant to exemption (b)(7)(D). Title 5, U. S. Code, Section 552, (b)(7)(D) allows for a deletion of material that would disclose the identity of a confidential source and confidential information furnished only by the confidential source.

LETTER OF MAY 31, 1977

1. "Harold enclosed worksheets for Section 68 to show quality of Xeroxing. After examination return to Jim, plus replacing of the worksheets of the last two batches."

Section 68 was released on May 27, 1977, along with Sections 65, 66, 67, and 69. The two releases made before that date were on May 20, and 13, 1977, and included Sections 60 through 64, and 57 through 59, respectively. Inventory worksheets for Sections 57 through 69 have been reduplicated and are attached hereto as Exhibit Q.

2. "Files loaned to the FBI 35 years ago, plot to overthrow the Government. FBI said destroyed. Does not believe."

This matter deals with an entirely separate request. On February 14, 1940, plaintiff submitted numerous documents to the FBI field office in Washington, D. C. (WFO) concerning an organization known as the Silver Shirts and an individual by the name of David DuBois Mayne. These documents were forwarded from the WFO to FBI Headquarters on February 16, 1940, which in turn sent them to Assistant Attorney General Rogge for a determination on February 17, 1940. The decision was made that no Federal statute had been violated, and the documents were returned to FBI Headquarters on March 7, 1940. They were then forwarded back to the WFO on March 15, 1940. By letter dated February 3, 1947, to FBI Headquarters the Special Agent in Charge of WFO advised that during an inspection of that field office in 1944, the recommendation had been made that the material be destroyed. At that time, however, he stated it was not believed advisable to destroy the data, and that it should be retained at WFO for an indefinite period of time, pending the cessation of the activities of the Dies Committee.

As plaintiff has previously been advised, a search for these documents has not proved successful and it is believed that they were destroyed with many other records maintained at WFO in November, 1971.

3. "Name of prosecutor, and elected public officials withheld. Mentioned only in terms of office they were elected to. No basis for withholding."

Based on the limited information provided by plaintiff, it is not possible to make an accurate search of the approximately 49,000 pages of Murkin material for the document in which plaintiff states these deletions were made. Plaintiff is requested to furnish the specific serial number which corresponds to this document so that it may be located and the deletions reviewed.

4. "Section 63, Serial 4675 - Long interview with Benny Edmondson."

Serial 4675, which is located in Section 60, makes no mention of Benny Edmondson. Plaintiff is requested to re-check the serial number and to furnish it and a description of the document in question so that it might be located and the information contained therein reviewed.

5. "Serial 4794 - Withholding relating to Raymond Curtis."

6. "Serial 4826."

In response to Items 5 and 6, the names of FBI Special Agents were the only deletions in serials 4794 and 4826, (copies of which are attached hereto as Exhibits R-1 and R-2), which were made pursuant to (b)(7)(C) to protect them from possible harassment and to prevent public exposure which would inevitably affect their ability to perform their responsibilities as law enforcement officers. All information relating

to Raymond Curtis in these serials was released.

7. "Section 64 Withholding Raymond Curtis' name. Name released in earlier serials."

Based on the limited information provided by plaintiff, it is not possible to make an accurate search of these records for the information which he seeks. Plaintiff is requested to furnish the serial numbers that correspond to the documents so that the material may be located and the deletions reviewed.

8. "Serial 4845 - Names of Bureau of Prison officials not masked in this serial, masked in earlier serials. Public domain."

In serial 4845 (a copy of which is attached hereto as Exhibit S) the names of Bureau of Prisons officials have been released in that their names are merely mentioned in the first paragraph of the second page. In previous serials, there has been direct cooperation between some of the Bureau of Prisons personnel and the FBI. The release of those names in the context of receiving information from and establishing cooperation with the Bureau of Prisons would be detrimental to our relationship with that agency.

9. "Serial 4746 - 47 page New Orleans report, deals with Charles Stein and the phone calls. All names withheld in index except Ray and Dr. King."

Serial 4746 is a seven-page airtel from the Legal Attache in Paris, France, dated July 1, 1968. A 47-page report was located in Section 64, serial number 44-38861-4846, which mentions Charles Stein and the allegation that James Earl Ray made a telephone call from a coin box in the Houston, Texas, area during a trip from Los Angeles to New Orleans with Mr. Stein. The FBI field offices at Houston and San Antonio, Texas, obtained several New Orleans telephone numbers to which long distance calls had been placed from coin boxes during the period December 15 - 17, 1967. The subscribers of the listed telephone numbers were interviewed

concerning the phone calls with negative results. Inasmuch as these parties had nothing whatsoever to do with, and contributed nothing to the investigation in the Murkin matter, it would be an unwarranted invasion of privacy to reveal their identities. These names have been protected in the report and in the index to the report pursuant to (b)(7)(C) and (b)(7)(D). A copy of serial 4846 is attached hereto as Exhibit T.

10. "Section 65, Serial 4851 - Obliterates the number of the advertised temporary post office box the Ray brothers took for fund solicitations."

Serial 4851 consists of a two-page FBI Memphis Field Office teletype to FBI Headquarters dated July 12, 1968, and a one-page FBI Headquarters airtel to the Legal Attache in London dated July 15, 1968. Upon consideration of plaintiff's grievance concerning the withholding of the post office box number and John L. Ray's Memphis address from page 2 of the teletype, a decision has been reached to release this information. Attached hereto as Exhibit U is a copy of serial 4851 with the above information included. Exemption (b)(7)(C) is retained to cover the remaining deletions from that page.

11. "Serial 4853 - References to memos not provided references to Ray's correspondence about counsel. Correspondence also withheld. Exemption 7(D). Public in court records."

Serial 4853 (a copy of which is attached hereto as Exhibit V) is a five-page internal memorandum dated July 16, 1968. This document was released in its entirety with no deletions made. In this document, which sets out details of a telephone conversation between Director Hoover and Attorney General Clark, the Attorney General makes reference to correspondence that he had received. One letter was signed "Sneyd," which was an alias used by James Earl Ray, and the other letter was from Arthur Hanes, the defense attorney.

As is reflected in this document, it appears that this material was in the possession of the Attorney General and has not been incorporated into FBI files.

12. "Serial 4859 and later serials withhold the name of the late Willie Somersett. Publications in 1967, 1971. No question of privacy and there is no secret source."

Deletions were made in this serial pursuant to (b)(2) and (b)(7)(D) to protect an informant symbol number and material that would identify the informant. The release of this information into the public realm could compromise the identity of a party who had cooperated with the FBI. The fear of exposure often inhibits those who would otherwise cooperate. This consideration has been met by the traditional willingness and ability of the FBI to assure persons interviewed that their identities would be protected. A copy of serial 4859 is attached hereto as Exhibit W.

13. "Serial 4874 - Withheld the names of Ray's guards. All in court records."

14. "Section 66, Serials 4902, 4928 - Same withholding."

In response to Items 13 and 14, serials 4874, 4902, and 4928 (copies of which are attached hereto as Exhibits X-1, X-2, and X-3), set out the names, birthdates, race, and addresses of 12 individuals selected by the Shelby County Sheriff's Office to guard James Earl Ray. Release of this information would not only constitute an unwarranted invasion of personal privacy, but would also lead to possible harassment and to public exposure, which would inevitably affect their ability to perform their responsibilities as law enforcement officers. Upon receiving adequate documentation from plaintiff that this information is in the public realm, these deletions will be reconsidered.

15. "Serial 4886 - Withholding of what was supplied by the RCMP. Was to be available for expected trial. 7(C)(D) invoked."

Plaintiff's letter of May 31, 1977, cites the unrecorded serial after 4886, not serial 4886 itself, which has been withheld. This unrecorded serial dated June 17, 1968, is a report from the RCMP. This serial was withheld in its entirety pursuant to (b)(7)(D) to protect the FBI's relationship with this other police agency, which is vital to effective law enforcement. These cooperative exchanges stem from long-standing assurances of confidentiality between law enforcement agencies. This relationship would be irreparably damaged by failure to honor this policy. Exemption (b)(7)(C) was used in conjunction with (b)(7)(D) to protect the identities of the third parties who were interviewed. When the FBI receives information from another agency, we can only assume that there was an implied if not expressed assurance of confidentiality and to divulge these parties' names would not only be an unwarranted invasion of their personal privacy, but could also jeopardize future cooperation from the other law enforcement agencies.

16. "Serial 4890, 4892, 4898 - 7(C)(D) - withholding related to internal bickering not justified."

No deletions related to "internal bickering" have been made in the above listed serials (copies of which are attached hereto as Exhibits Y-1, Y-2, and Y-3). In serials 4890, (b)(7)(C) and (b)(7)(D) were applied to protect the identity of an individual and the information which he furnished in confidence. Release of this material would not only be an unwarranted invasion of this party's personal privacy, but would also reveal the information which was provided under an assurance of confidentiality.

In serial 4898, (b)(7)(D) has been asserted to protect the same information that appeared in serial 4890, which was received in confidence.

In serial 4892, (b)(7)(C) was asserted to withhold personal information regarding a member of James Earl Ray's defense counsel, the release of which would be an unwarranted invasion of this individual's personal privacy.

17. "Section 66, all of serial 4919 withheld. No exemption claimed. What has been written under 'remarks' is erased."

Serial 4919 consists of a four-page internal memorandum dated July 24, 1968, and an outgoing airtel from FBI Headquarters to Memphis and Savannah FBI Field Offices. Both communications have been withheld in their entirety pursuant to (b)(7)(D) to protect information which was received from another agency on an unofficial and confidential basis. This information has been withheld not only to conceal the information contained therein, but also to protect the FBI's relationship with the other agency involved, which is vital to effective law enforcement. These cooperative exchanges stem from long-standing assurances of confidentiality between law enforcement agencies. This relationship would be irreparably damaged by failure to honor this policy. Exemption (b)(7)(D) was inadvertently not listed on the inventory worksheet. In regard to plaintiff's statement that something had been erased from the "Remarks" column, the master copy of the inventory worksheets for Section 66, serial 4919 shows that nothing was ever written in or erased from this column. A copy of page 2 of the inventory worksheets for Section 66, on which serial 4919 is listed is attached hereto as Exhibit Z, with a (b)(7)(D) notation made for this serial.

18. "Serial 4960, although worksheets indicate no withholding, there is withholding."

This serial consists of an FBI Laboratory report consisting of four pages and a teletype from FBI Headquarters to the FBI Memphis Field Office dated July 19, 1968, of one page. There were no deletions in the Lab report. Exemption (b)(7)(C) was asserted in the teletype to protect names, and in one case, personal information of individuals selected by the Shelby County Sheriff's Office to handle James Earl Ray upon his return to the United States. Release of this information would not only constitute an invasion of personal privacy, but would also lead to possible harassment and public exposure which would inevitably affect their abilities to perform their responsibilities as law enforcement officers. A copy of serial 4960 and page 4 of the inventory worksheets, on which this serial is listed is attached hereto as Exhibit AA, with a (b)(7)(C) notation marked for this serial which was previously inadvertently omitted.

19. "Serial 4982 - Missing attachments. Final Scotland Yard report on Ray's activities in Britain. Violation of Ray's rights. Embarrassment no exemption."

Plaintiff has received inventories of all records contained in the Murkin and related files. Any attachments which are missing are either not contained in FBI files, or are not retreivable through our records system. There has been no attempt to withhold documents that we have been unable to locate. Occasionally, attachments become separated from the cover document and are never returned to the proper location. Logical locations for missing attachments were searched, but to no avail. This imperfect situation as to raw FBI investigative files has been explained to plaintiff orally on several occasions.

20. "Section 67 - Cover page is missing."

The item, as it appears above, does not adequately describe the problem as set out in plaintiff's letter of May 31, 1977, in which he states that the cover page on the first record in Section 67 (serial 4983) refers to material not included in that report or referred to in it. Upon reviewing this serial, it is apparent that plaintiff is addressing information contained in the administrative paragraphs on Cover Pages A and B, which represent summaries of investigations conducted in the Atlanta Field Office relating to the Murkin case. The backup documents from which these summaries were derived are located in the Atlanta Field Office files. All documents contained in the Atlanta Field Office files which were identical to the Murkin investigation and related matters were furnished to plaintiff by letter dated October 19, 1977.

21. "Serial 4983 - Material from Atlanta F.O. report of 7/30/68. Missing, letter post office supplied on Locksmith Mail order course, March 28, 1968."

Plaintiff received all 23 pages of serial 4983 with only minor deletions made. Nothing in this serial corresponds to the description furnished by plaintiff of a letter from James Earl Ray to his locksmith mail-order course which plaintiff states was furnished by the Atlanta Field Office. Due to the manner in which the FBI Records System is organized, it is not possible to retrieve this document, or to even acknowledge or deny its existence in FBI files. If, during the course of reviewing the pages released, plaintiff finds information which could assist in our locating this document for him, he is advised to bring it to our attention, at which time a good-faith effort will be conducted, following his leads, to locate this document.

22. "Serial 4983, 4987 - Curtis' name withheld then written in, sometimes illegible."

Serial 4983, a 23-page Atlanta Field Office report to FBI Headquarters dated July 30, 1968, and serial 4987, a two-page Jackson Field Office airtel to FBI Headquarters dated August 1, 1968, have been reprocessed and are attached hereto as Exhibits BB-1 and BB-2. In these reprocessed documents, all names which had been blanked out then written in prior to release have been replaced in the original text.

23. "Serial 4987 - Everything withheld on front page has been released."

Upon receiving adequate documentation from plaintiff that the information withheld in serial 4987 (a copy of which is attached hereto as Exhibit BB-2) is in the public realm, the deletions will be reassessed.

24. "Section 68, Serial 5017 - More Somersett/Ainsworth withholding."

In serial 5017, a copy of which is attached hereto as Exhibit CC, deletions have been made pursuant to (b)(7)(C) to protect the name of an individual interviewed and parties discussed in that interview, as these individuals had no connection to the case and were not implicated in the assassination investigation. When an individual is interviewed in connection with an FBI investigation, there is an implied, if not expressed, assurance of confidentiality.

25. "Withholdings of those people charged, tried, convicted in the Dahmer killings. No privacy exemption applies."

Plaintiff is requested to provide the specific serial numbers that correspond to the documents in which these deletions were made, so that they may be located and deletions reviewed.

26. "Section 5030 - Withholding of reports on the behavior of several men at William Len Hotel in Memphis, time of assassination. Withholding of phoney I.D. they presented. 7(C) Protection of privacy for phoney I.D? One name is Walker. Also name of hotel is withheld."

Serial 5030 (a copy of which is attached hereto as Exhibit DD) is a Memphis Field Office airtel to FBI Headquarters dated July 31, 1968, which consists of 14 pages. As reflected on the inventory worksheet for section 68, plaintiff received all 14 pages. Exemption (b)(7)(C) was asserted to protect two individuals who had stayed at the William Len Hotel, and to delete the home addresses of the individuals interviewed regarding the activities of the two individuals. These deletions were made to protect the personal privacy of third parties who were considered to be on the periphery of this matter, and who contributed nothing to this investigation. Plaintiff states that several men's activities were reported; that they presented false identification; and that the name of the hotel was deleted. In this document, only two men are being investigated; there is no indication that these individuals ever possessed or used false identification; therefore, no information concerning this could have been withheld; and in no instance, is the name of the William Len Hotel deleted in this serial.

27. "Section 69 - Serial 5105 - Obliterates names of Clay Blair, whose book appeared in 1968, and the man who ran the bartending school Ray attended."

The names which had previously been blanked out were written in prior to release to plaintiff. For the assistance of plaintiff, a copy of serial 5105, with the names contained in the original text is attached hereto as Exhibit EE. The inventory worksheet cites no exemptions for this serial.

28. "Withholding of information obtained from Ray when he was a witness under subpoena."

Based on the limited information furnished by plaintiff, it is not possible to make an accurate search of the approximately 49,000 pages of Murkin material for the documents in which plaintiff states these deletions were made. Plaintiff is requested to furnish serial numbers which correspond to the documents in question, so that they may be located and the deletions reviewed.

29. "Serial 5109 - Originally withheld the name of Donald Wood. Look magazine and Huie released Wood's name in public record. 7(C)(D)."

In serial 5109 the name of Don Wood was blanked out, but written in under the deletion prior to release. The inventory worksheet erroneously reflects the use of both (b)(7)(C) and (b)(7)(D). Since the name of Don Wood was written in prior to the release of this document, (b)(7)(D) should not be checked on the worksheet. Exemption (b)(7)(C) was asserted to protect the name of an FBI Special Agent as an unwarranted invasion of personal privacy, release of which would cause possible harassment and public exposure which would inevitably affect his ability to perform his responsibilities as a law enforcement officer. For the assistance of plaintiff, a copy of serial 5109 with the name of Don Wood appearing in the original text and an amended worksheet, reflecting only exemption (b)(7)(C) for this serial is attached hereto as Exhibit FF.

30. "Well publicized name of Scotland Yard inspector and sergeant. 7(C)(D) Public in court records."

Based on the limited information provided by plaintiff, it is not possible to make an accurate search of the approximately 49,000 pages of Murkin material for the document in which plaintiff states the above-mentioned deletions were made. Plaintiff is requested to submit

the serial number which corresponds to the document in question so that it may be located, and the deletions reviewed.

31. "Serial 5110, same Scotland Yard inspector's name withheld. Claim to 7(C). Again widely public."

In serial 5110, a copy of which is attached hereto as Exhibit GG, the names of two New Scotland Yard officials were deleted to protect them from not only unwarranted invasions of their personal privacy, but also from possible harassment and public exposure which would inevitably affect their abilities to perform their responsibilities as law enforcement officers. Upon receiving adequate documentation from plaintiff that this information is in the public realm, these deletions will be reassessed.

32. "Serial 5114 - Masks the names of agents already released in court records."

In some instances the names of Special Agents who were in the field offices investigating various leads were removed pursuant to (b)(7)(C) to protect them from possible harassment and to prevent public exposure which would affect their ability to perform their responsibilities. Beginning with Section 86 and continuing throughout the field office files, FBI Special Agents' names were left in the text of the document, upon reconsideration, due to the historical interest in this matter. To locate and reprocess these pages on which Special Agents' names had previously been removed would be exceedingly time consuming without the benefit of adding any information of a substantive nature to the release. However, if plaintiff can show cause as to why he needs this information and can state the specific serials involved, those pages will be reprocessed.

33. "Serial 5116 - Originally masked the name of Alton Chief of Police on 7(C). Mention of him only in connection with his official duties."

In serial 5116, the name of the Alton Chief of Police had previously been blanked out but was written in over the deletion prior to release to plaintiff. A copy of the serial with the name appearing in the original text is attached hereto as Exhibit HH.

34. "Serial 5118 - Withholds names the FBI released last year."

In serial 5118, the information which had previously been blanked out was written in over the deletions in all but one instance prior to release to plaintiff. For the assistance of plaintiff, a copy of this serial with the names that had been written in appearing in the original text is attached hereto as Exhibit II. The one deletion made in this document is pursuant to (b)(7)(C) to protect a third party from an unwarranted invasion of privacy, as this individual was not available for interview and, therefore, contributed nothing to this investigation. Upon receiving adequate documentation from plaintiff that this name is in the public realm, this deletion will be reconsidered.

35. "Serial 5120 - Information relating to people in the Klan withheld. 7(D)."

In serial 5120, (a copy of which is attached hereto as Exhibit JJ) deletions have been made pursuant to (b)(7)(D) as the information was furnished by an informant who had been assured of complete confidentiality and whose future effectiveness would be seriously impaired if this information was released.

In plaintiff's letter of May 31, 1977, he questions why (b)(7)(C) was not asserted in this serial if information concerning people in the Klan was deleted. Exemption (b)(7)(C) was not cited in that (b)(7)(D) is sufficient to cover the withholding of the information received from the informant.

36. "Serial 5131 - Name of Memphis sheriff originally withheld. Name was internationally publicized."

In serial 5131, the information which had previously been blanked out was written in on the document prior to release to plaintiff. The exemptions of (b)(7)(C) and (b)(7)(D) were inadvertently not removed from the inventory worksheet. For the assistance of plaintiff, a copy of this serial with the names appearing in the original text, and a corrected copy of page 3 of the inventory worksheets on which serial 5131 is listed are attached hereto as Exhibit KK.

37. "Serial 5142 - Refer to Jim."

In serial 5142, the information which had been blanked out was written in prior to release of this document to plaintiff. A copy of this serial with the names appearing in the original text is attached hereto as Exhibit LL. In his letter of May 31, 1977, plaintiff inquires as to the interception of James Earl Ray's correspondence. There is no notation on serial 5142 indicating there were any enclosures to this document when it was filed. Plaintiff has received all inventory worksheets for each section that was processed, describing the document, the number of actual pages and the number of released pages, and the exemptions cited. Any additional information which plaintiff seeks is either not contained in FBI files, or cannot be retrieved through our records system. Plaintiff is requested to provide the serial numbers of the documents in which the information he seeks was deleted. Upon the receipt of those serial numbers and adequate documentation that this issue is in the public realm, the appropriate documents can be located and the deletions reviewed.

38. "Serial 5150 - Joe Heston's delayed report on the Mexico information. Every name withheld. Names all public."

In serial 5150, most of the information which had been blanked out was written in prior to release of

this document to plaintiff. A copy of this serial with the names appearing in the original text is attached hereto as Exhibit MM. In his letter of May 31, 1977, plaintiff also states that this serial refers to records which have not been furnished to him. Plaintiff received all the pages of this serial with only minor deletions. He has also received inventory worksheets of all records contained in the Murkin and related files. Any records which plaintiff states are missing are either not in FBI files, or are not retrievable through our records system. Upon receipt of adequate documentation from plaintiff that any of the information withheld in this document is in the public realm, these deletions will be reassessed.

39. "Pictures Ray took and commercial photographers not provided."

Plaintiff has been furnished copies of all photographs contained in the Murkin and related files with the exception of the autopsy photographs and the Louw photos belonging to Time, Incorporated. The autopsy photographs were withheld as the release would constitute an absolutely unwarranted invasion of the privacy of Dr. King's family. This denial was upheld by the Office of Information and Privacy Appeals, Department of Justice.

The Time/Life photographs were withheld as their release is currently a matter of litigation. This Court's order to release the photographs is under appeal by the Government.

However, both sets of photographs were made available for plaintiff's examination. If, during his review, plaintiff has located documents which imply that the above photographs are contained in FBI files, plaintiff is requested to furnish the specific serial numbers which correspond to those documents so that these issues may be resolved.

40. "Serial 5154 - Leave exemption up to Jim. Dealing with OPR report and offer to kill King for $100,000."

In serial 5154 (a copy of which is attached hereto as Exhibit NN) exemptions (b)(7)(C) and (b)(7)(D) have been asserted to withhold the names of the individuals interviewed who had furnished information to the FBI. Release of this information would not only constitute an unwarranted invasion of these parties' privacy, but would also reveal the identities of two people who had cooperated with the FBI. The privacy of a person interviewed has traditionally been protected by the FBI on the basis that the information was received confidentially. Persons interviewed often assume, quite logically, that the information they furnish is for the assistance of the FBI in the fulfillment of its responsibilities, and that their identities and their cooperation with the FBI will not be publicly exposed.

41. "Serial 5156 - Withheld name of prosecutor and what transpired in open court and was incorporated in that judge's order."

In serial 5156, all of the names that had been blanked out were written in prior to release to plaintiff. A copy of this serial with the names appearing in the original text is attached hereto as Exhibit OO.

42. "Serial 5158 and 5160 - Mr. Hoover's memorandum to AAG Pollack and the Birmingham airtel relating to interview with William Bradford Huie. Dated 9/10 and 9/2/68. Yet no prior record? Does not believe it. See Jim."

Plaintiff claims there should be additional information available. The material which plaintiff seeks is not included in the Murkin and related files.

43. "Serial 5165 - Protected privacy of the William Len Hotel - not blocked out months ago."

Previously in serial 5165, the name of the William Len Hotel and the names of the employees were deleted. Since this information appearing in the same

context, was released in prior serials, serial 5165 has been reprocessed with this information included in the text. Exemption (b)(7)(D) has been dropped from this serial, leaving only (b)(7)(C), which is sufficient to cover the remaining deletions. A copy of the reprocessed serial 5165 along with the amended page of the inventory worksheet on which this serial is listed is attached hereto as Exhibit PP.

LETTER OF JUNE 2, 1977

1. "Agent John Hartingh agreed some withholdings should not have been withheld, but still are."

Special Agent John Hartingh was contacted and stated that he cannot remember making the above statement; nor can he recall the context in which such a statement might have been made.

2. "Withheld inmates names FBI interviewed, excuse to protect them from retaliation. Yet interviewed them in full view of other inmates."

The name of James Earl Ray's fellow inmates at Missouri State Prison who were interviewed by the FBI have been protected pursuant to (b)(7)(D). Although as plaintiff points out in his letter of June 2, 1977, these interviews took place ten years ago, it is highly likely that some of the individuals who cooperated with the FBI may still be incarcerated within that institution. Since some of these individuals spoke in detail of prisoners' activities not generally known it is our responsibility to protect those individuals from even the most remote possibility of acts of retaliation that might be taken against them, should their identities be released.

3. "Withheld names of people in Aeromarine story. Received international publicity."

Based on the limited information provided by plaintiff, it is not possible to conduct an accurate search of the approximately 49,000 pages of Murkin records for the serial in which plaintiff states this deletion was made.

4. "In-court admissions of FBI witnesses. No basis for withholding. Dealing with Ray not knowing anything about rifles."

Based on the limited information provided by plaintiff, it is not possible to conduct an accurate search of the approximately 49,000 pages of Murkin documents for the serial in which plaintiff states these deletions were made. Plaintiff is requested to furnish the specific serial number that corresponds to the document so that we may locate it and reevaluate the deletions.

LETTER OF JUNE 18, 1977

1. "Harold angry over poor work by Goble."

Plaintiff is advised that all personnel assigned to the processing of the files pertaining to the Murkin investigation received adequate training in the Freedom of Information Act. Subsequent to the initial review, during which inventory worksheets were prepared and deletions made, all records were again reviewed by qualified personnel who were familiar with the processing of this case.

2. "Section 5314 - Withheld name of one quoted by name in magazine that has world's largest circulation. 7(C) and 2 claimed."

In serial 5314, (a copy of which is attached hereto as Exhibit QQ) the only information that was withheld was the symbol number of a confidential FBI informant and the name of an FBI Special Agent. Exemption (b)(2) has been utilized to protect the symbol number of the informant, which are used to cover the actual identity of the informant from the communication, but still enable the FBI to determine his identity. Exemption (b)(7)(C) was asserted to conceal a personal identifier of the informant, which, if released would compromise his identity and nullify his future effectiveness as an informant; and to remove the name of an FBI Special Agent to protect him from possible harassment and to prevent public exposure which would inevitably affect his ability to perform his

responsibilities as a law enforcement officer. In no instance was the name of a person who was quoted in any publication deleted in this serial.

3. "First 12 pages of Section 72, withheld names of witnesses who were subpoenaed, and whose names are public; name of women who laid Ray and whose name is public; names of public officials when their names also have been published, names of those arrested and publicly charged in the Alton Bank robbery. Bonebrake received extensive international publicity."

The first 12 pages of Section 72 encompass serials 5301 through 5306. Serials 5301, 5302, and the unrecorded serial between 5305 and 5306 were released with no deletions. Exemption (b)(7)(C) was the only deletion asserted in serials 5303, 5304, 5305, and 5306. In serial 5303, the names of individuals who were interviewed, but who were only on the periphery of the investigation and contributed no substantive information to this investigation were protected. In serial 5304, the names of a police inspector and a Portuguese clerk who assisted James Earl Ray to correct a misspelling on his passport and who were going to be called as witnesses in the Portuguese facet of the investigation were protected. In serial 5305, the names of two individuals who were believed to be involved in the robbery of The Bank of Alton on July 13, 1967, were merely suspects and had not been convicted of the crime. In serial 5306, the name of a Missouri State Prison employee who furnished information from Missouri State Prison records concerning some of the prisoners was protected. The names and identifying information on the Prisoners was deleted, as well as the names of two individuals who were checked against Missouri State Prison records and were found to have never been incarcerated within that institution.

If the information in any of the above instances was released, it would constitute an unwarranted invasion of those individuals' personal privacy. In all of the above, only the names and identifiers of third parties have been deleted; plaintiff was furnished all substantive information.

4. "Withholding of Lee Harvey Oswald's serial number after entire military record was printed in the Warren Commission."

In plaintiff's letter of June 18, 1977, he states that another part of the Department of Justice withheld Lee Harvey Oswald's serial number. This issue is not being addressed herein as it is a totally separate request and is not involved in this lawsuit.

LETTER OF JUNE 19, 1977 (Postscript to letter of 6/18/77)

1. "Higgins has withheld Raul Esquivel, Sr., name which Harold's Weisberg published in 1971. 7(C)."

Based on the limited information provided by plaintiff, it is not possible to conduct an accurate search of the approximately 49,000 pages of Murkin records for the documents in which plaintiff states this information was excised. Plaintiff is requested to furnish the specific serial numbers that correspond to these documents so that they may be located and the deletions reviewed.

2. "Replacements of all Sections of the 10th and all related work-sheets. Bad xeroxing."

Sections 74 through 77 were released to plaintiff's counsel on June 10, 1977. These sections were reduplicated and furnished to plaintiff by letter dated August 8, 1978.

3. "No more being able to determine what exemption you are claiming."

Attached to every section released to plaintiff was a copy of the inventory worksheets on which are listed each document contained in the file and all exemptions utilized for each document.

4. "Serial 5612 - Top record is not identified or referred to in worksheet. Provided four of five pages. No way of knowing what claim FBI is making for withheld page. Challenge withholding of three paragraphs of the second page. Dealing with FBI trying to interview Ray."

Serial 5612 (a copy of which is attached hereto as Exhibit SS) consists of two documents: a three page internal memorandum dated March 11, 1969, and a two page FBI Headquarters teletype to Memphis dated March 12, 1969. When more than one document is contained in one serial, it is FBI policy to place the outgoing communication on top of any incoming or internal communications. Since there is such a limited space on the inventory worksheets for the description of the document, each serial is identified by the top communication. The outgoing teletype was released in its entirety. The last three paragraphs on page 2 and all of page 3 of the internal memorandum were withheld pursuant to (b)(7)(C) and (b)(7)(D) in that this information deals entirely with an informant in a separate investigative matter. This material has absolutely nothing to do with James Earl Ray or the Murkin investigation. Paragraph 2 on page 1 of the memorandum states that Assistant Attorney General Jerris Leonard, Civil Rights Division, Department of Justice, was interested in two matters. The first item concerned James Earl Ray, which was released with no deletions. The information set out as Item 2 contains the other investigative matter, and has been withheld.

LETTER OF JUNE 18, 1977

1. "Efforts to get personal records for two years."

Plaintiff's request for his personal records has been completed. He was furnished a total of 973 pages in August and October, 1977. As plaintiff requested these records were reviewed under Administrative Appeal by Doug Mitchell, Office of Privacy and Information Appeals, Department of Justice.

LETTER OF JUNE 20, 1977

1. "Not using indexes."

Plaintiff provided an alphabetical list of individuals whose names had been published in connection with the assassination of Dr. King. In most instances, the names were left in the original text of the documents. However, during the initial review of the raw files, the information contained therein must be weighed as to the content of each document and the context in which names appear. By the provisions of the Freedom of Information Act, we are compelled to protect the privacy of individuals in some instances and to conceal the identities of those who furnish information to the FBI and have received assurances of confidentiality. Upon receiving these lists of names from plaintiff, there were no commitments as to strict adherence made by the FBI, or that the individuals appearing on those lists would no longer receive privacy considerations.

2. "Serial 5390 - Withholding of names Gesebrecht and Appel; D. A. Garrison. 7(C)(D), b(2) - public for years."

In most instances in serial 5390 the names of Gesebrecht and Appel, which had previously been deleted, were written back in prior to release to plaintiff. The material deleted from the bottom of the first page and the second page was personal information on these two individuals which was received from another police agency and not generally known. This information, withheld pursuant to (b)(7)(C) and (b)(7)(D), would not only constitute an unwarranted invasion of these parties' privacy, but would also compromise the cooperative relationship that the FBI has entered into with this other agency. These cooperative exchanges stem from longstanding assurances of confidentiality between agencies. This relationship would be irreparably damaged by failure to honor this policy.

Plaintiff is advised that exemption (b)(2) was never applied to withhold information in this

serial. A copy of serial 5390, with the names replaced in the original text, and a copy of the original page of the inventory worksheets, showing only (b)(7)(C) and (b)(7)(D) utilized in this serial are attached hereto as Exhibit TT.

3. "Serial 5387 - Withholding of McTerrin, Redditt, Richmond, Bill Sarter and black firemen names. All public. Also Memphis reporters, produce company L.L. and L.; driver of gold Cadillac and the trucker of strawberries."

In serial 5387 (a copy of which is attached hereto as Exhibit UU), deletions have been made pursuant to (b)(2), (b)(7)(C), and (b)(7)(D). Exemption (b)(2) was asserted to protect informant symbol numbers, release of which would aid identification of informants and would significantly harm governmental interests. Exemptions (b)(7)(C) and (b)(7)(D) were utilized to protect the privacy of individuals, and those who had provided information to the FBI, respectively. When individuals are interviewed in connection with an FBI investigation, there is an implied, if not expressed, assurance of confidentiality.

To either acknowledge or deny the existence of the above-listed subjects in this serial might betray the privacy of those individuals who warranted protection under the Freedom of Information Act. Plaintiff has done considerable research and is a recognized expert in this matter. Because in some instances plaintiff feels he knows the information which has been deleted from FBI documents, this does not automatically place that information in the public realm. Excisions are made based on the context of each document and the context in which the information appears.

4. "No copy of Serial 5331."

A copy of serial 5331, along with page 2 of the inventory worksheets for Section 72, on which this serial is listed, are attached hereto as Exhibit VV.

LETTER OF JULY 1, 1977

"Nothing."

LETTER OF JULY 10, 1977

1. "Wants aerial views which he discussed with Ralph Harp on 6/30."

By letter dated July 27, 1977, plaintiff was provided an 8 x 10 black and white photograph showing an aerial view of the Lorraine Motel and the surrounding area.

2. "Print of sketch called crime scene, marked by hand item 6."

3. "No picture of mockup made by FBI. One picture looking down."

In response to Items 2 and 3, it is noted that by letter of July 27, 1977, plaintiff was provided the bulky enclosure to serial 5586 consisting of Exhibits Section material, which was prepared prior to the trial of James Earl Ray. This enclosure includes scale sketches and photographs of the crime scene. If the material which plaintiff seeks was not included therein, he is requested to furnish specific descriptions of it so that we may attempt to locate the material.

4. "Memphis evidence not mentioned. Memphis evidence confiscated and kept secret."

By teletype dated July 7, 1977, FBI Headquarters instructed the FBI Memphis Field Office to conduct a search of their indices for all records identifiable with the Murkin investigation, James Earl Ray, the Invaders, and the Memphis Sanitation Workers Strike (MSWS). These records, which consisted of 121 sections on Murkin, one section on James Earl Ray, six sections on the Invaders, and 29 sections on MSWS, were forwarded to FBI Headquarters by Memphis Field Office airtel dated July 13, 1977, and were subsequently processed for release to plaintiff. By letters dated August 19, and 30, and September 15, and 29, 1977, plaintiff received a total of 1,170 pages of records from the Memphis Field Office on the above-listed subjects. Any records not sent to FBI Headquarters for processing in this matter are not retrievable through the Memphis Field Office records system.

5. "Cigarette remains withheld on technicality."

By letter dated October 17, 1977, plaintiff was advised that he had been furnished all documents in the Murkin file concerning the examination of cigarette butts. A careful review of more than 3,000 pages pertaining to Laboratory material was conducted to locate records responsive to plaintiff's request. Plaintiff was also advised that the pages of the Lab material that had not been provided him were available for his own review.

6. "Number of New Orleans investigations not indicated in 44-38861; include general and specific locations, persons, phone numbers and numbers of other leads."

7. "Investigations of certain bars not reflected in 44-38861."

In response to Items 6 and 7 it is noted that by letter dated October 21, 1977, plaintiff was furnished 1,175 pages of records contained in the FBI New Orleans Field Office files. This release is the result of an FBI Headquarters teletype to the New Orleans Field Office dated August 10, 1977, which directed that a search of the field office indices be conducted to locate information identical to the Murkin investigation. All documents including bulky exhibits and sub-files which had not been directed to or sent from FBI Headquarters or the FBI Memphis Field Office (as the Memphis Field Office files had already been sent to FBI Headquarters and processing had been initiated), or any document which had been submitted or received from FBI Headquarters or Memphis but which contained a substantive pertinent notation that would not appear on either the FBI Headquarters or the Memphis copy was to be forwarded to FBI Headquarters no later that August 31, 1977. Attached as Exhibit WW is a copy of an affidavit by Special Agent Clifford H. Anderson, who caused a search to be made of the General Indices of the New Orleans

Field Office for records responsive to the Murkin matter. If the records pertaining to investigations conducted in the New Orleans area which plaintiff seeks were not included in the release of October 21, 1977, they are not retrievable through the New Orleans Field Office records system.

8. "File records; the fact of Bill Huie's giving the FBI what he got from Ray but what he got is not included."

Based on the limited information provided by plaintiff, it is not possible to conduct an accurate search of the approximately 49,000 pages of Murkin records for the document which contains information regarding Mr. William Bradford Huie. Plaintiff is requested to furnish the serial number that corresponds to the document to which he is referring above, so that it may be located. Plaintiff has received inventory worksheets with each section released. On these worksheets are listed all the documents contained in each section by number, description, page counts, and exemptions applied. If any document does not appear on the worksheets, it is not contained in the Murkin or related files, and is not retrievable through our records systems.

9. Atlanta, Birmingham, Chicago, St. Louis, Los Angeles, Washington, and Arizona F.O. investigations not indicated."

Plaintiff received 2,495 pages from the Los Angeles Field Office files by letter dated October 17, 1977; 2,327 pages from the Atlanta Field Office files by letter dated October 19, 1977; 1,973 pages from the Birmingham Field Office files by letter dated October 20, 1977; and a total of 1,932 pages from the files of the Chicago, St. Louis, and Washington, D. C., Field Offices by letter dated October 26, 1977, on Murkin and related subjects.

On August 5, 1977, Department of Justice Attorney Lynne Zusman entered into a stipulation with plaintiff's counsel (a copy of which is attached hereto as Exhibit XX). In this stipulation, which was filed with the Court, the FBI agreed to provide records from the Memphis Field Office pertaining to the Invaders, the Sanitation Workers Strike, James Earl Ray, and the Murkin investigation; from the FBI field offices at Atlanta, Birmingham, Los Angeles, New Orleans, and Washington, D. C. pertaining to the Murkin investigation those documents contained in the Murkin files at the Chicago and St. Louis field offices pertaining to John Ray, Jerry Ray, James Earl Ray, and Carol and Albert Pepper.

At no time was there any mention of conducting a search of the Phoenix Field Office files for information pertinent to this matter.

10. "Omission of 623 Royal Street Address, also one of the sources of cigarette remains, Marlboro; also mention of a well-known French Quarter establishment; The court of the Two Sisters; address 613 Royal Street."

11. "Omission of the proximity of the place where Ray bought the rifle."

12. "Location of the Birmingham office of Double-Chek."

Based on the limited information provided by plaintiff, for Items 10, 11, and 12, it is not possible to conduct an accurate search of the approximately 49,000 pages of Murkin records for the documents in which plaintiff states the above-mentioned deletions were made. Plaintiff is requested to furnish the serial numbers that correspond to these documents so that they may be located and the deletions reviewed.

13. "No mention of Arthur Hanes' CIA connection after he left the FBI."

Plaintiff has received inventory worksheets describing every document contained in the Murkin and related files. Due to the manner in which the FBI records system is organized, it is not possible to locate information pertaining to the above in the files that have been reviewed in compliance with plaintiff's request. If, during the course of his review, plaintiff locates documents that imply that this information is contained within the reviewed files, he is requested to furnish the specific serial numbers which correspond to the documents so that this issue may be resolved.

14. "Fingerprint files holds no reference to a handprint of which much was made after it was photographed on the Memphis flophouse's bathroom wall."

By letter dated October 17, 1977, plaintiff was advised that in a previous release, he had been furnished all fingerprints and documents relating thereto. Included in that release were all fingerprints found in the rooming house from which Dr. King was shot.

15. "Serial 5914 - With a Memphis airtel of 4/13/68 the names of seven SA's all withheld publicly known as FBI agents."

In some instances the names of Special Agents who were investigating leads in the field were removed pursuant to (b)(7)(C) to protect them from possible harassment and to prevent public exposure which would affect their ability to perform their responsibilities as law enforcement officers. Beginning with Section 86 and continuing throughout the field office files, FBI Special Agents' names were left in the text of the document, upon reconsideration, due to the historical interest in this matter. To locate and reprocess those pages on which Special Agents' names had previously been removed

would be exceedingly time consuming without the benefit of adding any information of a substantive nature to the release. However, if plaintiff can show cause as to why he needs this information and can state the specific serials involved, those pages will be reprocessed.

16. "Withholding of named suspects. FBI says one killer Ray; no conspiracy, so release."

In his letter of July 10, 1977, plaintiff states that there are inconsistencies in the releasing or withholding of suspects' names. Deletions are made at the time each document is reviewed with consideration given as to the content of the document and the context in which the names appear. Plaintiff is requested to cite examples of what he feels are specific inconsistencies so that these issues may be resolved.

17. "No worksheet with serial 5914."

Serial 5914 is contained in Section 83, and was listed on the inventory worksheet for that section. A copy of page 2 of the worksheet, on which serial 5914 is listed is attached hereto as Exhibit YY. This document is a memorandum from Whitwam to Walters dated February 11, 1972, consisting of 631 pages. All of which were released. As noted on the worksheet, all deletions were made pursuant to (b)(7)(C).

LETTER OF JULY 14, 1977

"Nothing."

LETTER OF SEPTEMBER 10, 1977

1. "Claim that there were no field office indexes to the relevant files. Proof they did exist; proof from files in question."

The index to the central records systems at both FBIHQ and the field offices, known as the General Indices, are arranged alphabetically by subject. This arrangement allows for an expeditious search and retrieval of material pertaining to different subject matter. There have been no special indices prepared for the Murkin files at

FBI Headquarters or in the field offices. However, plaintiff has been furnished what is known as "three boxes of indices," which consists of approximately 4,500 abstracts containing brief descriptions of items of evidence and/or the contents of original documents dealing with the FBI's investigation in Murkin. These abstracts were prepared in 1968 by FBI clerical personnel for the assistance of the Department of Justice, Tennessee State Prosecutors, and the FBI in having immediate access to a summarization of the basic investigation conducted. However, these abstracts are not keyed to any specific set of files on a serial by serial basis.

2. "Missing attachments; yet in each case another source of the attachment exists in the records."

Plaintiff has received inventories of all records contained in the Murkin and related files. Any attachments which plaintiff states are missing are either not contained in FBI files, or are not retrievable through our records system. There has been no attempt to withhold documents that we have been unable to locate. Occasionally, attachments become separated from the cover document and are never returned to the proper location. Logical locations for missing attachments were searched, but to no avail. This imperfect situation as to raw FBI investigative files has been explained to plaintiff orally on several occasions.

3. "Resolvement of Mounty issue by sending me a carbon of letter FBI was to write. No carbon - no word."

Plaintiff was advised that FBI policy pertaining to the release of documents under the Freedom of Information Act that had been received from the RCMP would be checked and the information processed accordingly. Current FBI policy directs that information received from other police agencies should be withheld pursuant to (b)(7)(D). These cooperative

exchanges, which are vital to effective law enforcement, stem from long-standing assurances of confidentiality between law enforcement agencies. Relations between the FBI and other police agencies would be irreparably damaged by failure to honor this policy.

4. "Withholding of the name of a ranking police officer who was holding a press conference; public domain."

Based on the limited information provided by plaintiff, it is not possible to conduct an accurate search of the approximately 49,000 pages of Murkin records for the documents in which plaintiff states this deletion was made. Plaintiff is requested to furnish the specific serial number that corresponds to this document so that it may be located and the deletion reviewed.

5. "Promise to review maskings after five volumes had been processed. Now told will not be done til all else is."

On August 5, 1977, Department of Justice Attorney Lynne Zusman entered into a stipulation with plaintiff's counsel (a copy of which is attached hereto as Exhibit XX). In this stipulation, the FBI agreed to release all the Memphis Field Office files pertaining to the Invaders, the Sanitation Workers Strike, James Earl Ray, and the Murkin investigation by October 1, 1977; and that processing the Murkin files from the FBI field offices in Atlanta, Birmingham, Los Angeles, New Orleans, and Washington, D. C. as well as processing of files relating to John Ray, Jerry Ray, James Earl Ray, Carol and Albert Pepper in the Chicago and St. Louis field offices Murkin files would be completed by November 1, 1977. In exchange plaintiff agreed to forego a Vaughn showing of the documents released in this matter, and to hold in abeyance his objections to specific deletions until the target dates for disclosure by the FBI had passed.

6. "FBI still withholding the names of subpoenaed witnesses and those included in the narration at the guilty plea hearing. Withholding public information."

Based on the limited information provided by plaintiff, it is not possible to conduct an accurate search of the approximately 49,000 pages of Murkin records for the documents in which plaintiff states the above deletions were made. Plaintiff is requested to furnish the specific serial numbers that correspond to those documents so that they may be located and the deletions reviewed.

7. "Withholding of Hardin."

By letter dated October 17, 1977, plaintiff was advised that all documents pertaining to James C. Hardin contained in files responsive to the Murkin request had been processed and made available pursuant to the provisions of the Freedom of Information Act. A review of our files revealed that the true identity of James C. Hardin had not been ascertained. James C. Hardin was identified by Allen Thompson, manager of the St. Francis Hotel, as being the name offered by an individual attempting to make a telephonic contact with Eric Starvo Galt at the St. Francis Hotel. Investigation subsequent to the receipt of this information failed to either locate or positively identify the party who made the call. Therefore, there does not appear to be any pertinent information concerning James C. Hardin, other than that furnished by Allen Thompson. Plaintiff is requested to furnish serial numbers that correspond to the specific documents in which he states Hardin's name was deleted, so that these documents may be located and the deletions reviewed.

8. "Informant withheld who spoke to Mark Lane and House Assassination Committee member."

Based on the limited information provided by plaintiff, it is not possible to conduct an accurate

search of the approximately 49,000 pages of Murkin records for the serial in which this deletion was made. Plaintiff is requested to furnish the specific serial number which corresponds to this document so that it may be located and the deletion reviewed.

9. "Stonewalling on the April 15, 1975, part of the request."

Plaintiff has been furnished all records concerning the Murkin investigation and related matters that are located at FBI Headquarters. On August 5, 1977, Department of Justice Attorney Lynne Zusman entered into a stipulation with plaintiff's counsel. In this investigation, which was filed with the Court, the FBI agreed to furnish documents from the Memphis Field Office files pertaining to the Invaders, the Sanitation Workers Strike, James Earl Ray, and the Murkin investigation by October 1, 1977; and that processing of Murkin files from the FBI field offices in Atlanta, Birmingham, Los Angeles, New Orleans, and Washington, D. C., as well as processing of files relating to John Ray, Jerry Ray, James Earl Ray, and Carol and Albert Pepper in the Chicago and St. Louis field offices Murkin files would be completed by November 1, 1977. By letter dated October 17, 1977, plaintiff was advised that in previous releases, he had already received all fingerprints and related documents, and all documents concerning Laboratory tests conducted on cigarette butts, ballistics tests, neutron activation analysis, and spectographic analysis; plaintiff was also advised that the Time-Life photographs and the autopsy photographs, to which access had previously been denied, were available for plaintiff's review, although the photographs, themselves, were not being released. Plaintiff is requested to advise us of the issues in his April 15, 1975, request on which he feels there has not been at least a good-faith effort exerted on behalf of the FBI to comply.

10. "Crime scene pictures - Told with Congressional requests dates back to 1969."

11. "Murkin files identifies and describes two different sets of pictures, one by local police and one by FBI. The pictures received do not match descriptions in the records."

12. "Given xeroxes of a later set taken by the FBI, late in 1968 at time trial was near; numbers also do not match."

13. "Set provided by Ralph Harp numbered 45, whereas serial specified 47. Serial 146 indicated as the first of these items."

14. "Missing one of the two sets of aerial photos; either those by the FBI or MPD."

In response to Items 10, 11, 12, 13, and 14 it is noted that plaintiff has received all photographs contained in the Murkin and related files, with the exception of the autopsy photographs and those belonging to Time, Incorporated. Both sets of which were made available for plaintiff's examination.

Although serial 146 sets out descriptions of 47 photographs, there are actually 48 contained in this serial. Upon examination of the original copies, it was found that they were not numbered in a manner that would allow them to be matched to the descriptions in the cover airtel. Since plaintiff states that he only received 45 of these photographs, a complete set of 48 is attached hereto as Exhibit ZZ.

Serial 5586 contains 53 photographs taken by FBI Special Agents on November 20, 1968. These photographs have been released to plaintiff as they appear in FBI files.

15. "Not provided with any lefts to rights on the Louw/Time, Inc., pictures. Believes FBI has these."

By letter dated October 17, 1977, plaintiff was advised that the Time-Life photographs had been examined and did not contain any legends or notations

which would identify the subject of the photos. Plaintiff was also advised that these photographs were available for his own examination.

16. "No response to records the FBI released to Church committee."

17. "Asked for the Hoover approval of the planting of a story critical of King for staying at a white-owned motel. Date 3/28/68."

18. "Also requested record on there not being a 'black messiah' unless he was the FBI's public domain."

Items 16, 17, and 18 are not a part of the investigation of the assassination of Dr. King, and are not contained in the files reviewed for the purposes of complying with plaintiff's requests of April 15, and December 23, 1977. It should be noted, however, that these records pertain to the FBI security investigation for which plaintiff filed a request by letter dated July 8, 1977. Plaintiff is advised that processing of the security files will be initiated in the near future. In response to specific written requests under the FOIA, the FBI released certain documents pertaining to Dr. King which were located in the Official and Confidential (O&C) files of former FBI Director, J. Edgar Hoover. If plaintiff desires documents from the O & C files, there is an official summary which contains descriptive information of the subjects of these files. Plaintiff will receive copies of the material on Dr. King in the O & C files and numerous additional material in response to his request for the security investigation of Dr. King.

19. "Obliteration in copies of the indexes to the 29 volumes of evidence given to the Memphis prosecution. Not given replacement copies."

Originally the indices were processed with many deletions made for privacy considerations. Subsequent to the review and processing of the Murkin

files, these indices were reprocessed with very few deletions made. Plaintiff has since been provided a set of the reprocessed indices.

20. "Memphis police reports that OPR used - Covered by 1969 request. FBI pretends they have no standing."

In the recent case of James H. Lesar v. U. S. Department of Justice, et. al., Civil Action No. 77-0692, the Memphis Police Department records had been withheld pursuant to (b)(7)(D). The Honorable Gerhard A. Gesell reviewed in camera the Memphis Police Department records that had been furnished to the Office of Professional Responsibility, Department of Justice, and in his Memorandum Opinion, filed July 28, 1978, stated:

> "In support of the exemption it is strenuously contended that FBI co-operation with state and local law enforcing agencies will be seriously harmed if material from cooperating local police agencies is not treated as 'confidential source' data.
>
> ...The Court finds no substantial countervailing public interest in disclosure and notes that the bulk, if not all, of the material is of a nature that would bring it under other FOIA exemptions if processed sheet-by-sheet.

...The Court holds the public interest requires that the FBI's cooperative arrangements with local police not be breached under FOIA compulsion where the cooperating agencies have objected and by affidavits continue to insist upon confidentiality."

Horace P. Beckwith

HORACE P. BECKWITH
Special Agent
Federal Bureau of Investigation
Washington, D. C.

Subscribed and Sworn to before me this 11th day of August, 1978.

Notary Public

My Commission expires My Commission Expires September 14, 1981.