

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

RECEIVED

OCT 18 1978

JAMES F. DAVEY, Clerk

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: :
HAROLD WEISBERG, : :
: :

Plaintiff, : :
: :

v. : :
: :

Civil Action No. 75-1996
: :
: :

U.S. DEPARTMENT OF JUSTICE, : :
: :

Defendant : :
: :
.....

OPPOSITION TO DEFENDANT'S MOTION TO STRIKE

Defendant has moved to strike lines 5 through 18 on page 8 of the official transcript of the hearing held on September 14, 1978, as well as "any related portions of the transcript deemed inappropriate by the Court which resulted from plaintiff's counsel's remarks." Defendant's motion is based upon an allegation that these portions of the transcript are "impertinent, scandalous, and immaterial." For the reasons set forth below, plaintiff opposes the defendant's motion to strike.

I. THE COURT'S OBSERVATION THAT AGENT BECKWITH'S AFFIDAVITS WOULD APPEAR TO BE "OBSTRUCTIONIST" SHOULD NOT BE STRICKEN

Defendant's motion does not specify which portions of the transcript it suggests might qualify for consideration as "related portions of the transcript deemed inappropriate by the Court which resulted from plaintiff's counsel's remarks." However, a "draft" version of this motion (signed by defendant's counsel and bearing a certificate of service dated September 27, 1978) may shed some light on what defendant's present motion (bearing a certificate of service dated October 2, 1978) only hints at indirectly. Thus, the

second paragraph of the memorandum in support of this "draft" version of the motion to strike suggested that:

To the extent that the Court has concluded, on the basis of plaintiff's counsel's misleading remarks, that the affidavits filed with the Court "appear to be obstructionist," defendant respectfully requests the Court to reconsider its statements.

(A copy of this earlier version of defendant's motion to strike is attached as Exhibit 14 to the attached affidavit of Mr. Harold Weisberg.)

At page 9 of the transcript, the Court did characterize the nature of Mr. Beckwith's affidavits as follows:

Let me say this: It's the same sort of affidavit we used to receive in the Meeropol case. And nothing got done until Mr. Shea took over. There was nothing coming out of that case that should have been released.

And we would like to suggest that it does not help our situation to have someone whose principal affidavits and reasons why things should not be released which really do not go to the heart, but just would appear to be obstructionist.

There is no indication in these remarks that the Court's characterization of Mr. Beckwith's affidavits "resulted from" the remarks of plaintiff's counsel. If anything, the Court seems to have been stating an overall impression of these affidavits formed independently and not as a result of the two illustrations given by plaintiff's counsel. In any event, whatever caused the Court to conclude that Mr. Beckwith's affidavits are obstructionist, there is no reason to strike the Court's observation from the record. The Court's characterization is right on the mark. Mr. Beckwith's 65 page affidavit was blatantly and unremittingly obstructionist. If the FBI had spent half the time trying to conscientiously handle plaintiff's requests as Mr. Beckwith has attempting to justify the deletion of public information and the withholding from Mr. Weis-

berg of information it has readily provided to others, then this case would have been over long ago. Rather than being "impertinent, scandalous, and immaterial," the Court's comments address what has been a central concern in this case from the very beginning: whether the government's desire to impede and delay plaintiff's access to information is overriding its obligation to comply with his requests by making the fullest possible disclosure under the Freedom of Information Act.

II. LINES 5 THROUGH 18 ON PAGE 8 SHOULD NOT BE STRICKEN

The defendant has moved to strike one specific portion of the September 14 transcript. This portion, which appears at lines 5 through 18 on page 8 of the transcript, reads as follows:

There is one additional point that I would like to make for the record. And that is that the Government, in this case, and also in some of Mr. Weisberg's other cases, has begun using Mr. Beckwith as the primary affiant. It is our information, our understanding that Mr. Beckwith is an unindicted co-conspirator in some of the illegal activities of the FBI.

We think, in view of that, it is, first of all, beyond my belief and comprehension as to why he would be used as an affiant, given that circumstance. But we also think that it obviously is highly inappropriate in a Freedom of Information Act case where the FBI has motivation to withhold materials and a person in that position is vulnerable to not only his own biases and prejudices but also to other pressures.

Defendant has not put forth any claim that the statement made by plaintiff's counsel misrepresents the facts. There has been no denial of the allegation that Mr. Beckwith is an unindicted co-conspirator in illegal activities of the FBI. In view of this, it seems strange that defendant should move to strike this portion of the transcript. The fact that Mr. Beckwith is an unindicted co-

conspirator in FBI illegal activities is obviously material to his credibility as an affiant. This is particularly true in Freedom of Information Act cases where the whole case often hinges upon the credibility of the government's affidavits and where there may be a strong motivation on the part of agency personnel to hide, cover-up, delay access to, or destroy records which reveal agency activities that are illegal or that in some way embarrass the agency or its personnel. In this case it is known that the Director of the FBI proposed illegal surveillance of the relatives of the suspect in Dr. King's assassination and that even after Dr. King's murder the FBI continued to conduct illegal electronic surveillance of Dr. King's associates and his widow.

If there is anything "scandalous" about the passage which defendant seeks to have stricken, it does not arise out of the fact that plaintiff's counsel uttered these words but rather from the astonishing fact that the government has used a man with this background as an affiant. The Court has a right to expect that in this kind of case the government will not use as affiants persons whose credibility is subject to question because they allegedly have been involved in illegal activities. Quite frankly, the government has imposed upon the Court's trust by using Mr. Beckwith as an affiant and ought to apologize for so doing. To strike this passage from the transcript would be to punish plaintiff for the fact that he called this matter to the Court's attention and to reward the defendant for a practice which it should not have engaged in.

III. NO OTHER PORTIONS OF THE SEPTEMBER 14, 1978 TRANSCRIPT SHOULD BE STRICKEN

A. Portions Related to Willie Somerset

At the September 14, 1978 status call plaintiff's counsel used materials pertaining to an FBI informer, William Somerset, to il-

illustrate the misleading and obstructionist nature of Mr. Beckwith's August 11, 1978 affidavit. Before doing so, he first read to the Court a part of Agent Beckwith's affidavit which pretended to address itself to Mr. Weisberg's complaint that in FBI Headquarters MURKIN serial 4859 and subsequent serials the FBI had withheld the name of the late Willie Somerset. That part of Agent Beckwith's affidavit states that:

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 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. (August 11, 1978 Beckwith Affidavit, p. 35)

Having read this portion of Agent Beckwith's affidavit, counsel for plaintiff then pointed to two thick volumes of documents at plaintiff's table and stated:

These two volumes of documents are FBI volumes that were made available in response to a request made by another requestor, who recently provided Mr. Weisberg with his copies. They all relate to Mr. Somerset. In fact, I think these are only two of some ten volumes relating to Mr. Somerset.

The first sheet, the cover sheet, is dated 6-3-76, and it says under it, "The following material has been reproduced for excising and review at FBI Headquarters by representatives of the House Select Committee on Assassinations."

And then, if you flip through it, you will find the name of Mr. Somerset is mentioned, that there are informant file numbers given, that there is the kind of information readily provided that has been withheld from Mr. Weisberg.

These are the sort of things that have caused this case to drag on so long. (Transcript, pp. 7-8)

Defendant has tried to counter the implications of these undisputed facts by asserting that at the time serial 4859 was released to plaintiff on May 27, 1978 "there was no indication in the Federal Bureau of Investigation files that he was deceased, if indeed he was in May, 1977." Defendant also asserts that when the Somersett files were released to a second requester on May 5, 1978, Somersett's name was not deleted because the second requester had produced Somersett's death certificate upon being informed by the FBI that "files on one individual cannot be released to another without a notarized waiver from the subject of the file." (Memorandum, pp. 2-3)

The first problem with this explanation is that on May 31, 1977, just four days after the section containing serial 4859 was released to plaintiff, plaintiff wrote FBI Special Agent John Hartingh and informed him that this and later serials withheld the name of "the late Willie Somersett." (See Exhibit 7 to attached Weisberg Affidavit) Although plaintiff informed the FBI nearly a year and a half ago that Somersett was deceased, the FBI neither requested a copy of his death certificate from plaintiff, nor did it restore his name and other erroneously deleted information.

Secondly, by defendant's own admission it also had additional knowledge of Somersett's death by virtue of the fact that the second requester, Dan Christensen, had provided the FBI with a copy of Somersett's death certificate sometime prior to May 5, 1978. In addition, in a consultancy memorandum which he prepared for the Department of Justice, Mr. Weisberg again called attention to the fact of Somersett's death. (See Exhibit 6 to attached Weisberg Affidavit) Copies of this memorandum were delivered to defendant's counsel and the Office of Information and Privacy Appeals in early June, 1978, well before Mr. Beckwith's affidavit was executed. Finally, on May 5, 1978 the FBI released to Mr. Christensen files

on Somerset which disclose an informant symbol number used by him, AT T-2, as well as informant file numbers and Somerset's name.

(See Exhibits 21 and 22) Yet Agent Beckwith's affidavit, executed a full three months after the release to Chistensen, swears that: "The release of this information into the public realm could compromise the identity of a party who had cooperated with the FBI."

One can only remark that Agent Beckwith's loyalty to deceased informants (and the ghost of Saint J. Edgar) apparently knows no bounds. Just how the identity of a corpse can be compromised is left unclear, however.

The information which Agent Beckwith swore had to be protected had already been released to the public when he executed his affidavit. Under the FOIA it cannot be withheld from plaintiff.

The extent of the obstructionism of Agent Beckwith's affidavit and of the FBI's refusal to address the specific objection to withholding Somerset's name which Mr. Weisberg made in his May 31, 1977 letter to Agent Hartingh is made clear by an airtel of the same date from the Miami Office to the Director of the FBI. The last two paragraphs of this airtel state:

As the Bureau is aware, in 1964 SOMERSETT related in great detail to former Florida Governor LEROY COLLINS his past activities as an FBI informant from 1947 to 1961, as well as his continuing voluntary contacts with the Miami Office. Additionally, he revealed his status as a source for the Miami Police Department and the Florida State Attorney's Office.

While SOMERSETT's identity as a former informant has not been publicly disclosed by the Bureau, it would appear from the above that SOMERSETT himself has revealed his past relationship to the extent that it is widely known, particularly in official circles, and Bureau should no longer attempt to conceal his past Bureau association.

(A copy of this document, obtained from the files given Mr. Christensen, is attached hereto as Exhibit 23)

Finally, even if Somerset had not died, even if his role as an FBI informant had not become public knowledge long before the FBI processed MURKIN serial 4859, most of the information which was excised from this serial when it was given plaintiff is information which is not subject to withholding under the FOIA. This is made plain by an examination of the text of the paragraph as disclosed to Mr. Christensen:

[WILLIAM SOMERSETT, formerly (still deleted), who is no longer being contacted by the Miami Office and who is characterized as having furnished reliable information in the past, and in addition has furnished information which cannot be verified or corroborated,] telephonically advised on 7/12/68 as follows:

(The parts of this paragraph within brackets are what was withheld from Mr. Weisberg. This may be seen by comparing Exhibit 24, a copy of FBI HQ MURKIN serial 4859 as released to Mr. Weisberg, with Exhibit 25, a copy of the non-identical document provided Mr. Christensen from non-MURKIN files.)

B. Portions Related to Alleged Worksheet Erasure

In his May 31, 1977 letter to Agent Hartingh, plaintiff commented: "In Section 66 all of Serial 4919 is withheld. No exemption is claimed. What had been written under 'Remarks' was erased." (See Exhibit 7, p. 5) This comment was picked up on the college student's summary of Mr. Weisberg's correspondence which was given to the defendant in November, 1977. In his August 11, 1978 affidavit, Agent Beckwith asserted:

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. (Beckwith Affidavit, p. 37)

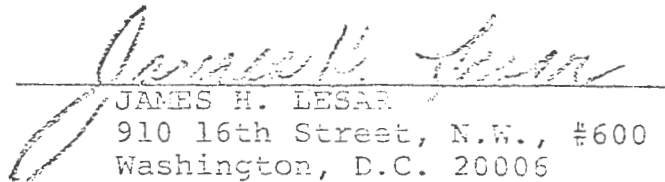
Thus Agent Beckwith swore unequivocally that "nothing was ever written in or erased from" the "remarks" column for serial 4919. His affidavit left the clear impression that Exhibit Z substantiated this. By so doing, it also challenged Mr. Weisberg's credibility.

At the September 14 status call plaintiff's counsel pointed out that Agent Beckwith had attached the wrong worksheet. Instead of attaching the original worksheet which was sent to Mr. Weisberg for this serial, he attached the second page of what he referred to as the "master copy." Yet Mr. Weisberg's letter of May 31, 1977 addressed its comments on serial 4919 to the original worksheet, not to its subsequent revision. (See Exhibit 7, p. 5) The original worksheets for section 66 were evidently reviewed by Agent Beckwith before that section was released, as is evidenced by his initials in the upper right-hand corner of the first page. (See Exhibit 9) The original worksheet does contain markings which would appear to indicate that something was erased from the "remarks" column opposite serial 4919. This also was called to the Court's attention at the September 14 status call.

Defendant now informs us, although not under oath, that "the first set of worksheets was apparently destroyed" at the time the revisions were sent to Mr. Weisberg. Therefore, we may never know whether it is true, as defendant now asserts, that "any erasures which may have occurred on the first set of worksheets were not the result of deviousness or intrigue, but rather were the result of ordinary, course-of-business corrections to insure accuracy." In any event, this does not respond to the main point, which is that Agent Beckwith sought to refute a claim that something had been erased from the "remarks" column of the original worksheet for

serial 4919 by producing a copy of the revised worksheet for that serial. This left a wrong impression which plaintiff's counsel corrected at the September 14 status call. Accordingly, there is justification for striking any portion of the transcript relating to this matter, either.

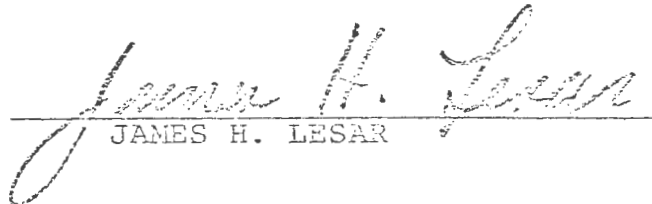
Respectfully submitted,


JAMES H. LESAR
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Washington, D.C. 20006
Phone: 223-5587

Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that I have this 13th day of October, 1978 mailed a copy of the foregoing Opposition to Defendant's Motion to Strike to Ms. Betsy Ginsberg, Attorney, U.S. Department of Justice, Washington, D.C. 20530.


JAMES H. LESAR

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

Upon consideration of defendant's motion to strike portions of the transcript of the September 14, 1978 hearing in this cause, plaintiff's opposition thereto, and the entire record herein; and the Court finding that the Court finding that the portions of the transcript sought to be stricken are not impertinent, scandalous, and immaterial, it is by the Court this ____ day of _____, 1978 hereby

ORDERED, that defendant's Motion to Stike is denied.

UNITED STATES DISTRICT COURT

4. While perfection is not a human state, I do strive to be accurate and informative. In this matter I was accurate and Mr. Lesar's fault, if any, lies in what I regard as serious understatement.

5. My belief that we owe the Court the obligation of full as well as truthful information, whether or not the task is agreeable, is fortified by my reading of two recent decisions of the court of appeals, Marks and Ray.

6. These decisions and the separate opinions of Chief Judge Wright also raise questions of the misleading of district courts by official bad faith.

7. I believe that it is not by accident that there is no affidavit attached to the Department's Memorandum of October 2. If there were such an affidavit, it would be falsely sworn or would be incompetent. Both kinds of affidavits are common within my experience and have been Department practice in this instant cause.

8. While I have not been informed about the present FBI supervisory assignment to this case, I believe that as a result of what the Court stated with regard to SA Beckwith on September 14 SA John Hartingh is now the supervisor. Supervisor Hartingh was in the courtroom on September 14 and 28.

9. Supervisor Hartingh does not dare state under oath what the Memorandum alleges. He has personal knowledge that representations to this Court in that Memorandum are false. Proofs of this are attached below.

10. I have referred to the fact that by subterfuge the Civil Division saddled me with a consultancy because that also is relevant to the character and content of its Memorandum. Attached pages from my consultancy memo for the Civil Division establish the fact that its files show its Memorandum to be false. (See Exhibits 6 and 8.)

11. If the Civil Division had mailed me a copy of the Memorandum, the prior practice, I would be able to quote the Memorandum verbatim.

12. Because I do not have the Memorandum before me, I am unclear on whether it alleges that the FBI has nothing in its files with regard to the Somersett matter or with regard to it and the worksheets matter. This is false with regard to both matters.

13. I further state that proof of the falsity is in the Civil Division's files because it is in my consultancy memo for the Division.

14. I do not state that this is the reason the Division refused to pay me for the consultancy and I do not state that it is for this reason its Deputy Assistant Attorney General, William Schafer, described my memorandum as worthless when he refused to pay me.

15. The matters at issue are two portions of the affidavit of FBI SA Horace P. Beckwith. I attach these as Exhibits 1 and 2. Paragraph 12 of Exhibit 1 is relevant to the Somerset matter. Paragraph 17 of Exhibit 2 is relevant to the question of erasures.

16. In the course of searching my files for the attached exhibits, I chanced upon a record provided to me in this instant cause which is relevant to a persisting Department and FBI misrepresentation in this and in other cases. This is the all-encompassing claim of the need to withhold what is provided by other police agencies absent which, in effect, the entire system of law enforcement would crumble. The record upon which I chanced is attached as Exhibit 3. A relevant portion of the Beckwith affidavit is attached as Exhibit 4. Exhibit 4 is the page following Exhibit 1 and preceding Exhibit 2.

17. The subject of Exhibit 3 is Charles Stein. In providing me with copies of records relating to Stein and his family, beginning toward the end of 1976 and continuing into 1977, the FBI practiced withholding of what is within the public domain. I appealed this promptly. The FBI has yet to acknowledge my appeal or to provide copies of what it withheld.

18. The FBI did not like Stein, who told the late Louis Lomax, a syndicated writer, what the FBI did not want reported. This includes evidence bearing on conspiracy. Relevant records are among those the FBI continues to withhold despite my providing proof that the withholding is not justified.

19. Exhibit 3 is the FBI cover for the Stein arrest record. In it the FBI did not obliterate the defamatory. The FBI did not withhold the Stein name and arrest record on the ground he had not been convicted, the representation of SA Beckwith to this Court with regard to the names withheld in connection with the robbery of the Alton, Illinois, bank. The FBI also does not withhold the name of the employee of the New Orleans Police Department who provided it with the records covered by Exhibit 3.

20. It is my recollection that the Stein rap sheet of that time

consisted of six entries, not the four recorded on this page I came across by accident, and that Stein was acquitted on all counts. Whether or not my recollection is correct, as I believe it is, Exhibit 3 includes allegations that Stein was a pimp and a crook or a fence. It lays other offenses against him. Nothing is withheld on privacy claim.

21. All of the immediately foregoing statements with regard to Exhibits 3 and 4 represent proof of the opposite of what the FBI has sworn and the Civil Division has provided to this Court.

22. In addition to the proofs I attach with regard to the Somerset matter, the Memorandum itself proves the falsity of any representation that the FBI's files held no evidence of Somerset's death. The Memorandum states that there was partial disclosure (of a single document) to me on May 27, 1977. Withholdings are not denied. The Memorandum states there was release (of many volumes of documents) to another requester on May 5, 1978, after he provided proof of Somerset's death. However, the Beckwith affidavit in question was not executed until August 11, 1978, or more than three months later after the FBI's files held this proof of Somerset's death.

23. The other requester is my friend, Daniel Christensen, a magazine writer. He became interested in the Milteer matter from having read what I published in 1971. He has been to see me several times about it and has discussed it with me in writing and by phone. While I am not in accord with all of his interpretations, I have sought to assist him as much as I could, including with his FOIA request. The FBI was aware of this because I informed it. I believe I also informed the Civil Division and included this information in my appeal.

24. Miami magazine published several of Christensen's articles dealing with the Somerset/Milteer matter. It is impossible to believe that the FBI can be unaware of this, given the content of those articles and what they say about the FBI. I believe I also provided the FBI with a copy of one or more of these articles to show it that it was withholding what was within the public domain.

25. Were none of this true, the FBI knew the information was not secret because earlier the FBI provided it to the House Select Committee on Assassinations for public use.

26. Somerset was a self-identified and self-publicized FBI informer.

He also was an informer for Miami authorities. I first published this and other relevant information in 1967, prior to the assassination of Dr. King. In 1971, after that assassination, I published a partial transcript of Somerset's bugging of Milteer. I obtained this through Miami authorities because the FBI withheld it from the Warren Commission even though two weeks before the assassination of President Kennedy Milteer described precisely how, in the official account, the President was killed.

27. Milteer information is the subject of one of my old FOIA requests with which the FBI has not complied. Department counsel should be aware of this from my testimony in this instant cause in about September 1976. On that occasion I presented the Department with a typed list of my unmet FOIA requests. Later I presented other copies to the Department. Attached as Exhibit 5 is page 6 of that list. The Milteer, Somerset request is the last on this page.

28. The tape in question remains withheld from me in this instant cause even though it contains evidence of a plot to kill Dr. King and even though the withholdings I appealed so long ago are in the MURKIN file.

29. Any representation that the Civil Division was not aware of the death of Somerset is proven false by Exhibit 6, which is page 62 of my consultancy memo to it. This relates to Serial 4859, which is the subject of SA Beckwith's false representations. The second sentence of the information I provided the Civil Division states that Somerset had been dead for sometime and that the withheld information - information that remains withheld - was within the public domain.

30. Proof that the FBI knew this and that the FBI's ^{files} ~~class~~ do hold the fact of Somerset's death is attached as Exhibit 7. Exhibit 7 is my May 31, 1977, letter to Supervisor Harting, also referred to in my consultancy memo.

31. I state also that this exhibit holds proof of other and unrelieved FBI false swearing. Among these is that the FBI could not respond to my letters about noncompliance because I did not provide it with number identifications. Exhibit 7 reflects the promptness with which I informed the FBI, within a few days of my receipt of the records. In Exhibit 7 I provided the FBI with the numbers of the serials and of the sections in which each is contained.

32. At the top of page 3 in Exhibit 7 and thereafter I provide specific

information with regard to the identical serial relating to which SA Beckwith swore falsely, No. 4859. I also provide specific information, including names withheld from other and related MURKIN records. (Bottom of page 5, under Section 68, "beginning at 5017.")

33. The first sentence of what I wrote Supervisor Hartingh about Serial 4859 tells him that Somerset is dead. The rest of the comment informs him of the fact that what was withheld - and remains withheld - is within the public domain. I provide some of the names. (Later I provided other names and I can provide still others from what is public. These names remain withheld from the MURKIN records after more than 16 months.)

34. Exhibit 7 also establishes the falsity of Departmental and FBI representations relating to erasures on the worksheets covering Section 66. What I wrote Supervisor Hartingh bears on the absence of any affidavit from him in support of the representations relating to this matter in the Memorandum.

35. On page 5 of Exhibit 7 I reported these identical erasures to the FBI. This was the student's source in her memorandum for the Civil Division. My first item under Section 66 states "all of Serial 4919 is withheld. No exemption is claimed. What had been written under 'Remarks' was erased."

36. As I now reread SA Beckwith's affirmation in question, Exhibit 2, with what I recall of what Mr. Lesar read to me from the Memorandum, it appears that SA Beckwith undertook to mislead this Court and that the Memorandum now undertakes to protect him from this offense.

37. There is no doubt that both the FBI and the Civil Division knew that I reported the worksheet erasure. I attach as Exhibit 8 page 64 of my Civil Division consultancy memo. It states after the serial in question, 4919: "All five pages withheld, in this case no exemption even being claimed. There have (sic) been a notation on the worksheet under remarks (sic) but it was erased." (I have previously informed the Court that, because of the burdensome nature of the consultancy and in the interest of time, I submitted my memorandum without reading and correcting what was typed from dictation.)

38. The representation of the Memorandum, that the erasure under "Remarks" could relate to a claim to exemption, is spurious and a contrivance, a further effort to mislead and prejudice the Court. On August 11, 1978, SA

Beckwith swore that only (b)(7)(D) was claimed, a claim of which I was not informed before then (Exhibit 2). The worksheet form used by the FBI in this instant cause has column headings for the most commonly claimed exemptions, including (7)(D). For all other exemptions claimed there is a column other than "Remarks." It is headed "Other" and is under "Exemptions." The "Remarks" column is not for claiming exemptions. (See Exhibits 9 and 10 below.)

39. SA Beckwith's affidavit is 68 pages long. It has 52 attachments identified alphabetically through ZZ. It is not from lack of space that he did not claim what the Memorandum represents about the use of the "Remarks" column.

40. Moreover, SA Beckwith's affidavit does state with regard to the exemption claimed that it "inadvertently was not listed in the inventory worksheets." (Exhibit 2)

41. Contrary to the present representation of the Memorandum, there he also states "that nothing was ever written in or erased from this column."

42. All the Memorandum's representations relating to worksheets lack fidelity in ways that cannot be accidental.

43. Giving me the worksheets was not and is not an evidence of the FBI's dedication to openness or full compliance nor does it represent any kind of special favor to me. When the first sections of records were virtually dumped into my hands, they were not bound into sections or volumes. They were not wrapped. They were hundreds of pages of loose sheets. This continued for some time despite my complaints and despite my even offering the FBI large "binder clips" with which to keep the sections separated and identified. There also was no indication of any claim to any exemption in any of these hundreds of loose pages. There was merely wholesale and entirely unexplained obliteration. In this the requirements of the Act and court decisions were not observed. It is in response to my repeated protests and in anticipation of my raising the issue before this Court that the FBI decided the easiest way to avoid this and continue to deny me essential information was to provide me with copies of the worksheets. This then was - and it still remains - a means of avoiding the requirement of the Act. In some instances a single set of entries on a single worksheet relates to an entire large volume of many pages. More commonly - and this is quite common - as of today I have no means of determining which exemption

claimed relates to any one item on pages for which more than one exemption is claimed. This is in violation of decisions I have read. The FBI persisted in this even after I showed it in 1976 how its claims to exemption on the worksheets ranged from confusing to meaningless. (See Paragraph 46 and Exhibits 9 and 10.)

44. While it is true that I made vigorous complaint about the worksheets I later received, this is because they were illegible to begin with and then had their illegibility enormously increased by deliberate misuse of the Xerox machines. This withholding by the FBI's Exemption Xerox also extended to the withholding of large areas of hundreds of pages throughout a number of volumes. These Xerox withholdings were by two means: by total blackness in the xeroxing for large areas of the pages and by the actual physical elimination of parts of the pages in the xeroxing process.

45. Exhibit 7 is one of the many letters in which I complained about this to the FBI. This is still another reason Supervisor Hartingh, to whom I wrote Exhibit 7, does not dare support what is alleged in the Memorandum. My letter begins with this. I follow with an illustrated complaint about the illegibility of the worksheets that as original records should be clear and quite legible. (Paragraph 3) Exhibit 7 also shows that, although I had sought to avoid troubling the Court with the multitudinous examples of these FBI "dirty tricks" (Paragraph 1), I told Supervisor Hartingh, "You are leaving me no choice" (first words, Paragraph 2), and that I would ask Mr. Lesar to "present the entire matter to the judge." (Paragraph 4) There are other references to my determination to end this Cointelproing of me and the Act in this letter. It is for this reason that replacement copies of worksheets later were provided to me. Even that was not until after Mr. Lesar did bring the matter to the Court's attention. Incredible as it may appear, I actually had to use my experience as a publisher to tell the FBI how to make its worksheet forms less susceptible to withholding by small writing. Not incredibly, the FBI used my suggested design as a means of eliminating information by eliminating space in its replacement forms.

46. While seeming to deny that SA Beckwith swore falsely with regard to erasures from the worksheets, the Memorandum actually does not deny that there were erasures. Where SA Beckwith swore there were no erasures, which is false, the Memorandum seeks to explain the erasures and attempts this by unsupported

conjectures rather than the available evidence or an affidavit. I find this incomprehensible, especially because I provided Mr. Lesar with copies for the Court and Ms. Cinsberg and I saw him hand them to her in court on September 14. Copies are attached as Exhibit 9, the worksheet provided with the section and showing the erasures, and Exhibit 10, the different copy attached as Exhibit Z to the Beckwith affidavit of August 11. (Both also show that multiple claims to exemption were made for individual records without informing me which claim relates to what part. With Serial 4925 it is apparent that two blanket claims were made for 19 pages of which 16 pages were withheld in their entirety.)

47. It is beyond my present capacity to locate any replacement worksheets for Section 66. I am aware that I demanded their replacement. However, this does not in any way alter the fact that they are not relevant to the purposes of the Beckwith affidavit. The original worksheets only are addressed in what I wrote Supervisor Hartingh on May 31, 1977 (Exhibits 7 and 9). As the Court directed and as the Beckwith affidavit states, he addressed only the memorandum for the Civil Division prepared by a young student who cited this letter only. Her memo is Exhibit A to the Beckwith affidavit. That SA Beckwith so understood it is explicit in his affidavit. I attach as Exhibit 11 pages 5 and 6 of his Exhibit A. All underscoring is in the Beckwith copy. On page 5, after the date 5-31-77, it reads, "Harold enclosed worksheets for Section 68 to show the quality of xeroxing." This is underscored by hand in the Beckwith copy. The language relating to erasures quoted in the Beckwith affidavit is on page 6, item 17.

48. Also bearing on the knowingness and deliberateness of SA Beckwith's intention of deceiving and misleading the Court with regard to erasures on the original worksheet. Exhibit 9 is the fact that his initials appear on it. He nonetheless substituted what he knew was a different copy and was not relevant, Exhibit 10. His Cointelpro-type effort to make me out a liar backfired.

49. With a record of which the foregoing is only part, once again I am falsely accused of misrepresentation. The unjustified accusation now includes my counsel- who presented to the Court what I had lived and described to him. When he spoke the truth at the calendar call of September 28, he was charged with "misrepresentations." (Transcript, pages 11-12, attached as Exhibit 12) That he spoke the truth with regard to the Gerold Frank request, also discussed then, is

established by the carbon copy of my request, attached as Exhibit 13. (See its Paragraphs 7, 11, 16 and 20)

50. The most recent such baseless accusation is in the copy of the Department's Motion to Strike mailed to Mr. Lesar, as has become commonplace, the day before the last calendar call. (Exhibit 14) His truthful representations to the Court, based on what I gave and told him, are characterized as "impertinent, scandalous and immaterial." (This is not the first time I have heard Department lawyers describe false swearing as "immaterial.") In the attached Memorandum in Support we are accused of "misleading" the Court. Our producing the worksheet proof (Exhibits 9 and 10) and the Somerset records provided to Christensen without the excisions that taint those given to me is described as "no evidence." Through this Orwellian use of language, the offenses mentioned by Mr. Lesar and addressed in this affidavit are described as performing official duties under FOIA in "a professional, diligent and upstanding manner."

51. From prior experience with the FBI's defamatory fabrications, I have every reason to expect these new false charges will be spread throughout the bureaucracy in a further effort to defame me and to misrepresent the true character of my work. Earlier such defamations are in the record. These include the conversion of an unselfish and I believe generous participation in a religious function as the alleged celebrating of the Russian Revolution by my wife and me. I know this total fabrication was given to the White House and to the Senate's Church committee. I know it and other such deliberate falsifications were distributed throughout the Department, including to Attorneys General. There simply is no way anyone can protect himself from these indulgences in the authoritarian practices which characterize the Nazi and Soviet states and supposedly are foreign to our government.

52. Mr. Lesar gave me Exhibit 14, which he did not receive until we reached his office after the last calendar call. Later he phoned me to report that Ms. Ginsberg had told him it was all a secretarial snafu and that Exhibit 14 had not been filed because it was only a rough draft. I have no prior knowledge of "rough drafts" being signed by counsel and for the Assistant Attorney General.

53. It has become Civil Division practice to hand us in or outside the

courtroom what was not provided for our timely response. The 68-page August 11 Beckwith affidavit of so many attachments was not executed until the last working day prior to the calendar call of August 14. It reached me on Saturday, August 12, only by accident. This happenstance required that on a Saturday and part of a Sunday I undertake an affidavit in response and have it executed on a weekend if I were to be able to have it for that Monday morning calendar call. Since then other misstatements and misrepresentations of that Beckwith affidavit have required that I prepare a 70 page memorandum for Mr. Lesar.

54. These are not mere tactics nor only harassment, which they indeed are. They represent a strategy that extends through all my FOIA cases. Their clear purpose and intent is to prevent my writing and frustrate the Act. In this they have succeeded. They have prevented my writing, giving me the choice between that and serving the public role I have assumed by using in the public interest what the Department itself has described as unique expertise. This strategy includes the current counterpart of the FBI's earlier defamations and fabrications to deter my work and its acceptability by government officials and others.

55. If I am not to abdicate these public responsibilities, the need to respond to such long and unfaithful allegations, especially under severe time pressures, also is adverse to my health. In addition to requiring the abandonment of other work, they require long hours and reduced rest. They interfere with or preclude the program of exercise prescribed by my doctors. This is essential exercise because of my circulatory impairments. All of this is well known to the Department and to the FBI.

56. All of this is contrary to the representations made to this Court in camera to force the consultancy upon me and in prior discussion of this consultancy with Civil Division Deputy Assistant Attorney General William Schaffer. He told my counsel and me that he was determined to stop these FBI "dirty tricks." This, too, is Orwellian because the Civil Division now engages in similar practices.

57. This practice also is in direct contradiction to Civil Division assurances to the Senate Judiciary Committee's Administrative Practices Subcommittee. I attach as Exhibit 15 the relevant table of contents page and four

pages of the printed transcript of testimony. I cannot explain the October 6, 1977, date of this testimony because from my records it appears to precede the conference referred to. It is for this reason that I include the table of contents, which dates that testimony at October 6, 1977. My records reflect that I could not have attended any such meetings prior to almost a month later, when there still had not been the meeting described. My first relevant diary note, for November 2, reads "DC - 1996 - conf(erence) with DJ people." The next such entry refers to the first of two conferences in Mr. Schaffer's office, the only one he participated in: "DC - 1996 conference in Bill Schaffer's office, Civil Division." A week later there is this entry: "DC - Conf. with Civil Division, etc., on 1996. Bruised on bus on way home." (This is a reference to the difficulty I had trying to carry a large and for me heavy package of records the FBI was to have mailed. It was neither mailed nor even packaged.) The first of these three meetings was to arrange for the second.

58. I include page 126 of the printed testimony in Exhibit 15 because it is not consistent with the representations of the Memorandum in which the Division seeks to allocate FBI malfunctioning in the processing of the MURKIN records to "~~Operation~~^{Project} Onslaught." Deputy Assistant FBI Director Allen McCreight testified that the FBI's "~~Operation~~^{Project} Onslaught" agents did not even reach Washington until May 1977. By this time most of the FBIHQ MURKIN records had already been processed.

59. On page 140 Mr. Schaffer testified, "Mr. Weisberg does have reason to complain about the way he was treated in the past. We in the Civil Division are going to try to do something to straighten out all of these cases." He also stated, "I assure you the Department is going to try to do something ...". Mrs. Zusman added, "I would like to expand on" these comments. On the next page she described this as "trying to be innovative as to reducing the number of lawsuits by working directly with plaintiffs and with plaintiffs' counsel. It can be very successful."

60. Indeed it was "very successful." In order to obtain any of the records in question, I thereafter was compelled to file C.A. 77-2155. In order to obtain any of the added compliance assured in C.A. 77-2155, I have since had

to file three additional lawsuits. I await compliance in them. My experiences in them are as described in this affidavit. These kinds of "somethings" and "innovations" I would not even wish on the FBI. The fact is that not one of my specific requests referred to in this testimony (Exhibit 15), the identical requests to which I testified in this instant cause in September 1976, has been complied with. As I was entering the courtroom for the calendar call of September 28, I was handed a copy of a letter from Mr. Shea in which he reports the FBI's promise for the future to provide me with copies coequal with later requesters. This is not the first time the FBI made this promise. It has yet to keep its word.

61. This "something" and "innovativeness" is typified by the Memorandum, by false charges and misrepresentations made in the courtroom and by such deceptive and misleading affidavits as SA Beckwith's of August 11. They are typified by charging me with the abuses of which I am the victim, not the practitioner. By these means I am denied my rights, my life is wasted and new, imperishable and entirely false detamations are created in immune official records.

62. If this is not enough, there is also what I regard as fraud. This fraud consists of withholding relevant records of proof of deliberate noncompliance in this instant cause and of representing to the contrary to this Court. I obtained the record I attach as Exhibit 16 by accident in one of the four cases I had to file in a still-frustrated effort to obtain what Mr. Schaffer and Mrs. Zusman promised to the Senate a year ago. This record is vital to compliance because it discloses the existence of inventories of records sought in this instant cause. This record did not escape the diligent eyes of those processing FBIHQ records and those of the field offices listed in the Stipulations. Not one slipped up. Not one provided it. Not one listed it on any worksheet and claimed an exemption to withhold it. Not one provided the other records also essential to compliance and reported in it. Only one field office inventory escaped the dedicated FBI processors; but when I asked the FBI about it, I was lied to and received neither further compliance as a result nor the similar inventories of the other field offices whose noncompliance is now touted as compliance. In the months since I gave copies to the Department and asked for the relevant records listed, I have heard nothing and received nothing.

63. These records disclosing the existence of relevant inventories also

disclose a reason for the FBI's steadfast refusal to search other files I have specified: the response of the field office from whose files I obtained this was directed to the FBI's General Investigative Division, Civil Rights Unit. I did ask for and I have not received any records of the General Investigative Division.

64. Exhibit 16 was sent to all field offices. There is an error in the teletype transmission as a result of which the day, the sixth of January, is omitted. The year is 1977. An earlier similar directive was teletyped to all field offices on November 24, 1976. That was not long after I received the first of the HQ MURKIN records and long before the processing of that single HQ file was completed.

65. Exhibit 16 directs that each field office "prepare an inventory of all materials" relating to "the John F. Kennedy assassination and Martin Luther King, Jr. assassination as well as closely related cases." There is reference to an earlier directive "to inventory all pertinent material relative to the Martin Luther King, Jr. assassination," with an HQ file number other than that of the FBIHQ MURKIN file cited. The items to be included encompass those on which there has been no compliance in this instant cause, such as surveillances and their fruit.

66. It is not merely that I have not received these relevant records from the various field offices or the copies each provided to FBIHQ in response to its orders. Nor is it merely that the FBI lied to me when I showed it its single slip-up, a teletyped inventory of the Chicago Field Office that was mostly of a political nature. It is apparent that those processing records in this instant cause had to know of the existence of these inventories and of the relevant records inventoried and since then have resolutely withheld both while hawking their alleged compliance to the Court.

67. Because in this affidavit I am addressing the truthfulness or untruthfulness of representations to the Court by Civil Division counsel and because Civil Division questions the truthfulness with which my counsel and I address the Court, I provide further information with regard to other of Ms. Ginsberg's allegations that simply are not true. Whether her untruthfulness comes from a lack of knowledge or is deliberate - who indeed does prosecute the

prosecutor? - is immaterial to the result.

68. I was present when immediately after the calendar call at which the Court indicated a willingness for a Vaughn v. Rosen inventory SA Hartingh proposed stipulations. Their purpose was to avoid such an inventory. My willingness to consider such stipulations was that with compliance they could bring this case to a reasonable end and because Mr. Lesar had explained to me that such an inventory is burdensome to a court. It was and is my understanding that the stipulations address the avoidance of a Vaughn v. Rosen inventory and are conditional upon compliance.

69. Mr. Lesar spoke truthfully when he informed the Court that from the first the stipulations were violated by the FBI. The stipulations required the delivery to me of records as processed. Instead, more than 6,000 Memphis pages were accumulated and sent to me in a single, unmanageable, uncollated, uninventoried bulk, in such form that, in addition to all other problems thus created, I could not even use the records. If Ms. Ginsberg had any familiarity with what she addressed the Court about, she would have known the truth. If she had asked SA Hartingh, who sat next to her, he also could have told her the truth, as he could have informed the Court when he heard Ms. Ginsberg assault Mr. Lesar's honesty and integrity by her false representations relating to this bulky single shipment and the stipulations. The untruthfulness of Ms. Ginsberg's statement to the Court, her claim that the FBI had not delayed and accumulated all these Memphis records or shipped them in an unmanageable package, is established by the covering letter from the FBI attached as Exhibit 17 and my response to the FBI, attached as Exhibit 18.

70. The FBI's covering letter, which is also a bill, is dated September 29, 1977. This is the very last day permitted by the stipulations. The FBI, contrary to Ms. Ginsberg's representations, describes "This release" as of "6,293 pages." It simply is not possible for all the thousands of records of the Memphis Field Office, the Office of Origin, to have been processed with 6,293 pages packaged and infinitely more withheld and all of this to have been accomplished at one time. The worksheets establish that many volumes were processed in earlier months and then were withheld for this single shipment that I could not lift - even more.

71. My response, Exhibit 18, in addition to many other details relating to noncompliance with the stipulations, specifies the size of this package as "of more than 6,000 pages" and "about 31 inches of solid paper in one package." It specifies other violation of the stipulations at a number of points, including exactly as Mr. Lesar informed the Court: "You were supposed to provide copies as rapidly as processed," I wrote Supervisor Hartingh. (Later he phoned me to ask, "Are you still mad at us?")

72. In addition to these untruthful representations, Ms. Ginsberg stated that on review Mr. Shea had found the processing of referrals to be "timely." This is not true. Mr. Shea confirmed the accuracy of the FBI's records of referrals. Since then I have provided my counsel with a chart (Exhibit 19) prepared from the FBI's own chart. This reflects that there were delays of about 15 months, hardly "timely" under any circumstances and anything but timely under a 10-day law. The FBI's chart does not include the time lag as a separate breakdown.

73. I regard this Memorandum as part of an FBI Cointelpro-type operation against me and as a new effort to frustrate and violate the Act. I believe there is no reasonable doubt that all involved in it should have known it is what I have described, a dishonesty and a trick to extort part of what remains of my life and my work from me. It represents still another in a long series of abuses of my wife and of me. The preparation of part of an unread rough draft of this affidavit required of me more than nine continuous hours of work on the day Mr. Lesar informed me of the Memorandum, extending that working day to 18 hours. To be able to complete the affidavit, I am required to begin my day at 4 to 4:30 in the mornings. Once again I am required to find a notary on a holiday weekend and then get the affidavit to Mr. Lesar when there is no mail service. The FBI and the Civil Division have to know that either I must work at a pace that is adverse to my health or risk the enormous amount of time I have invested in the case that in itself was extorted from me as a means of frustrating the Act and preventing the work the FBI does not like because it exposes the FBI with accuracy. If I do not respond with adequate proofs, I risk leaving these new and baseless assaults on the integrity of my work and my representations uncontested. I may also fail in the public-service role I seek to fill. Given

this Hobson's choice, I do what is required for a response to meet the public obligations I have assumed.

74. The Department of Justice is also the federal prosecutor. It is not merely the defendant in this case. I do not expect it to prosecute itself any more than I believe that its representatives would engage in such serious misconduct, misconduct which if I were guilty of it could lead to the Department's prosecution of me, if they feared any retribution. Based on long experience, I believe that as long as such misconduct is immune, the Act will be subject to nullification, vast amounts of public moneys will continue to be wasted to this end and the Courts and requesters of public information will continue to be overwhelmed by the extra and totally wasted time and work required of them.

75. I speak of the Department's willingness to prosecute when there is no offense because it has made such efforts against me in the past. Among the records still withheld when my Privacy Act request is of three years ago are the records of such an effort against me, one that I turned around, leading to a two-year sentence for the agent of a Congressional committee who sought to entrap me. As a consequence of the accurate writing the FBI does not like, it actually contrived with a Special Agent in a demeaning scheme for him to file a spurious libel action against me. Public moneys were expended in the legal research to contrive a basis for a spurious civil action to "stop" me. That stalwart was unwilling, as the records I have obtained show. When I learned of this rotten business, I wrote the then-retired hero and waived the statute of limitations, as I also did to the FBI's Office of Legal Counsel. No civil action has been filed - or will be.

76. I am aware that in this affidavit I am subject to the penalties of perjury, as the Beckwiths and their kind appear not to be.

77. While the specifications of official untruthfulness and other dishonesties I provide in this affidavit are not nearly as numerous and detailed as with ample time I could make them, I believe they validate what I stated to this Court two years ago, that as long as official misrepresentations are tolerated cases like this one will be dragged out indefinitely, with the only alternative noncompliance with the Act.

78. I had drafted this affidavit to this point when the amended or

second Motion to Strike with attached Memorandum in Support reached me. The delay was because the Civil Division again departed from prior practice and did not send me a copy. It required extra time for Mr. Lesar to make and mail a copy and for it to reach me. I have read these pages and their attachment. (Hereafter Second Memorandum.)

79. What follows relates to this Second Memorandum. It is not integrated into the completed part of this affidavit because of severe time limitations. This addendum is not intended to repeat what is addressed directly in the preceding paragraphs.

80. Unfaithfulness to fact regarding the worksheets is more serious because of these words, "The first set of worksheets provided to plaintiff were prepared by Federal Bureau of Investigation Special Agents who were part of 'Project Onslaught'." This is completely false. (Page 2, Paragraph 2)

81. As stated above, initially I was not provided with any record of any exemptions claimed. After some time, as a substitute for indicating exemptions claimed on the records themselves, I was given the worksheets covering the many records provided to that point in the releases. Thereafter, the worksheets accompanied the Sections themselves.

82. It has not been possible for me to file the worksheets with the relevant Sections in those instances where they were not provided at the same time. They are still as I received them. I have checked the worksheets provided later for the first ten Sections. These extend through Serial 1300. I believe this is more than enough to reflect what is true with regard to "the first worksheets provided to plaintiff." Of course, the very first of these worksheets is literally the first sheet of those covering the first Section. I therefore attach it as Exhibit 20.

83. Having checked the worksheets covering these first 1300 documents provided, I state without equivocation that no "Agents who were part of 'Project Onslaught'" prepared a single set, a single page or a single word of any of "the first set of worksheets."

84. In order to represent truthfully rather than untruthfully to this Court, it was not necessary for any Department lawyer to check these first worksheets as I did. Anyone familiar with the Department's FOIA practices

should have known that there was no "Project Onslaught" at the time "The first set of worksheets" was "provided." The records processed with the first worksheets were processed in about September 1976. They were given to me in October. There was no "Project Onslaught" until the following May. (See Paragraph 57 and Exhibit 15 above.)

85. Moreover, Ralph Harp, the SA who processed the very first records, remained assigned to the processing of all the records provided to me from FBIHQ files. He has appeared in the courtroom on a number of occasions. He participated in conferences. As others later joined him, they had his knowledge and experience on which to draw.

86. In addition, as Exhibit 20 shows, SA Harp's worksheets are clear and legible. They were no cause for complaint. They also establish that it was not necessary for the FBI to provide illegible copies and that there was never any need for xeroxing to reduce their clarity.

87. This Paragraph of the Second Memorandum concludes with the first of several conjectures represented as factual when they are not. These conjectures are not attested to by one with first-person knowledge although competent affiants were readily available. As stated above, I believe this is not an oversight. Rather is it an effort to avoid any rebuke or penalty for false swearing.

88. The first such conjecture is that "the first set of worksheets was apparently destroyed." (Emphasis added)

89. The next conjecture is that "any erasures ... were not the result of deviousness or intrigue." In my experience there is no basis for making any such assumption and there is basis for assuming the possibility of the opposite. For example, I did not receive worksheets holding all the information called for in the stipulations. I did not receive them after I complained and again requested them. They have not been offered since Mr. Lesar called this to the attention of the Court and opposing counsel. In addition, as I have affirmed and Mr. Lesar has informed the Court, I have received worksheets with a crooked count of the pages in the underlying records. On September 28 Mr. Lesar cited an instance of an Atlanta record (of which to my knowledge FBIHQ has two different sets of copies). In that case it was SA Beckwith who provided the affidavit.

90. The "apparently destroyed" worksheets reached the Memory Hole, the Second Memorandum conjectures, "to assure accuracy" because other worksheets were prepared.

91. The kind of "accuracy" that could be "assured" by this destruction is the prevention of detection of crooked counts, like the false representation in the worksheet provided to me, that the 29-page Atlanta record of Paragraph 89 consisted of only two pages. The crooked-count worksheet misleadingly represents that I was given the entire record when, in fact, 27 of its 29 pages are withheld.

92. Other conjectures in substitution for first-person knowledge are that "an Onslaught Agent may have jotted down an incorrect exemption number" and "The reviewer would have corrected the exemption." (Emphasis added) As established in the first part of this affidavit, these representations are entirely unfactual.

93. Rather than to "assure accuracy," the destruction of any worksheets guaranteed inaccuracy. Once any worksheets were destroyed, if they differed from my copies, there would be no Departmental means of following any letter of complaint or appeal. With this case in litigation and with representations made to this Court based on the original worksheets, it cannot be believed that the records of processing would be destroyed for any legitimate reason. There certainly was not need to destroy them.

94. In the case of the particular worksheets prepared by SA Coble, one of which is involved in the Beckwith affidavit where it is replaced with an entirely different copy (Exhibits 9 and 10), there was added reason for guaranteeing the careful preservation of his worksheets, including especially the one replaced by SA Beckwith. I had filed an angry appeal over much more than illegibility and the adding of incomprehensibility by misuse of the FBI's Xerox machines. SA Coble's (b)(7)(C) concepts are reflected by the withholding from a newspaper story of the name of an FBI agent who was practically a professional witness. There was wholesale withholding of what was exceptionally widely publicized and of other information that is within the public domain. In response to my protest to the FBI, I was promised that about the last third of FBIHQ MURKIN records would be reprocessed. For the reprocessing of these records it

was essential not to destroy the original worksheets. For all practical purposes, destroying them destroyed the basis of the worksheets part of my appeal.

95. With special reference to SA Coble, it was an urgent need to preserve all his work and notations. His processing was so outrageous that I demanded his removal from FOIA work and wrote the FBI that until I was assured of his removal I would not accept another piece of paper from it. Supervisor Hartingh expressed surprise because he described SA Coble as "a Harvard liberal." Supervisor Hartingh then informed us that SA Coble had been reassigned to a field post and promised the reprocessing reported above of the last third of the FBIHQ MURKIN records. There has been no such reprocessing. Instead, it has been refused.

96. It is not the lack of those with first-person knowledge that accounts for the absence of an affidavit to attest to what Ms. Ginsberg conjectures and states that is not accurate. Of the many special agents who at different times have been assigned to this case, I know of only one who is not alive, the late Supervisor Tom Lenchau. Among those I believe to be available and who have varying degrees of first-person knowledge are Special Agents Hartingh, Harp, Higgins, Cunningham, Smith, Matthews and Keith Gehle, whose position is unknown to me.

97. With regard to the Willie Somerset matter, the exact language of the Second Memorandum is more misleading than I had thought prior to seeing it. The words are "When Serial 4859 was released to plaintiff, there was no indication in the Federal Bureau of Investigation files that he was deceased." (Emphasis added)

98. It is impossible to believe that with the attention to the Somerset/Milteer matter the FBI was not following it closely. Before release to me, the House Select Committee on Assassinations was in touch with the FBI about this subject. This newest attempt to deceive in the Second Memorandum, which is intended to protect false swearing, lies in the false pretense that the time in question is "when Serial 4859 was released to plaintiff." The actual time in question is the time of the Beckwith affidavit. He executed it on August 11, 1978, when he again withheld what admittedly is not subject to

withholding. This was long after the many times I had informed the FBI of the death of both Somerset and Milteer. If those in the FBI with whom I spoke made no notes, then my letters certainly are "indication" in the FBI's files of both deaths. (The Beckwith affidavit addresses the withholding from one such record only. The student who prepared that memo selected this one as illustrative. There are others, as my correspondence makes clear. There also are other records withheld in their entirety and not indicated as withheld on any worksheets.)

99. The footnote on page 3 provides other and serious questions, especially of bad faith. This note begins, "Attached hereto as Appendix A is a copy of Serial 4859." Actually, this copy is from a different file which refers to the "original filed in 44-38861-4859," which is the MURKIN file. Appendix A is from a file whose number is illegible. In this unidentified file it is a Not Recorded Serial, as the stamp reflects. It there is not Serial 4859.

100. A more serious problem is what proves the arbitrary and capricious nature of the Beckwith withholding. The note states that "The brackets indicate those portions of the memo withheld from plaintiff when it was released to him in May 1977." Examination of the bracketed information discloses that much more than the identification of Somerset was withheld in the first paragraph. This examination also discloses that, with the possible exception of the identification, nothing that was withheld ever qualified for withholding under any exemption.

101. If the remainder of the note in the Second Memorandum is not literally false, as I believe it is, the purposes served by the misrepresentation are indistinguishable from those to be accomplished by deliberate falsehood. This language is "The entire memo, with the exception of the informant symbol used by the FBI to identify Mr. Somerset, was released to the second requester in May 1978."

102. This representation is absolutely incredible to me because of what Mr. Lesar said and described at the September 14, 1978, calendar call. He had what I had given him and he said he had: two large volumes of Somerset records consisting of a larger number of sections as provided to "the second requester," Dan Christensen, by the FBI. If Mr. Lesar did not specify that the FBI did not

withhold the Somerset number, and I believe he did, the FBI certainly knew it had disclosed the number. Anyone making any kind of representation to a court should have determined the facts prior to making any representation. If in fact the Somerset number was withheld from this one page, then the FBI's practice is beyond any excusing because it did provide Christensen with many records from which Somerset's identification and file numbers are not withheld.

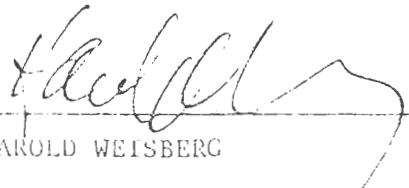
103. There was no basis for withholding any of what is now disclosed on initial processing. There should not have been any improper withholding in the records attached to the Beckwith affidavit because his job was to review the itemizations of the student's memo and eliminate unjustifiable withholdings. We now find that there is this additional infidelity in the Beckwith affidavit and that it continues in the note and the withholding from Appendix A. If SA Beckwith made any review at all in preparing his August 11 affidavit and its attachments, he had to know that Somerset was dead and that months earlier the records, including informant and file numbers, had been disclosed to Christensen. SA Beckwith ~~with~~^{and} Department counsel either made representations without any check at all or they made false representations after a check.

104. I cannot attach pages from the records provided to Christensen because Mr. Lesar desired to keep them following his remarks of September 14 in the event there might be further inquiry relating to them. He still has these copies.

105. So there can be no doubt about the authenticity of these documents, I provide the following account: Christensen, who is my friend, visited with me one evening shortly before the September 14 calendar call. He had with him the records provided in response to his information request and he showed them to me. I skimmed them enough to determine that he had been given by the FBI what it had withheld from me. Christensen agreed for me to copy these records and to keep his originals until after need for them at the September 14 calendar call had passed. Mr. Lesar retains the copies made from the originals.

106. From the foregoing Paragraphs it is clear that the Second Memorandum lacks fidelity even now, after the commotion caused by my production of the substitute worksheet and the Somerset information that was withheld from me; and that there is unfaithful representation about this withholding

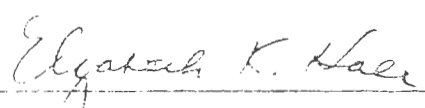
when, as I understand the present situation, the propriety of the withholdings is the issue before the Court.


HAROLD WEISBERG

Before me this 8th day of October 1978 Deponent Harold Weisberg has appeared and signed this affidavit, first having sworn that the statements made therein are true.

My commission expires July 1, 1982




NOTARY PUBLIC

LIST OF EXHIBITS

No.	Page	Paragraph	
1	3	15	Beckwith affidavit, page 30
2	3	15	Beckwith affidavit, page 37
3	3	16	15/10/73
4	3	16	Beckwith affidavit, page 30
5	5	27	FOIA list, page 6
6	5	29	Weisberg consultancy memo, page 62
7	5	30	Weisberg to Hartingh, 5/31/77
8	6	37	Weisberg consultancy memo, pages 64-65
9	9	46	Worksheet original
10	9	46	Worksheet copy
11	9	47	Student's memo, pages 5-6
12	9	49	Transcript, pages 11 and 12
13	10	49	11/23/76 FOIA request
14	10	50	Motion to Strike
15	11	57	Senate testimony
16	13	62	1/6/77 teletype
17	15	69	FBI letter, 9/29/77
18	15	69	Weisberg response, 10/6/77
19	16	72	Referral chart
20	18	82	Worksheet

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 Somerset. 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.

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 worksheet 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 7, with a (b) (7) (D) notation made for this serial.

CA 75-1996
EXHIBIT 3

FD-340 (REV. 6-24-65)

File No. 157-10673-1A⁵⁵

Date Received 4/30/68

From Mrs. Brandon C. Hill, Clerk
(NAME OF CONTRIBUTOR)

Residence Room, New Orleans
(ADDRESS OF CONTRIBUTOR)

Blm. Dist.
(CITY AND STATE)

By SA James D. Hill
(NAME OF SPECIAL AGENT)

To Be Returned Yes
 No

Receipt given Yes
 No

Description:

Copies of Police Reports
Re: Charles Edwin Smith
by NCPD.

10/26/55 - Gambling, Dice
Crime, receiving

7/14/61 - Poss. Name
Poss. Selecta Property

4/12/62 - Parole, Schooling
Conspiracy

2/16/63 - Schooling - Conspire to
Poss. of bank robbery

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.

1972

October 27, repeated January 1, 1969, and later requests for the Doyle, Martin and other files. No compliance.

October 27, repeated verbal request of March 13 for copies of records relating to a Silvershirt plot to overthrow the United States Government. These were not returned after I gave some to the FBI TUE end of 1939 or early 1940. To June 4, 1976, I wrote four additional letters. No compliance.

October 27, request for copies of FBI NY files on Lee Harvey Oswald. No compliance.

October 27, repeated request of April 22, 1970, and later for color pictures of JFK clothing. In response Director Selley wrote me February 13, 1976, saying they were running more than three months late. This was then more than three months. It is now 11 months and there has been no compliance. My request was then six years old.

October 27, request for files on Lee. No compliance.

November 28, above request repeated. It was pretended that I had not filed this request until Director Selley admitted finding it in his letter of February 13, 1976. No compliance.

December 10, request for scientific tests related to the murder of Dallas police officer J. D. Tippit. No compliance.

1975

January 30, request for list of all my requests because some have not been acknowledged. No compliance.

February 26, request for all information on the late J. A. Hiltner. (This follows up on requests of the National Archives for what had been withheld at the request of the FBI. When it was finally released it did not include what the informant had not given to the Warren Commission. This included a tape recording made by and later disclosed by the Miami police. I obtained a partial transcript from the Miami State's attorney. The police informant gave me the tape to the FBI. The tape included details of threats against F. Lee and how he and JFK would be killed. The tape was exactly as the Warren Commission later said JFK was killed.) No compliance.

Not recorded between 4854 and 4855 withholds beginning with the end of a sentence referring to a letter Ray sent to his sister. The exemption claimed is 7(D). Can 7(D) be claimed for the interception of mail?

The Department should know that it is a matter of court record that all of Ray's correspondence was intercepted and turned over to the prosecution for copying and then either mailed or given to him. So if the 7(D) claim could be asserted, it seems not to be possible because of this situation.

4859 withholds the name of the late Willie Somerset under exemptions 2 and 7(D). This would seem to reflect a lack of knowledge Somerset has been dead for a while and this information has been published. That he had been an FBI informer also is public. I published it. As a matter of fact, Somerset^{did}/before he died, in contrast to the FBI's withholding this kind of information relating to Somerset, it offered a friend of mine some maybe 600 pages relating to Somerset.

Serial 4870, four pages withheld entirely with an illegible description beginning with "Toronto". The claims are to 7(C) and (D). Again, was nothing reasonably segregable?

Serial 4874 withholds the names of all of those who guarded Ray in the Shelby County jail. Without exception, all are public; without exception, all are in the records of the evidentiary hearing of October 1974.

Serial 4881, 6 withheld pages are referred to the Department of Justice. The worksheet also indicates this with regard to 4882 although three pages appear here. An attachment to 4882 is classified "secret" although there is no national security information in it.

5/31/77

SA John Hartingh
FOIA/PA Unit, FBI
J. Edgar Hoover Bldg.
Wash., D.C. 20535

Dear John,

I have spent the long holiday weekend going over the most recent sections, through Section 69. What your & people have done is outrageous. I am not accepting it. Nor am I going to keep going over replaced sections. By a carton of this I am asking Jim to insist on acceptable assurances that all these dirty tricks are going to stop immediately or that he present the entire question to the judge. If he has to do this I am also asking him to raise the punitive provisions of the Act and to raise the question of the damages I believe I should be entitled to as a consequence of what I regard as deliberate violation of the Act, intent to violate it and the actual hurt to me.

You are leaving me no choice. And if you can't even see to it that I receive copies of your originals that can be read, if you can't supervise capable, competent xeroxing, something I've had done more than adequately by a 14-year-old boy who never touched a machine before, don't you think it is time to turn your badge in?

So you will not have any basis for assuming I'm exaggerating I enclose the copy you gave me of the worksheets for Section 69. It is not atypical. Some later ones were worse. It is merely that when I came to trying to use it I grew angry enough to separate it so you can see for yourself. How you generate this as an original record. There is no reason why without special effort this should not be legible when I receive it. I doubt there is a reason why you cannot give me a xerox of the original. Yet I can't make sense of this out with a magnifying glass and this record is indispensable to what it is now a euphemism to describe as my rights and asking for honest compliance. (I will address this in detail later if not below because I want to try to get this to you in time for you to see to it that this kind of abuse by xerox ends immediately.)

After you have examined this I would appreciate it if you return it to 'in with the next serials. I also ask for the replacing of the worksheets of the last two batches. My reason for wanting it back is so that "in can, if necessary, give the same one I've shown you to the judge.

While for the most part the recent serials have not been xeroxed so that some would be eliminated, it has happened, as the sample I've already mailed you shows. Now your people have merely set the machine on over-exposure so the copies are unclear, hard to read and sometimes impossible to read. I have made enough copies and examined enough copies in recent years to be absolutely certain that good clear originals have been overexposed to make them hard to read. When one of these abuses follows immediately on the other it is difficult to avoid the suspicion this is deliberate. If it is not then it is incompetent and contemptuous. And don't tell me the FBI does not know how to operate xerox machines children can operate.

While under the Act why I want any record in the business of no official of any rank I want you to understand fully. All of these and all my other records are to be deposited as a permanent, unofficial archive in a university system. I have already begun this. I am expecting the professor who is in charge this week. He is coming to take some of the older records back with him. I want these records to be as legible as possible for all those who will consult them in the future. For the same reason I want them to be as full as possible. About some compelling need they should be, in my view. I also believe that my giving all of my work away, including all the records I obtain under FOIA, is completely in accord with the desires of the Congress when it passed and amended the Act. In turn this requires competent xeroxing and due diligence and good faith in compliance.

There has been neither. I believe that I am far past the point where there is any reasonable question about intent. I believe there is an overwhelming and I believe quite disgraceful record of a intent to withhold improperly as there is of discrimination. I will be adding more to the record I've already given you on this. Not as much as I can because making notes of all is an impossibility. When they were ridiculous or when I was more than usually angered I did make notes.

I have tried to be tolerant in the hope that this would improve, what I took to be your promise. The opposite is your and the Bureau's practice. One of the examples I will be giving you is the obliteration of the name of the Memphis prosecutor when the Field Office reported what happened in open court. Another is the withholding of the name of a hotel when that also is known. Another in which it is impossible to be fully specific if I am to do anything else at all is the almost total absence of attachments that are specified as being attached.

In truth I have gone to what for me is enormous trouble and expense to avoid the need for going back to the judge. When it was apparent with the first section that there was extensive non-compliance by unjustified withholdings I started xeroxing a separate set so that I could go over them and fill in the blanks for people who will use these records in the future. This is a practical impossibility. But you are perfectly welcome to see for yourself that I did begin this project and do have these extra xeroxes to themselves. I have no other need for them. I do have a scholarly need for the records I obtain from you to be preserved exactly as I obtain them from you. Not for me, for others.

You are well aware of the other offers I have made to assist you in this. They pre-date your assignment to this case. They include getting young friends to make a card file of all the indexes of all the published books and the index already made of the evidentiary hearing of October 1974. You said that your people were now using the indexes in the books themselves, including mine, and you have no need for this. "No need? You have just given me records in which you withhold what I published years ago, the cases of the late Willie Somerset and Kathy Ainsworth. In addition Somerset was the subject of recent ~~articles~~ articles in Miami Magazine and several Jack Anderson column. Kathy Ainsworth was the subject of long, definitive and syndicated news stories. This was also the subject of considerable scandal that was embarrassing to the FBI. It obtained from private sources the funds used that lead to these news stories. I am not criticizing the Bureau in this. Rather am I quite sympathetic to the problem it faced in attempting to prevent certain intent to murder. In this one of the murderers lost her life. I am criticizing the withholding. There is no basis for it. All the names are public. More than these reports contain also is public. They contain nothing not public. So why go to all the trouble and expense to withhold? And how meaningful is the review that does not eliminate this unjustifiable withholding?

This, in turn, raises other questions, not merely of intent. There is a real question of competence. There is also a question of attitude of the analysts. It is more than apparent that they begin with the intent to withhold, not to make available what can be made available. Where to a small degree recently an effort has been made to correct this by writing in what was withheld it has been entirely inadequate and is illegible. But when in the last section I went over, late last night, they withheld the name of the prosecutor as stated above and the names of elected public officials mentioned only in terms of their holding the offices to which they were elected I think that after all this time there is at the very least something seriously, and substantially wrong and that there is the official intent that this happen and that it be perpetuated. I do not accept this.

In turn this leads to what the judge has already said in this case and what the new Attorney General has issued as a policy statement on FOIA. He has said that all that can safely be released is to be released. This also is the clear intent of the act. After that statement is published in the Washington papers you confront me with all these unjustifiable withholdings? It is stonewalling and it is wrong. The judge spoke to the fact that Ray has been convicted and has long been in jail and to the fact that it was not necessary to with-

hold some of what Jim presented in withheld form. Your people just don't give a damn about the Act or the judge or the Attorney General himself. and I think they are being vindictive.

There are other ways in which I have offered to help. I have said that if I were asked about a name - and the mere mention of a name would disclose nothing - I would state what I knew about that name. This was to offer to undertake a responsibility not imposed upon me by the Act. It was also an effort to help you meet your obligations under the Act. Instead you have opted to try to get away with deliberate violation of the Act, with what I think are clearly unjustifiable withholdings at least in most cases.

There are also different standards for historical cases. This can be held to be one.

I think there is a real case for discrimination and vindictiveness. I have requests going back to 1963 not yet complied with. I can think of no case of voluntary compliance except once when Mr. Kleindienst merely threw up his hands and sent me originals. It has been more than eight months since I ticked off a list of about two dozen then overdue FOIA and PA requests that had not been complied with. To this moment I have not received a single letter saying that even the search had been begun, leave alone a single record. Yet as I then showed in court, later and duplicating requests had been complied with and when those searches were made my requests had been ignored. I believe it is SA Howard who testified to having searched all the JFK records three times without proving me with a single one of the requested records. As late as yesterday Mark Lane boasted on radio about what he has received from the FBI. Because I have asked for all the records there is no possibility that in filling his request records I had asked for were not found. But I have come to believe that your people actually want his exaggerations and lies because they can be used to build sympathy for the Bureau.

The closest thing to an exception is the long overdue request I made for records I loaned the FBI more than 35 years ago. These related to a plot to overthrow the government. You say the FBI destroyed these records. You have not provided me with the record of that destruction. And I do find it difficult to believe that with all the paper it accumulates and all it goes out of its way to accumulate these are records not worth keeping.

When I testified to this long record of non-compliance the FBI was in court with many people, not only the ALIA. So was the Department's legal staff there. And the representative of the FBI's Office of Legal Counsel. Yet in all the months since then not a word, not a single piece of paper toward compliance. Turned around this is what the FBI puts others in jail over, violation of the law. You all may be cloaked with authority but in plain English you are lawless and deliberately lawless.

With this kind of record perhaps any effort to work these things out without needlessly overloading the courts is impossible. But I have tried and in this I am again trying. I don't think any of you want to understand my work or what distinguishes it from those like Mark Lane. I do not pursue whodunits. I do not espouse wild theories. I deal with fact and in the context of the functioning of the basic institutions of our society. In my view when these institutions fail society is jeopardized. If you came from parents who came to this country for the reasons my parents did you might perhaps understand this better. It is the first statement in my first book, in its dedication.

This is an added reason for not accepting that about which I have complained to you. I want the Department, the FBI and you and those under you to comply with the law. If you do not, as you have not, I will present the matter to the judge. If I will regret this extra intrusion into work for which I now lack time I consider I have no choice. I will take whatever time Jim deems necessary and I will present a factual record to the Court. If you and those under you are capable of shame I think I can assure it, as some of the examples should make clear to you if those above and those of the past are not enough.

4

While in some instances I am aware that those whose training includes an emphasis on secrecy, whether or not it is necessary, may have difficulty with the exact language of the investigatory-file exemption (you never quote it verbatim) I believe that especially in an historical case of this nature and in the light of the statements by the judge and the Attorney General there is neither need nor sanction for those withholdings I'll list. They do not involve secret informants or processes and in virtually no case what was not available from any other source. In a large number of instances the information was made available in earlier Sections and Serials. In no case is there a real privacy issue, and the word you always omit is "unwarranted." You have been trying to rewrite this exemption through me again. Not only will I oppose this on the district court level, as I will, but I urge you to read the appeals court's decision in my No. 75-2021. I believe it states what can be expected of that court. You might also want to ask John Kilty what some of the judges actually said in oral arguments.

In general I believe that in all this time I have not received a single record that was withheld and referred to either the Department or any other agency. After more than eight months I think there has been ample time, particularly because some make no claim for a backlog.

In Section 63, Serial 4675 - this appears to withhold the public and the released, the case of obtaining papers in Canada. One example is long interviews with Benny Edmondson, released.

4794, the withholdings relating to Raymond Curtis continue. 4826 is not the only released Serial relating to his own efforts to and any question of privacy, one that in reality never existed. He sought the Shannon Publishing Co. and its Ebony magazine out. They brought this to the Bureau's attention. Curtis, by name and with abundant lies, became a major character in George Meddian's book on James Earl Ray, indexed and with you supposedly using that index. Withhold this can be ascribed to the misuse of these records in the OPR report.

In Section 64 your analysts are still withholding his name. In some cases it was then written in. This is but one of many illustrations of the intent, the competence or the analysts or both. And this months after it was disclosed in earlier serials, not just in public of the extensive promotional efforts, including coast-to-coast TV with regard to Meddian's book. True also in other Serials, many.

It is true of other known and released names in these and following Sections as it was in earlier Sections.

In 4845 the names of the Bureau of Prison officials masked earlier are not masked. The earlier ones have not been replaced. The names were not written in. But they were public, published, too. If there ever was any propriety in classifying this record secret I believe the requirements of the Executive Order were not met in releasing it.

4746 is a 47-page New Orleans report. It deals with Charles Stein and the phone calls. All names in the index are withheld except that of Ray and Dr. King. I do question this and any need for it. (I'll be interested in seeing if after this enormous effort to trace a call from Texas the Bureau even checked the right State.)

In Section 65, Serial 4851 obliterates the number of the advertised temporary post office box the Ray brothers took for fund solicitations. Not only did they give it up nine years ago, that they published the number for raising funds is in the released Serials. Yet someone went to all the trouble to withhold and it was supported on appeal review.

Beginning with 4853 there are references to names not provided here, references to Ray's correspondence about counsel when the correspondence also is not here and it was provided to the FBI. The exemption claimed for these interceptions is 7(D). I doubt it can be applied but in any event the fact and the method of this are all public, in the court records. Jim and I established the whole machine, complete with the order on how Ray's rights would be violated and who in the DA's office would do the xeroxing. We obtained samples of these counsel interceptions with all counsel and even with the judge. I believe that on this additional basis any such withholding can't be justified and is unnecessary.

4859 and later Serials withhold the name of the late Willie Somerset. My own publication of this matter goes back to 1967. It was more extensive in early 1971. Jack Nelson did extensive writing for the Los Angeles Times syndicate about Kathy Ainsworth, Tarrants, her partner in the crime in which she was killed, and we both published all the other names in these Serials. There is no question about privacy and there is no secret source. That he was an FBI informer I also published, as have others. It was most recently in several issues of Miami Magazine. I'm sure the F.O. sent these.

4874 withholds the names of Ray's guards. They are all in the court records. All the logs were also put into the record in 1974, but I doubt there was either need or sanction to withhold. Also in 4902, Section 66, the same withholding. Also 4923.

The unrecorded after 4886 is not the first or the last total withholding of what was supplied by the RCAF, who later, that is in later Serials, agreed for all of this to be available for the expected trial. 7(C)(b) was invoked. I believe there is no need and probably no right to this total withholding of each and every such record.

In several serials at this point 7(C) and (D) are invoked to withhold what it does appear does not meet the requirements of the exemption. Examples 4890, 4892, 4898. One of the withholdings is related to internal bickering.

In Section 66 all of Serial 4919 is withheld. No exemption is claimed. What had been written under "Remarks" was erased.

4960, although the worksheets indicate no withholding there is withholding.

4982 is one of the many cases of missing attachments. This one is the final Scotland Yard report on Ray's activities in Britain. One of the apparent reasons is that the systematic violation of Ray's rights, including to privacy of consultation of counsel, began here. Embarrassment is not an exemption. It is precluded in the legislative history. This also occurs later, in Memphis, again with withholding although it is all in the public court record and was reported in the press in 1974.

The cover page of the first record in Section 67, Serial 4985, refers to material not included in that report or referred to in it. This is the 21-page Atlanta F.O. report of 7/30/68. One of the items withheld, whether or not it was part of this report, is the letter the post office supplied. I want it for a special reason. I do not believe it is probable that the man who planned to assassinate Dr. King exactly seven days later would have sent a check for his locksmith mail-order course on March 28, 1968.

In this serial there is more of the Curtis business, as there is also in 4987, where his name is written back in it is sometimes illegible, mostly due to the care exercised in making poor xerox copies. Aside from this the waste of time and money has accumulated into a considerable sum. First you pay people to do wrong and withhold what should not be withheld, then there is the time taken to make copies, then the writing back in-not often enough-and then more copies. Is it not past time for the Bureau to be questioning itself on this in particular? There will be more later.

Everything withheld on the first page of 4987 has been released, I believe many times.

(It may interest you to know that of the three doctors mentioned in 5001 the one who was Ray's in-jail physician just happened to be the brother-in-law of one of the prosecutors. Your agents managed not to tell Washington this.)

In Section 66 there is more of the Somerset/Ainsworth withholding beginning at 5017. There is also withholdings relating to those charged, tried and I think convicted in the then-famous Dabner killing. How much privacy could this have left? Which prompts the same question, is the privacy exemption really invoked to protect privacy? I think not.

5030 represents the resumption of reporting on the behavior of several men at the William Lee Hotel in Memphis the time of the assassination. When they used phony I.D. and these reports so state is withholding the phony I.D. really the protection of privacy, or in any way necessary? This escalating withholding, finally includes the name of the hotel.

By the way, out of the names in Walter, as I recall, I recall one only.

With regard to Somersett, who appears in these Serials also, I forgot that after an extraordinary length of time and after I obtained it from the Archives the FBI did sell me a copy of CD 1347 in which he figures. It was withheld for more than five years after I accurately published what was withheld in 1971.

Section 69: In Serial 510, your people actually obliterated the names of Clay Blair, whose book appeared in 1968, and of the man who ran the boarding school he attended. The number of times each has been published is in multi-millions. Ray was a witness under subpoena. The Bureau made the most extensive public use of what it obtained from him as soon as it obtained it. Yet your people at this late date are taking government time and mine and seeking to withhold this! Can they really be trusted with anything if they are capable of this? Besides when Ray's name was released often in the earlier Sections. And when they do do this who can believe that undoing what they do is certain? I have cited cases in which it was not undone. There are others.

Thus on 5109 they also originally withheld the name of Donald Wood. All said above about Ray is true of him. In addition, more is true, the extensive attention look and hide in his public appearances gave the Woods. Yet after more than a year the withholding of names including those of the Woods and their associates, all public, has not been relieved in the very first records I was given. There remains the claim to 7 (U) and (D) relating to the well-publicized names of the Scotland Yard Chief Inspector and sergeant, both also in the court records. I presume these were also applied to Wood and the FBI agent. When the same British names were withheld in 5110 a claim to (C) only was made. There simply cannot be any good faith here. There is no diligence at all. None of this is not widely public.

5114 masks the names of agents already released. They are all in the court records in this case, too.

5115 your people originally masked the name of the Alton Chief of Police on a privacy claim when they mention of him is only in connection with his official position.

5118 withholds names the FBI released last year.

5120, 7(b) only is claimed yet information relating to people in the Klan is withheld. This is to say there is no claim to 7(c), whether or not 7(b) is appropriate to the rest of what is withheld - and whether it need be withheld if appropriate.

5131- At this late date for the newest of analysts the name of the sheriff was originally withheld by them. Now this is Memphis and that sheriff's name was internationally and extensively publicized. Can there ever have been any honest and rational reason for or excuse for withholding it? I'm getting again at the mind set of these people to whom this responsibility has been trusted - not only on this case but the others to which they are to be assigned.

5142 refers to what is not attached here and is only partly provided later, interception of communications of Ray's the FBI itself later says are privileged. Copies of what the FBI had are only partly provided later. So for the future your analysts and you can know Jim and I did obtain the actual orders for these violations of Ray's rights. They are public, as evidence in the evidentiary hearings. It is Policy Statement # 11. The covering all was to be done by Administrative D.A. "Dusty" Lloyd Rhodes. In fact some was done by a National Academy graduate K.L. Hutchison, whose name your analysts also masked. Inspector Billy Smith was in charge. He made some of the interceptions and deliveries to the D.A. and all other names involved in this are public. He and the sheriff both testified in 1974. If it is of interest to the Bureau, I can list the Memphis report error. It was not John but Jerry Ray who made the approach to the racist lawyer J.B. Stoner when the other racist lawyer "ones would do nothing about the prejudicial publicity (naturally, he was paid for it) that Ray considered libelous. This also should be indication that no withholding of this nature is justified. The interceptions of all the mail and other forms of communication, the use of TV and audio surveillance are all public. It was the result of the recommendations of others whose names were masked, federal experts.

Not those on civil rights, naturally. It is "security" that required the interception of all of Ray's communications with his lawyers and the judges and others. He did not appeal the extradition just so he could conspire with the judge and the counsel to break out of that jail. With two guards at least always inside the cell with him.

5150, Joe Hester's delayed report on the Mexico information, is one in which the analysts withheld every name mentioned, regardless. "Regardless of what? That they were all public and in addition in this case had all been released. Where they have been written in they are often incomprehensible. In one area this refers to records that obviously the FBI had and you have not provided. I cite it not because it means that much to me but as bearing on compliance. This is the part about the commercial photographers and in the same area, the pictures Ray is said to have taken. None of this has been provided.

With 5154 I will leave the interpretation of the exemption claimed to Jim. My own opinion is that there is no applicable exemption and no need. I believe the real reason for this withholding relates to the gross misrepresentations of the ORR report, which played all of this and all of the Curtis fabrications as established truth. This is the origin of the coward of the "businessman's" alleged offer of \$100,000 to off King. I believe this is more reasonable than any claim to the interest in the privacy of the two people who said there was no truth to what the ORR says, the woman who is involved in nothing and the man who turned himself in as a parole violator in his efforts to begin a new life.

5156 is where the analysts withheld the name of the prosecutor and what transpired in open court and was incorporated in that judge's order

5158 and 5160 are Mr. Hoover's memorandum to and Pollak and the Birmingham airtel relating to the interview with William Bradford Huie, "Ray's self-styled defender. The dates are 9/10 and 9/2/68. Yet there is no prior record? I can't believe it. In fact I don't believe it, as it relates to Washington records alone.

The FBI ~~must~~ knew in detail of the Huie/Hanes arrangements over Ray and had copies of some questions Huie had given Ray to answer. (I do not assume that Ray provided this to his lawyers. Voluntarily and knowingly, that is.) The copies date to the previous month. Huie, the supposed defender and the one who paid Ray's lawyer, expecting to recoup his investment from exclusive literary rights, offered the FBI all he received and would receive from Ray and his lawyer, in return for unpublished pictures of Ray.

If it is to the FBI's credit that it raised questions about whether or not these were privileged records, Mr. Hoover nonetheless preferred to making a deal with Huie that he be served with a search warrant and a grand jury subpoena, by local authorities if the Department did not assent. (Huie was served with a grand jury subpoena by the local prosecution. The transcript, the first if not the only Shelby County grand jury transcript, is in the record of the evidentiary hearing.)

Regardless of any copy Memphis arrangements, the records I have been provided require that it be believed that when Huie phoned the FBI with such an offer the Birmingham Field Office did not communicate with "head of government" in any way, either to report or to seek guidance from Headquarters. This is a dream situation in a very weak and extremely sensational case. It is an offer of every word Ray wrote. This came to 20,000 words and what could not be picked up by the microphones and cameras. "obody was tempted enough to ask? And there is no record of any inquiry?

5165 is where you protected the privacy of the William Lee Hotel by blacking out its name. This is the same William Lee hotel not blocked out going back for months. And it was approved on ~~inter~~ review. Last review, naturally enough, by the case office from which came the ORR report mentioned above. Curtis and all that.

As I have told you, these unjustified withholdings create needless ambiguities. I do not want them to exist without need. If I am not asking that you go back to square one I do want clear and dependable records from which there has been no unnecessary withholding. While my belief need not prevail it is that those responsible for this ought be required to rectify what they have done without any sanction or need. Without interruption of this already long delayed and inadequate compliance.

I have taken a considerable amount of time to write you in detail and with specifics. I have no slight letter in response. You have replaced one single work incomplete process, for which I do thank you. You then nullified this slight return to what should be the norm by making the work-steps on which you claim exceptions illegible.

From the record I have cited, which is far less than I can specify, it seems to me to be apparent that in trying to be understating, accommodating and tolerant I am operating inUtilities.

However, it should also be obvious that in terms of the expenditure of my time it would have been less costly for me to present all of that and the more I can include to the Court.

If there really is no other means of dealing with the Bureau or with you then I will seek to use that means. You and the Bureau will be seeking the courts.

However soon Jim decides. While I was writing this he pressed me about another matter. I then gave him a brief description of these continue withholding and the variant on the abuse by records. I also told him of my desire if within a short period of time we do not have meaningful promises and some assurance of the keeping of those promises.

Sincerely,

Harold Weisberg

and in other sections.

There came a point at which I offered to not make an issue of any of the withholdings of RCMP and similar reports if the FBI would write the Canadian Mounted Police and ask if any or all of the information could be made available. The FBI indicated it would do this. After the passing of some time I asked them and they said they did not and would not. Now at least to a very large degree if not entirely, all of this information was put out by the Mounties. They held regular press conferences and even when they did the FBI withheld the names of those who held the press conferences. A large part of the information compiled by police outside the United States is included in court records, especially in the guilty plea hearing part of the narration of evidence.

Serial 4916 says Ambassador Bruce's letter re Legart Minnich is attached. It is not attached.

Serial 4918, an airtel from London of 16 pages, all is withheld under claim to 7(D) and I am certain some/is reasonably segregable if in fact any of this qualifies for legitimate withholding (see 4982 below).

Serial 4919, Bureau airtel. All five pages are withheld, in this case no exemption even being claimed. There have been a notation on the worksheet under remarks but it was erased.

Not recorded after serial 4923 was referred to State and it was withheld.

Serial 4925, 16 pages withheld under claim of B(6) and (7)(C) Again I raise the question, not anything in 16 pages reasonably segregable?

Serial 4935 has note "UPL enclosure." This is one of the enclosures the FBI noted was not provided; others as I noted them

ere not provided.

Serial 4960. Although the worksheets indicate no withholdings there are in fact extensive withholdings on the last page of this teletype to the Memphis Field Office of July 19, 1977.

Serial 4962. The second page is withheld under claim of 7(D) again RCMP.

Serial 4982 says the final report on Ray's activities in Britain is attached. It is not. This airtel confirms that Scotland Yard copied all of Ray's mail which may explain the earlier withholding of information from Scotland Yard under the claim of 7(D) -to hide what might be considered embarrassing.

B(2) is claimed with regard to Serials 4913, 4930, 4952 and 4958.

Section 67.

4983 is 21 numbered pages of an Atlanta report of July 30, 1968. Material on the cover page is not included such as on post office, Ray sending a locksmith-course check on March 28, airline checks, etc.

4987. Everything obliterated in this serial has been released many times. This is also true of all relating to Raymond Curtis in 4983 above. There when it was written back in sometimes it is illegible. Curtis is on the second page of 4987, his name written back in.

4989 is a serial in which Scotland Yard approved giving its report to the prosecution for use in court. What Scotland Yard approved to be used in public court is here withheld and it is, as a matter of fact, throughout.

4993. The enclosure is missing. It is marked "UTL."

4994 is a two-page report of July 22, 1968, entirely withheld

5

19. Page 20-What is withheld has been released.
20. Page 15-Reference to Owens who was arrested with Ray-withheld.
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?
22. Page 71-Withheld name of the "cat man" who is dead. Place of birth, date of birth also withheld.
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).
24. 103 entire pages missing-no exemption.
25. Interviews of James Earl Ray's father, which conclude with a reference to the agents' explanations of the harboring statue. How can 7(C)(D) or B(3) apply.
26. Jump from 166 to 174-no exemption, no claim to any exemption. Refers to Jerry Raynes daughter Carol; son John and the people who bought St. Louis house.

5-31-77-

Harold enclosed worksheets for Section 62 to show the quality of xeroxing. After examination return to Jim, plus replacing of the worksheets of the last two batches.

2. Files loaned to the FBI 35 years ago, plot to overthrow the government. FBI said destroyed. Does not believe.
3. Name of prosecutor, and elected public officials withheld. Mentioned only in terms of office they were elected to. No basis for withholding.
4. Section 63, Serial 4675-Long interview with Benny Edmondson.
5. Serial 4794-Withholding relating to Raymond Curtis.
6. Serial 4826.
7. Section 64-Withholding Raymond Curtis's name. Name released in earlier serials.

8. Serial 4845-Names of Bureau of Prison officials not masked in this serial, masked in earlier serials. Public domain.
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.
10. Section 65, Serial 4851-Obliterates the number of the advertised temporary post office box the Ray brothers took for fund solicitations.
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.
12. Serial 4859 and later serials withhold the name of the late Willie Somerset. Publications in 1967, 1971. No question of privacy and there is no secret source.
13. Serial 4874-Withholds the names of Ray's guards. All in court records.
14. Section 66, Serials 4902, 4928-Same withholding.
15. Serial 4886-Withholding of what was supplied by the RCMP. Was to be available for expected trial. 7(C)(D) invoked.
16. Serial 4890, 4892, 4898-7(C)(D)-withholding related to internal bickering not justified.
17. Section 66, all of Serial 4919 withheld. No exemption claimed. What has been written under "remarks" is erased.
18. Serial 4960, although worksheets indicate no withholding, there is withholding.
19. Serial 4982- Missing attachments. Final Scotland Yard report on Ray's activities in Britain. Violation of Ray's rights. Embarrasment no exemption.
20. Section 67-Cover page is missing.
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.

1 Plaintiff will forego completely the filing of said motion;
2 that plaintiff will hold in abeyance objections to specific
3 deletions until the target dates specified above have passed,
4 with the clear understanding of both parties that plaintiff
5 has not waived his right to contest specific deletions after
6 the passing of these dates.

7 MR. LESAR: It says not a word about foregoing any-
8 thing by way of documents in other files. It limited itself
9 solely to the question of the Vaughn v. Rosen motion and, in
10 addition, they did not meet the terms of the agreement.

11 They did not provide work sheets for all the field
12 office files, they did not make periodic deliveries. Instead,
13 they waited until the day before the deadline and dumped 6,000
14 pages of documents on Mr. Weisberg's doorstep in a box too
15 heavy for him to lift.

16 And, also, I think that there are probably other
17 problems with the stipulation. Obviously, if we now know that
18 they did not provide all the documents in the Atlanta Field
19 Office that they should have, and we now know that the work
20 sheets make no reference to -- and we were not provided with --
21 25 pages of some Atlanta Police Department records, then they
22 did not comply with it in that sense either.

23 So I think it's perfectly clear that, one, the stipu-
24 lations do not cover what the defendant is trying to make it
25 cover; and, secondly, that they did not meet their obligations

1 under the stipulations.

2 THE COURT: I expect we don't want to lose this
3 copy.

4 MISS GINSBERG: The Court can keep that.

5 THE COURT: You have another one?

6 MISS GINSBERG: Yes.

7 THE COURT: We had better start making a new file.

8 MISS GINSBERG: I simply can't allow Mr. Lesar to
9 continue with these kinds of misrepresentations that he is
10 making. And I am afraid I have to burden the Court with another
11 piece of paper.

12 This is a copy of the letter that Mr. Shea sent to
13 Mr. Lesar and the Court will see on this chart that since the
14 filing of the stipulation, rather than dumping 6,000 pages of
15 documents, periodic releases were made, beginning with
16 August 19 and August 30, then September 15 and September 29,
17 October had several releases, ending with October 26, 1977.

18 The stipulation called for the processing to be com-
19 pleted on November 1st. This shows that at least that that
20 portion of the stipulation was complied with.

21 MR. LESAR: Your Honor, our understanding was quite
22 clear that they were going to process each of the files and
23 give them to Mr. Weisberg in manageable segments. That's why
24 we had the provision in there that they would be delivered to
25 him as they were processed. They were not.

December 23, 1975

FREEDOM OF INFORMATION REQUEST

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

Dear Mr. Tyler:

On behalf of Mr. Harold Weisberg, I am requesting that you grant him access to the following records pertaining to the assassination of Dr. Martin Luther King, Jr.:

1. All receipts for any letters, cables, documents, reports, memorandums, or other communications in any form whatsoever.
2. All receipts for any items of physical evidence.
3. All reports or memorandums on the results of any tests performed on any item of evidence, including any comparisons normally made in the investigation of a crime.
4. All reports or memorandums on any fingerprints found at the scene of the crime or on any item allegedly related to the crime. This is meant to include, for example, any fingerprints found in or on the white Mustang abandoned in Atlanta, in any room allegedly used or rented by James Earl Ray, and on any registration card. It should also include all fingerprints found on any item considered as evidence in the assassination of Dr. Martin Luther King, Jr.
5. Any taxicab log or manifest of Memphis cab driver James McCraw or the cab company for which he worked.
6. Any tape or transcript of the radio logs of the Memphis Police Department or the Shelby County Sheriff's Office for April 4, 1968.
7. All correspondence and records of other communications exchanged between the Department of Justice or any division thereof and:

E. A. Ashley, Jr.
Harry S. Avery

James G. Beasley
 Clay Blair
 David Calcutt
 Phil M. Canale
 John Carlisle
 Robert K. Dwyer
 Gov. Buford Ellington
 Michael Eugene
 Percy Foreman
 Gerold Frank
 Roger Frisby
 Arthur Hanes, Jr.
 Arthur Hanes, Sr.
 W. Henry Haile
 William J. Haynes, Jr.
 Robert W. Hill, Jr.
 William Bradford Huie
 George McMillan
 William N. Morris
 Jeremiah O'Leary
 David M. Pack
 Lloyd A. Rhodes
 J. B. Stoner
 Hugh Stoner, Jr.
 Hugh Stoner, Sr.

8. All correspondence or records of other communications pertaining to the guilty plea of James Earl Ray exchanged between the Department of Justice or any division thereof and:

Rev. Ralph Abernathy
 Rev. James Bevel
 Rev. Jesse Jackson
 Mrs. Coretta King
 Rev. Samuel B. Kyles
 Rev. Andrew Young
 Harry Wachtel

9. All notes or memorandums pertaining to any letter, cable, or other written communication from or on behalf of the District Attorney General of Shelby County, Tennessee, or the Attorney General of Tennessee to the Department of Justice or any division thereof.

10. All notes or memorandums pertaining to any telephonic or verbal communications from or on behalf of the District Attorney General of Shelby County, Tennessee, or the Attorney General of Tennessee to the Department of Justice or any division thereof.

11. All tape recordings and all logs, transcripts, notes, reports, memorandums or any other written record of or reflecting any surveillance of any kind whatsoever of the following persons:

Judge Preston Battle
 Wayne Chastain
 Bernard Fensterwald
 Percy Foreman
 Gerold Frank
 Arthur Hanes, Jr.
 Arthur Hanes, Sr.
 Renfro Hays
 Robert W. Hill, Jr.
 William Bradford Huie
 James H. Lesar
 Robert I. Livingston
 George McMillan
 Judge Robert McRae, Jr.
 Albert Pepper
 Carol Pepper
 James Earl Ray
 Jerry Ray
 John Ray
 Richard J. Ryan
 J. B. Stoner
 Russell X. Thompson
 Harold Weisberg

This is meant to include not only physical shadowing but also mail covers, mail interception, interception by any telephonic, electronic, mechanical or other means, as well as conversations with third persons and the use of informants.

12. All tape recordings and all logs, transcripts, notes, reports, memorandums of any other written record of or reflecting any surveillance of any kind whatsoever on the Committee to Investigate Assassinations (CTIA) or any person associated with it in any way.

This is meant to include not only physical shadowing but also mail covers, mail interception, interception by any telephonic, electronic, mechanical or other means, as well as conversations with third persons and the use of informants.

13. All records pertaining to any alleged or contemplated witness, including any statements, transcripts, reports, or memorandums from any source whatsoever.

14. All correspondence of the following persons, regardless of origin or however obtained:

Bernard Fensterwald
Percy Foreman
Robert W. Hill
William Bradford Huie
James H. Lesar
Albert Pepper
Carol Pepper
James Earl Ray
Jerry Ray
John Ray
J. B. Stoner
Harold Weisberg

15. All letters, cables, reports, memorandums, or any other form of communication concerning the proposed guilty plea of James Earl Ray.

16. All records of any information request or inquiry from, or any contact by, any member or representative of the news media pertaining to the assassination of Dr. Martin Luther King, Jr. since April 15, 1975.

17. All notes, memoranda, correspondence or investigative reports constituting or pertaining to any re-investigation or attempted re-investigation of the assassination of Dr. King undertaken in 1969 or anytime thereafter, and all documents setting forth the reasons or guidelines for any such re-investigation.

18. Any and all records pertaining to the New Rebel Motel and the DeSoto Motel.

19. Any records pertaining to James Earl Ray's eyesight.

20. Any records made available to any writer or news reporter which have not been made available to Mr. Harold Weisberg.

21. Any index or table of contents to the 96 volumes of evidence on the assassination of Dr. King.

22. A list of all evidence conveyed to or from the FBI by any legal authority, whether state, local, or federal.

23. All reports, notes, correspondence, or memorandums pertaining to any effort by the Department of Justice to expedite the transcript of the evidentiary hearing held in October, 1974, on James Earl Ray's petition for a writ of habeas corpus.

24. All reports, notes, or memorandums on information contained in any tape recording delivered or made available to the FBI or the District Attorney General of Shelby County by anyone whomsoever. All correspondence engaged in with respect to any investigation which was made of the information contained in any of the foregoing.

25. All records of any contact, direct or indirect, by the FBI, any other police or law enforcement officials, or their informants, with the Memphis group of young black radicals known as The Invaders.

26. All records of any surveillance of any kind of The Invaders or any member or associate of that organization. This is meant to include not only physical shadowing but also mail covers, mail interception, interception by telephonic, electronic, mechanical or other means, as well as conversations with third persons and the use of informants.

27. All records of any surveillance of any kind of any of the unions involved in or associated with the garbage strike in Memphis or any employees or officials of said unions. This is meant to include not only physical shadowing but also mail covers, mail interception, interception by any telephonic, electronic, mechanical or other means, as well as conversations with third persons and the use of informants.

28. All records containing information which exculpates or tends to exculpate James Earl Ray of the crime which he allegedly committed.

This request for disclosure is made under the Freedom of Information Act, 5 U.S.C. §552, as amended by Public Law 93-502, 89 Stat. 1561.

Sincerely yours,

Jim Lesar

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,

Plaintiff,

v.

CIVIL NO. 75-1996

U.S. DEPARTMENT OF JUSTICE,

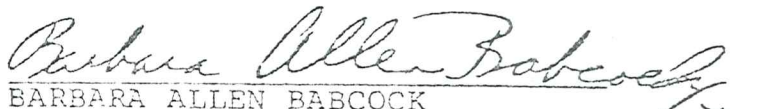
Defendant.

MOTION TO STRIKE


Defendant, by its undersigned attorneys, hereby move the Court to strike, from the Official Transcript of the hearing held on September 14, 1978, before the Honorable June L. Green, page 8, lines 5 through 18, inclusive, and that part of the hearing which resulted from plaintiff's counsel's remarks on the grounds that this portion of the transcript is impertinent, scandalous, and immaterial.

In support of this motion, the Court is respectfully referred to defendant's Memorandum In Support Of Its Motion To Strike, attached hereto.

Respectfully submitted,


BARBARA ALLEN BABCOCK
Assistant Attorney General

EARL J. SILBERT
United States Attorney


LYNNE K. ZUSMAN


BETSY GINSBERG

Attorneys, Department of Justice
10th and Pennsylvania Avenue, N.W.
Washington, D. C. 20530
Tel: 739-2240

Attorneys for Defendant

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,

Plaintiff

v.

CIVIL NO. 75-1996

U.S. DEPARTMENT OF JUSTICE,

Defendant.

DEFENDANT'S MEMORANDUM IN SUPPORT
OF ITS MOTION TO STRIKE

Defendant has moved the Court to strike, from the Official Transcript of a hearing held on September 14, 1978, in connection with this litigation, certain statements made by plaintiff's counsel. ^{1/} To the extent that these statements can be interpreted as a personal attack on one of defendant FBI's agents, the remarks were inappropriate and misleading insofar as no evidence has been adduced to show that the agent in question has performed his tasks in connection with this litigation in anything but a professional, diligent, and upstanding manner. Therefore, the remarks of plaintiff's counsel should be struck from the record. ^{2/}

To the extent that the Court has concluded, on the basis of plaintiff's counsel's misleading remarks, that the affidavits filed with the Court "appear to be obstructionist," defendant respectfully requests the Court to reconsider its statements. ^{3/} Whether or not the affidavits have been adequate

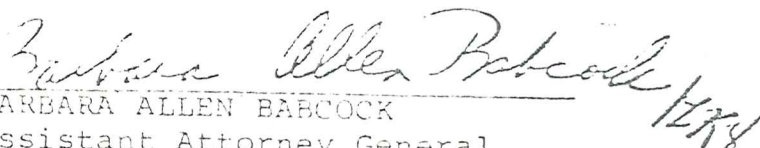
^{1/} Defendant seeks to strike lines 5 through 18, inclusive, on page 8 of the transcript.

^{2/} If plaintiff's counsel's remarks are struck, defendant submits that the remarks of its counsel, insofar as they identify the agent in question, should also be struck. See, Official Transcript, page 9, line 5.

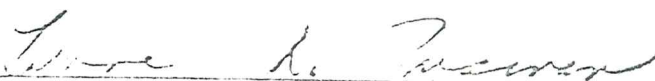
^{3/} See, Official Transcript, page 9, lines 17 to 19, inclusive. Defendants do not, of course, agree that the affidavits "appear to be obstructionist."

to date is, at this time, largely a moot issue since the substantive issues in the case are currently the subject of a second administrative review. Therefore, further affidavits as required will be generated in the Office of Privacy and Information Appeals, Department of Justice.

Respectfully submitted,


BARBARA ALLEN BABCOCK
Assistant Attorney General

EARL J. SILBERT
United States Attorney


LYNNE K. ZUSMAN


BETSY GINSBERG

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10th and Pennsylvania Avenue, N.W.
Washington, D. C. 20530
Tel: 739-2240

Attorneys for Defendant

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,

Plaintiff

v.

CIVIL NO. 75-1996

U.S. DEPARTMENT OF JUSTICE,

Defendant.

ORDER

This action having come before the Court on defendant's Motion to Strike, plaintiff's Opposition thereto, the representations of counsel, and for good cause shown, it is this _____ day of _____, 1978 hereby

ORDERED, that defendant's Motion should and hereby is granted; and it is

FURTHER ORDERED, that the following be stricken from the official transcript of the hearing held on September 14, 1978:

1. page 8, lines 5 through 18, inclusive.
2. page 9, line 5, the name of the agent.
3. page 9, lines 13 through 19, inclusive.

UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Strike and supporting memorandum has been served upon plaintiff's counsel, postage prepaid, this 27th day of September, 1978 as follows:

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

Betsy Ginsberg
BETSY GINSBERG

IV

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APPENDIX

STATUTE

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¹ Numbers in *italics* indicate page where exhibit first is referred to in the hearing text. Numbers in *roman* type indicate page where exhibit appears

JUSTICE I
Exhibit 2: Attorney General Freedom of Information Act (b) (4) EX
Thur
ADDITIONAL MAT
Exhibit 3: Excerpt from fine drug regulation
Exhibit 4: Excerpt from Consumer Substances Statute
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Senator ABOUREZK. I welcome you both to the committee hearings. Please proceed.

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

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

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

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

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

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

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

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

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

² See pp. 783, 784 of the appendix.

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

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

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

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

Thank you.

Senator ABOUREZK. Thank you.

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

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

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

So, that was our position.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CA 75-1996
EXHIBIT 16

HC0375 0048254

RR AFD

OS HC

JGPN00Z JAN 77

FM DIRECTOR (62-117290)

TO ALL SACS ROUTINE

CLEAN

HOUSE SELECT COMMITTEE ON ASSASSINATIONS

REFERENCED BUREAU TELETYPE NOVEMBER 24, 1976.

REFERENCED BUREAU TELETYPE SET FORTH THE FACT THAT THE HOUSE SELECT COMMITTEE ON ASSASSINATIONS (HSC) HAS BEEN ESTABLISHED BY THE SEVENTY-FOURTH CONGRESS TO INVESTIGATE THE DEATHS OF JOHN F. KENNEDY AND MARTIN LUTHER KING, JR.

IN CONNECTION WITH THE HSC INVESTIGATION THE UNITED STATES DEPARTMENT OF JUSTICE HAS INSTRUCTED THE BUREAU TO MAKE AVAILABLE FOR REVIEW BY THE HSC STAFF IN OCTOBER 1977, ALL INFORMATION REGARDING THE JOHN F. KENNEDY ASSASSINATION AND MARTIN LUTHER KING, JR., ASSASSINATION AS WELL AS CLOSELY RELATED CASES.

IN ORDER TO PREPARE FOR THE HSC REVIEW, YOU ARE REQUESTED

89-43-9952
JAN 5 1977
FBI - DALLAS

104

PAGE TWO (KCF-117250) CLEAR

TO PREPARE AN INVENTORY OF ALL MATERIALS AVAILABLE IN YOUR OFFICE REGARDING THE CASES SET FORTH BELOW. IT IS NOTED THAT BUREAU TELETYPE DATED DECEMBER 9, 1975, TITLED "MARTIN LUTHER KING, JR., BUREAU FILE 100-136670, YOU WERE REQUESTED TO INVENTORY ALL PERTINENT MATERIAL RELATIVE TO THE MARTIN LUTHER KING, JR., ASSASSINATION. IT IS, THEREFORE, NOT NECESSARY FOR FIELD OFFICES AND LEGATS TO REINVENTORY THAT MATERIAL AT THIS TIME. FILES TO BE INCLUDED IN YOUR CURRENT INVENTORY ARE:

(1) THE ASSASSINATION OF PRESIDENT JOHN F. KENNEDY
NOVEMBER 22, 1963

OO: DALLAS

BUREAU FILE 62-132069

(2) LEE HARVEY OSWALD

IS - R - CUBA

OO: DALLAS

BUREAU FILE 100-82555

(3) MARILYN N. OSWALD

IS - R -

SOPIC

BUREAU FILE 100-106432

(4) JACK RUEY

LEE HARVEY OSWALD - VICTIM

CIVIL RIGHTS

BUREAU FILE 44-24016

PAGE THREE (02-117290) CLEAR

(5) PRESIDENT'S COMMISSION ON THE ASSASSINATION OF
PRESIDENT KENNEDY (WARREN COMMISSION)

BUREAU FILE 02-139696

IN PREPARING FIELD OFFICE INVENTORIES FOR ALL MAIN
FILES RELATING TO ABOVE, THE FOLLOWING SPECIFIC ITEMS MUST
BE INCLUDED: (A) FIELD OFFICE FILE NUMBER, INCLUDING OFFICE
SYMBOL; (B) TITLE AND CHARACTER OF FILE; (C) VERY BRIEF
DESCRIPTION OF FILE CONTENTS, INCLUDING WHETHER IT CONTAINS
ANY TAPES, ELECTRONIC SURVEILLANCE LOGS AND/OR TRANSCRIPTS,
PHOTOGRAPHS, BULKY EXHIBITS AND ANY OTHER SIMILAR MATERIAL
WHICH IS IN ADDITION TO ROUTINE CORRESPONDENCE. IF ANY OF
THE ABOVE (TAPES, ETC.) IS NOTED, VERY BRIEFLY DESCRIBE.
INCLUDE STATEMENT DESCRIBING ALL SID FILES RELATING TO THE
MAIN FILE; (D) ACCOUNT FOR SIZE/SCOPE OF FILE AND RELATED
MATTERS. FOR EXAMPLE, INDICATE NUMBERS OF SECTIONS AND
SERIALS IN FILE; VOLUME OF LOGS/TRANSCRIPTS AND BULKY
EXHIBITS; ETC.

IT IS FURTHER NOTED THAT IN REFERENCED BUREAU TELETYPE
OF NOVEMBER 24, 1976, YOU WERE REMINDED OF THE FACT THAT
RECORDS POSSIBLY EVIDENTIARY, INTELLIGENCE OR HISTORICAL

3
3
PAGE FOUR (69-117090) CLEAR

VALUE SUCH AS THE KENNEDY AND KING ASSASSINATION INVESTIGATIONS ARE EXCLUDED FROM OUR DESTRUCTION OF FILES AND RECORDS PROGRAM AND SHOULD NOT BE DESTROYED.

YOU ARE, THEREFORE, INSTRUCTED TO REPLY BY TELETYPE SETTING FORTH YOUR INVENTORY REGARDING THE ABOVE LISTED JOHN F. KENNEDY ASSASSINATION FILES. IN ADDITION, YOU ARE REQUESTED TO ADVISE WHETHER ANY MATERIAL RELATIVE TO J. EDGAR HOOVER, KING, JOHN ASSASSINATION (MURKIN) AND THE ABOVE LISTED FILES RELATED TO THE JOHN F. KENNEDY ASSASSINATION MAY HAVE BEEN DESTROYED UNDER THE DESTRUCTION OF FILES AND RECORDS PROGRAM. IF SO, INCLUDE A LISTING OF SAID FILES. THE HANDLING OF THIS MATTER MUST BE UNDERTAKEN IMMEDIATELY AND GIVEN THE HIGHEST PRIORITY. ROUTE YOUR RESULTS ATTENTION GENERAL INVESTIGATIVE DIVISION, CIVIL RIGHTS SECTION, CONGRESSIONAL IDENTITY UNIT. ALL LEGATS ADVISED SEPARATELY.



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
RECORDS MANAGEMENT DIVISION
FOI/PA BRANCH
REGISTERED

SEP 29 1977

Subject of Request: Assassination of
Dr. Martin Luther King, Jr.

Mr. Harold Weisberg
Route 12
Frederick, Maryland 21701

Dear Requester:

Enclosed are copies of documents from our files. Exclusions have been made from these documents and/or entire documents withheld in order to protect materials which are exempted from disclosure by the following subsections of Title 5, United States Code, Section 552 and Section 552a. The exemption number (5) indicated by a mark appearing in the block to the left of the subsection cited constitutes the authority for withholding the deleted material. (See below and reverse side of this sheet for an explanation of these exemptions.)

Section 552

- (b) (1)
- (b) (2)
- (b) (3)
- (b) (4)
- (b) (5)
- (b) (6)

- (b) (7) (A)
- (b) (7) (B)
- (b) (7) (C)
- (b) (7) (D)
- (b) (7) (E)
- (b) (7) (F)
- (b) (8)
- (b) (9)

Section 552a

- (d) (5)
- (j) (2)
- (k) (1)
- (k) (2)
- (k) (3)
- (k) (4)
- (k) (5)
- (k) (6)
- (k) (7)

The decision to withhold exempt portions of our records is the responsibility of Clarence M. Kelley, Director of the FBI.

If you believe your name may also have been recorded by the FBI incident to the investigation of other persons or some organization, please advise us of the details describing the specific incident or occurrence and time frame. Thereafter, further effort will be made to locate, retrieve and process any such records.

Your request for information concerning yourself has been considered in light of the provisions of both the Freedom of Information Act (FOIA) (Title 5, United States Code, Section 552) and the Privacy Act of 1974 (Title 5, United States Code, Section 552a). It has been determined by the Attorney General that requests by individuals seeking information about themselves are governed by the Privacy Act. In addition, as a matter of administrative discretion, any documents which were found to be exempt from disclosure under the Privacy Act were also processed under the provisions of the FOIA. Through these procedures, you have received the greatest degree of access authorized by both laws.

You have thirty days from receipt of this letter to appeal to the Deputy Attorney General from any denial contained herein. Appeals should be directed in writing to the Deputy Attorney General (Attention: Office of Privacy and Information Appeals), Washington, D. C. 20530. The envelope and the letter should be clearly marked "Freedom of Information Appeal" or "Information Appeal."

See additional information on continuation page.

Enclosures (21)

James M. Powers, Chief
Freedom of Information-Privacy Acts Branch
Records Management Division

Mr. Harold Weisberg

This release is comprised of documents from the Memphis Field Office Murkin file and completes the processing of all Memphis Field Office files pertinent to your request. Various other field office files pertaining to the subject of your request are currently being processed.

Documents currently being released consist of 6,293 pages. Pursuant to the \$.08 per page duplication fee as established by the Department of Justice the amount due for this material is \$377.58. Please remit a check in the amount of \$377.58 made payable to the Federal Bureau of Investigation in payment of these fees.

The documents included in this release have been reviewed on appeal by the Department of Justice Attorney Doug Mitchell.

Your patience and cooperation are appreciated.

J. John Hartingh
FBI- FOIA/PA Unit
J. Edgar Hoover Bldg.
Washington, D.C.

10/6/77

Dear John,

When he has time Jim will be making formal complaints about the last batch of records provided in C.A. 75-1996. I have written him about these complaints.

I will mention a few because my purposes are compliance without stonewalling. But my immediate purpose is to ask how I can identify each of the bound volumes in this last batch, the second from the Memphis files that according to the unsigned memo attached to the form letter signed by Powers represents what I very much doubt, full NFO compliance.

There seem to be duplicating identifications and serial numbers in the worksheets. There are, for the first time, multiple volumes put together as one volume, where the worksheets are not at the top and thus do not represent what is within each of these overlaid volumes. I have not disturbed the bindings in order not to disturb the arrangement within any one of them. However, they cannot be handled or studied as they are. All of this is more perplexing to me when on cursory examination I find in some cases that the last parts of some of these multiple volumes were processed prior to the first parts. Among the other introductions of confusion in the manner in which this was handled is the lack of subject distinction between Subs with and without letter identifications and the apparent absence of some letters within each lettered Sub.

If you would please provide me with some means of identifying each item within this large shipment of more than 6,000// pages I might be able to start going over some even in the confusing form in which they were delivered. Without some means of separation or identification use of these records becomes a practical impossibility.

Jim will be stating this in a more formal manner. Hence, then I want you to know that I regard all of this as a violation of the stipulation you asked for and I agreed to in an effort to obtain reasonable compliance with with various problems. On the face this violation appears to me to be deliberate. I regret feeling this way and in a way I regret ever feeling that there is abundant cause for the belief. If the word of the stipulations had been kept and the practices of the past, which go back to the FBI's pledge to the Court of more than a year ago had been met this and related problems would not now exist. One of the related problems, as you should have known, is the volume of this package.

You were supposed to provide copies as rapidly as processed. Instead you provided all at one time. This meant a package that neither my wife nor I could handle. You know enough about my medical condition, as does all of your team, to have known this. What I did not know when we were last in contact is that along with the vein problems I also have serious ones in the arteries. Without the latter a package of almost solid paper almost two feet in length is certainly of a weight considerable more than one of your age should know ought not be handled by one of my age. Even without medical and physical problems.

It happened that because you (plural) did not keep your word to "in on when these would be sent they came the first time I have been away since I last saw you except for medical treatment or examination. In that time I have not been more than five miles from home except on such occasions. With some rebuilding a short trip was possible. Whether or not the training and experience of FBI agents could include the absence of a man from the home, it worked out that my wife was alone when the postman came with this very heavy package. He was kind enough to carry it into the house. He put it down on the kitchen floor, where it had to remain, in my wife's way, until I returned. In order to get it out of the way I have to remove each volume separately. I had thought they would be in some kind of sequence but they were not. I did try to inventory them as I removed them but that, too, was impossible. I was able to measure the stacks as I removed them. You sent me about 31 inches of solid paper in one package.

Assuming what I do not assume, that none of these 6,000+ pages was ready until all were, I also do not assume that none of your people could not have thought of sending them in more than one package so we could at least lift and move them. However, if this was no more than thoughtlessness I resent it because it was in fact an abuse. I resent it even more because it became an entirely unnecessary abuse of my wife.

I have tried to be patient in all of this, even to be helpful despite an official record that in no way earned helpfulness. I have tried to be tolerant considering the heavy hand of the unyielding past that rests so heavily on so many down there. But there just is no willingness down there to even keep a word, not even on such simple things as when a package will be sent. Both of the last were well after "in ca." told to tell me what to expect them. I have not in any way tried to hurt the Bureau, despite its many fabrications along this line. You well know that twice, the second time through you, I let it know of the potential for embarrassment in its past. I refer to that wretched lie that I conspired with J.B. Steiner in 1969 to defame the Bureau. In fact I told DJ that there would in time be precisely those allegations about provocations by Bureau informants who would be alleged to be provocateurs. Long before I sent the records on this to you I knew of Haxley's non-secret investigations. Now there will be more on the provocations, and I know Steiner a source.

At some point and in some way this kind of official behavior has got to stop. I want you to know that I have raised this with "in and an, if he agrees, prepared to present it all to the Department, the Court or both. I also want you to know that I am prepared to establish under oath that there has not been compliance from the files from which there is claimed to have been compliance, something your team ought know very well. This non-compliance ranges from improper withholdings within individual records to the large-scale non-delivery of records known to have existed. It includes a refusal to provide what was proven to have been withheld improperly more than a year and a half ago.

In telling you this - and you should know how true it is without specific details - my purpose is to provide the Bureau with a last chance to comply without my having to seek relief elsewhere. If there is little if not nothing in this long record to justify the belief the Bureau has any willingness, I am giving it the chance.

Sincerely,

Harold Weisberg

67 FBI Referrals to:

Agency	Number Referred	% of Total	Before 6/77	After 6/77	Before 6/8/78		Released After 6/8/78		Total Released		Denials %			
					%	%	%	%						
DJ	22	32.8	15	7	1	4.5	21	95.5	-	22	100.0			
CIA	8	11.9	7	1			8	100.0		8	100.0			
State	24	35.8		24	1			4.2	23	95.8	24	100.0		
NSA	2	3.0		2			2	100.0		2	100.0			
ATF	1	1.5		1			1	100.0		1	100.0			
Army	3	4.5	2	1	3	100.0				3	100.0			
B.Pr.	2	3.0		2	2	100.0				2	100.0			
IRS	4	6.0		4	2	50.0				2	50.0			
AF	1	1.5		1					1	100.0	2	25.0		
	67	100.0	24	43	9	13.4	32	47.2	24	35.8	65	47.0	2	3.0

Elapsed Time by Agency

DJ	1 mo.	1
	10 "	8
	15 "	13
		<u>22</u>
*CIA	9 mo.	1
	15 "	7
		<u>8</u>
State	1 mo.	1
	11 "	23
		<u>24</u>

NSA	10 mo.	2
Army	1 mo.	2
	2 "	1
		<u>3</u>
ATF	13 mo.	1
B.Pr.	9 mo.	2
IRS	2 mo.	1
	8 mo.	1
Denial	7 "	2
AF	10 mo.	1

Combined:

1 mo.	4	6.0
2 "	2	3.0
7 "	2	3.0
8 "	1	1.5
9 "	3	4.5
10 "	11	16.4
11 "	23	34.3
13 "	1	1.5
15 "	20	29.8
	<u>67</u>	<u>100.0</u>

* An additional 10 referred for direct response

U. A. 75-1996
 EXHIBIT 19

WORK SHEET - XEROX REQUEST

SUBJECT - *Martin Luther King Jr.*
 FILE # - *Martin*

ANALYST - *Hart*
 EXT - *5775*
 TEAM # - *C*

FILE #	SERIAL/ENC OR DATE	DESCRIPTION	XEROX INSTR.	# OF ACT.	PAGES REL.	EXEMPTIONS											REMARKS		
						b1	2	5	7C	D	OTHER	k1	2	5	6	OTHER			
<i>44-38861</i>	<i>X</i>	<i>KANSAS CITY LETTER</i>		<i>2</i>	<i>1</i>														
	<i>Unrec'd Serial</i>	<i>LETTER TO KANSAS CITY</i>		<i>2</i>	<i>2</i>														
	<i>X1</i>	<i>KANSAS CITY REPORT</i>		<i>12</i>	<i>12</i>														
	<i>X2</i>	<i>KANSAS CITY REPORT</i>		<i>9</i>	<i>9</i>														
	<i>X3</i>	<i>KANSAS CITY REPORT</i>		<i>5</i>	<i>5</i>														
	<i>X4</i>	<i>KANSAS CITY LETTER</i>		<i>1</i>	<i>1</i>														
<i>42</i>	<i>X5</i>	<i>KANSAS CITY REPORT</i>		<i>12</i>	<i>12</i>														
	<i>9.91</i>																		

REMOVED BY _____ DATE _____ XEROXED BY _____ DATE _____ REFILED BY _____ DATE _____

*C. A. 75-1996
 EXHIBIT 20*

FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE ATLANTA	OFFICE OF ORIGIN ATLANTA	DATE 1/22/64	INVESTIGATIVE PERIOD 1/12 - 14/64
TITLE OF CASE JOSEPH ADAMS MILTRER		REPORT MADE BY <i>[Redacted]</i>	TYPE OF CASE SSSI
		CHARACTER OF CASE RACIAL MATTERS	7-d

*1/31/64
+2K*

REFERENCE: Bureau airtel to Atlanta, 12/12/63, entitled "Constitutional American Parties of the U. S. - RM."

ENCLOSURES: TO BUREAU

One photograph of subject.

LEADS:

BALTIMORE, BIRMINGHAM, DALLAS, HOUSTON, JACKSONVILLE, KNOXVILLE, SAVANNAH AND WASHINGTON FIELD OFFICE

One copy each of this report is being furnished the above offices inasmuch as MILTRER has visited or contacted persons living within these divisions.

APPROVED <i>[Signature]</i>	SPECIAL AGENT IN CHARGE	DO NOT WRITE IN SPACES BELOW	
COPIES MADE: 5 - Bureau (Enc. 1) 3 - Atlanta (150-608)		157-1223-3	REC 10
173 ADDITIONAL COPIES COVER PAGE B		JAN 24 1964	copies made
58 FEB 5 1964		For review at FBIHQ by RISC - [Signature]	
DISSEMINATION RECORD OF ATTACHED REPORT		NOTATIONS	
AGENCY	REQ. NO.	DATE FWD.	HOW FWD.
CAR-ES, 4-2, 55		2/13/64	RS

ENCLOSURE ATTACHED

1-4555
12/17/64
OH B/ [Signature]
STATE SECT. [Signature]

1 cc sent to Civil Div by 6-94 2/3/64 [Signature]

AT 157-608

Records of the [redacted] Police Department show MILTEER was arrested on January 29, 1955, on suspicion of burglary and was released. He was fingerprinted on January 29, 1955, by the [redacted] Georgia, Number 1133.

The Identification Division, on December 2, 1963, advised its records contained a duplicate of the above fingerprint card and has no additional identification record for MILTEER.

G. Employment

MILTEER has no known employment at the present time. [redacted] Georgia, advised MILTEER allegedly operated concessions in the vicinity of military reservations in the past. She could furnish no specific information concerning this employment.

Confidential Informant, AT T-2, on November 9, 1963, advised MILTEER claimed to have been employed for three and one-half years around the United States Supreme Court, Washington, D. C. T-2 could furnish no specific information concerning this alleged employment.

[redacted] Valdosta, Georgia, on January 7, 1964, advised that around 1962 J. P. COFIELD, Valdosta, Georgia, had a contract to haul mail from the Municipal Airport, Valdosta, Georgia, to the Valdosta Post Office. COFIELD was ill for two or three months during 1962 and had MILTEER substitute for him in hauling the above mail. COFIELD no longer has the above contract.

H. Residence

1. Corner of Clay and Lafayette Streets,
Quitman, Georgia
2. In care of Mrs. C. C. COFIELD
212 South Troupe Street
Valdosta, Georgia

AT 157-608

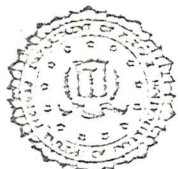
CONFIDENTIAL

National Chairman, Constitution Party of the United States, as stating that several hundred representatives at the above meeting indicated that they would prefer United States Senator BARRY M. GOLDWATER for their Presidential nominee. A movement against STROM THURMOND appeared when the National Committee started a move to kick out J. A. MILTEER, Quitman, Georgia, for declaring himself Regional Chairman for THURMOND in the Southeastern states. MILTEER had driven a truck plastered with signs advocating the nomination of THURMOND from Georgia. He spoke freely to the press. This rankled Colonel DALL, who considers himself spokesman.

After the threat to expel MILTEER from the party, an executive committee was held. This committee meeting was attended by MILTEER. At the conclusion of the meeting MILTEER said that [redacted] and the Executive Committee informed him that he could stay within party ranks but he would have to confine his activity to the State of Georgia. [redacted] said that MILTEER was dejected and disgusted with the above meeting of the Constitution Party of the United States.

Confidential Informant T-2, on November 9, 1963, advised that MILTEER visited Miami, Florida, on that date. While in Miami, MILTEER advised that plans were in the making to kill President JOHN F. KENNEDY at some future date. MILTEER suggested JACK BROWN, Chattanooga, Tennessee, as the man who could do the job and indicated that he would be willing to help. While being questioned concerning the plan, MILTEER stated he was familiar with Washington and the job could be done from an office or hotel in the vicinity of the White House by using a high powered rifle. MILTEER also advised that JACK BROWN had made attempts to follow MARTIN LUTHER KING in an effort to kill KING but never did get an opportunity.

T-2, on November 12, 1963, advised MILTEER is forming a new political party as opposed to the Republican and Democratic Parties. MILTEER suggested that he is naming his new party the "American Constitutional Party" or a name similar to this. This organization will be composed of a hard core underground whose identity will be secret. [redacted] Anniston, Alabama, and [redacted] Tennessee, are to be invited to join as underground members. The organization will be used as a front and the only individual to be exposed will be MILTEER.



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to
File No.

Atlanta, Georgia
January 22, 1964

Title Joseph Adams Milteer

Character

Reference Report of Special Agent [redacted]
[redacted] January 22, 1964, at
Atlanta, Georgia.

All sources (except any listed below) whose identities are concealed in referenced communication have furnished reliable information in the past.

T-2, WILLIAM SOMERSETT, [redacted]
is a source who has furnished reliable information in the past and has furnished some information that could not be verified or corroborated.

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

FD-36 (Rev. 7-27-75)

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- Airtel

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- E F T O
- CLEAR

Date 5/31/77

TO: DIRECTOR, FBI (62-117290)
 FROM: SAC, MIAMI (62-6603) (C)
 SUBJECT: HOUSE SELECT COMMITTEE ON ASSASSINATIONS

Re Bureau telephone call to Miami, 5/25/77, requesting information as to whether or not Miami file concerning WILLIAM SOMERSETT, [redacted] indicates he has been publicly identified as a Bureau informant.

Enclosed for Bureau is a xerox copy of a memorandum to the SAC, 6/15/76, from Supervisor [redacted] containing information pertinent to this matter.

Additionally, review of Miami file regarding SOMERSETT reveals the following:

SOMERSETT's services as an informant were discontinued in 1961 at Bureau direction due to continuing evidence of indiscretion and use of poor judgment, as well as indications he was under suspicion as an informant by various state and union officials. Following his discontinuance, SOMERSETT was used as an informant by the Miami Police Department for several years, during which time he maintained periodic contact by telephone with SA [redacted] of this office, furnishing unsolicited information concerning local activities of interest to the Bureau. His contacts with this office were in no way encouraged.

According to SA [redacted] who was also in regular contact with the Miami Police Department during this time, the local police were well aware of SOMERSETT's former association with the Bureau as an informant, obviously due to his having revealed his past activities on behalf of the Bureau. The

ENCLOSURE
 2-Bureau (Enc. 1)
 2-Miami (62-6603)
 (4)

NOT RECORDED
 47 JUN 20 1977

ORIGINAL FILED IN 66-11451

70 JUN 20 1977

Approved: _____ Transmitted _____ (Number) _____ (Time) Per _____

MM 62-6603

local officers alluded to SOMERSETT's past role as an FBI informant as a matter of established fact and under the circumstances SA [redacted] saw no reason to deny it although the direct question was never raised.

As the Bureau is aware, in 1964 SOMERSETT related in great detail to former Florida Governor LEROY COLLINS his past activities as an FBI informant from 1947 to 1961, as well as his continuing voluntary contacts with the Miami Office. Additionally, he revealed his status as a source for the Miami Police Department and the Florida State Attorney's Office.

While SOMERSETT's identity as a former informant has not been publicly disclosed by the Bureau, it would appear from the above that SOMERSETT himself has revealed his past relationship to the extent that it is widely known, particularly in official circles, and Bureau should no longer attempt to conceal his past Bureau association.

FD-35 (Rev. 5-22-64)

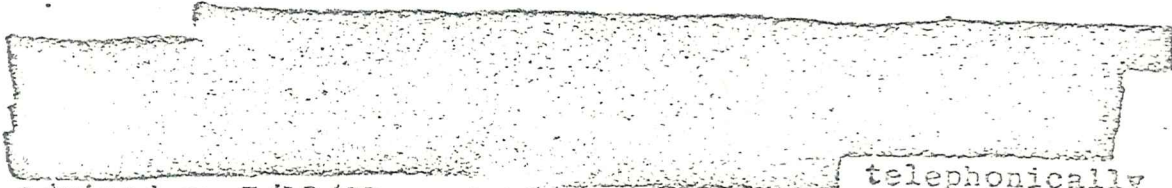
FBI

Date: 7/15/68

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

Via AIRTEL _____
(Priority)

TO: DIRECTOR, FBI (44-38861)
FROM: SAC, MIAMI (44-1554) (P)
SUBJECT: MURKIN



_____ telephonically advised on 7/12/68 as follows:

Since the assassination of Dr. MARTIN LUTHER KING, JR., he has made trips to Atlanta, Ga. and Memphis, Tenn. at the request and expense of the Florida State Attorney's Office and the Miami, Florida Police Department. He indicated the purpose of these trips was to try and develop information relative to the assassination of Doctor KING and other information relating to the National States Rights Party. He did not elaborate on his assignments nor did he indicate he had developed any unusual or pertinent information. He reportedly was in contact with witnesses involved in the KING case and based on information heard on the "street," it was said that the chauffeur of Doctor KING was suspected of "setting up Doctor KING for the assassination." _____ was unable to identify source of this information.

It is not known why the Florida State Attorney's Office or the Miami Police Department would have _____

- ① - Bureau (1 - 66-15458) (SO) (Info)
- 2 - Memphis (44-1987)
- 1 - Atlanta (44-2386) (Info)
- 2 - Miami (1 - 170-1)

LOP:vva
(9)

REC-63 44-1554-11
15 JUL 17 1968
REC'D CIVIL RIGHTS
Bishop

JUL 18 1968
Approved: AA7 me
Special Agent in Charge

Sent _____ M Per _____

MEM 44-1854

make trips to Atlanta, Ga. and Memphis, Tenn. except for possibly some sensational information that would afford them nationwide publicity.

The above is being furnished to the Bureau, Atlanta and Memphis for information and to be aware of the fact that [redacted] has been in Atlanta and Memphis regarding the KING case.

FD-36 (Rev. 7-27-76)

FBI

TRANSMIT VIA:

- Teletype
- Facsimile
- Airtel

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

- TOP SECRET
- SECRET
- CONFIDENTIAL
- E F T O
- CLEAR

Date 5/31/77

TO: DIRECTOR, FBI (62-117290)

FROM: SAC, MIAMI (62-6603) (C)

SUBJECT: HOUSE SELECT COMMITTEE ON ASSASSINATIONS

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ORIGINAL FILED IN 62-117290-110

ENCLOSURE
 2-Bureau (Enc. 1)
 2-Miami (62-6603)

NOT RECORDED
 47 JUN 20 1977

70 JUN 2 1977

Approved: _____ Transmitted _____ Per _____

MM 62-6603

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