

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 75-1996
)	
U. S. DEPARTMENT OF JUSTICE, et al.)	
)	
Defendants.)	
)	

AFFIDAVIT OF
DOUGLAS F. MITCHELL

I, Douglas F. Mitchell, being duly sworn, do hereby depose and state as follows:

1. I am an Attorney-Advisor in the Office of Privacy and Information Appeals, Office of the Associate Attorney General, United States Department of Justice. The statements made herein are based on personal knowledge obtained in the course of carrying out my official duties.

2. Since September 1976, I have been directly responsible for the supervision of the administrative appeal(s) growing out of the Freedom of Information Act request of Mr. Harold Weisberg for access to Federal Bureau of Investigation (F.B.I.) records pertaining to the assassination of Dr. Martin Luther King, Jr. Since July 1978, this has involved my working on an extensive and comprehensive review of records, initially suggested by the court and thereafter requested by counsel for the plaintiff in this case. During this entire period of more than two years I have personally reviewed records which appeared on their face to be from, and which Special Agents John Hartingh and Ralph Harp represented to me as coming from the following files:

<u>ORIGINATION</u>	<u>SUBJECT</u>	<u>FILE NO.</u>
HQ	Murkin	44-38861
HQ	Invaders	157-8460 & Misc. Refs.
HQ	Memphis Sanitation Workers Strike	157-9146 & Misc. Refs.

<u>ORIGINATION</u>	<u>SUBJECT</u>	<u>FILE NO.</u>
HQ	Committee to Investigate Assassinations	62-112697 & Misc. Refs.
HQ	James Earl Ray	9-48408 & Misc. Refs.
HQ	Judge Preston Battle	9-48367 & Misc. Refs.
HQ	James H. Lesar	9-59757 & Misc. Refs.
Memphis	Murkin	44-1987
Memphis	James Earl Ray	88-10052
Memphis	Memphis Sanitation Workers Strike	157-1092
Memphis	Invaders	157-1067
Memphis	Murkin	44-1987
Los Angeles	Murkin	44-1574
Atlanta	Murkin	44-2386 157-3094
Birmingham	Murkin	44-1740
New Orleans	Murkin	157-10673
Chicago)) St. Louis))	Murkin Files as Related to Carol & Albert Pepper; and to John, Jerry & James Earl Ray	44-1114 44-775
Wash. (F.O.)	Murkin	44-703

3. During the course of the initial processing of Mr. Weisberg's request by the F.B.I., approximately four hundred pages of records from the Headquarters Murkin file were processed each week, with releases being made periodically to Mr. Weisberg. For purposes of the initial administrative review in this case, I reviewed the materials proposed for release prior to their actual release to Mr. Weisberg. The same procedure was followed in processing the remaining Headquarters files listed above, and in processing the records of each of the F.B.I. field offices listed above.

4. In accordance with customary Appeals Office practice, I did not physically review each and every page of records contained in the files listed above. I did, however, review sufficient

portions of the records contained in each such file to enable me to conclude that the records had been processed in substantial compliance with applicable law and Department policies. Messrs. Hartingh and Harp stated to me that these were all of the records they believed were required to be processed under the terms of the stipulation agreement executed in this case on August 5, 1977.

5. I have also personally surveyed the filing cabinets maintained by the F.B.I. and containing the materials processed by it in this case. These cabinets contain records, in both processed and unprocessed form, which are purported to be from the files listed above. At no point have I encountered any indication that these do not in fact constitute all records from the files enumerated in paragraph 2 of this Affidavit, except as indicated below and in the attachments to this Affidavit.

6. In November 1975, the Department of Justice undertook an inquiry into all F.B.I. actions with respect to Dr. King. Pursuant to that inquiry, on December 9, 1975, all field offices, including Atlanta, Birmingham, Chicago, Los Angeles, Memphis, New Orleans, St. Louis and Washington, D. C., were instructed to submit to Headquarters inventories of all main files pertaining to Dr. King, specifically including all those pertaining to his assassination. Then, on August 10, 1977, in an independent action resulting from this lawsuit, these same eight field offices were instructed by Headquarters to resubmit inventories of assassination files in accordance with the stipulation of August 5, 1977.

7. As instructed by Mr. Shea, I checked the two separate and independent inventories against each other, and then against the copies of the actual field office records transmitted to Headquarters pursuant to the instructions of August 10. From this check I have found that, insofar as it could be determined by this process, documents representing each of the files described by the eight field offices in the earlier inventories as concerning the assassination of Dr. King were in fact transmitted to Bureau Headquarters for processing pursuant to the August 10

instructions. Items of real -- that is, tangible -- evidence, such as cigarette butts, bed linens, laundry marks, etc., which could not be reproduced, were not sent. In addition, two volumes of files from Birmingham, seven volumes from Atlanta and six volumes from Los Angeles were not sent, because they contained investigative reports, cost data and laboratory communications known to have already been filed at F.B.I.H.Q. On the other hand, several items not listed on the earlier inventories (apparently because they had not come into existence at the time) were sent to F.B.I.H.Q. for processing pursuant to the later instructions.

8. On September 14, 1977 (Enclosure 1), the Bureau advised Mr. Weisberg by letter that field offices in Washington, D. C., Los Angeles, Chicago, Atlanta, New Orleans and Birmingham had not sent copies of certain enumerated items to F.B.I.H.Q. for processing. Mr. Weisberg was asked to indicate which of these items he desired to have processed. By letter of September 17, 1977 (Enclosure 2), Mr. Weisberg requested that certain, but not all, of the items from Birmingham, Chicago, Atlanta, Los Angeles and New Orleans be processed. I have personally checked F.B.I.H.Q. work copies of records processed to determine if any of the items enumerated by the Bureau and specifically requested by Mr. Weisberg were not processed. I have now determined that, with the exception of certain records of the Atlanta Field Office, all items specifically requested by Mr. Weisberg were, in fact, sent to F.B.I.H.Q. and processed.

Regarding the Atlanta Field Office records, there appears to have been some misunderstanding between the Field Office and Bureau Headquarters. Nonetheless, the only item actually requested by Mr. Weisberg that was not sent to the Bureau for processing was Item 44-2386-1B-4, an enlarged Atlanta map. This item has now been transmitted to F.B.I.H.Q. for copying and release to Mr. Weisberg. In addition, certain maps and newspapers were listed as Item 44-2386-1B-2 as not forwarded

and were requested by Mr. Weisberg. I have now been advised by the Atlanta Field Office that, in fact, all of the materials listed as comprising Item 44-2386-1B-2 had actually been sent to the Bureau laboratory in April 1968 and that there is no indication in Atlanta files [nor, for that matter, in F.B.I.H.Q. files] that they were ever returned to Atlanta. A recent check of the Atlanta bulky exhibits also failed to locate these materials. I am advised that it was solely because of a misunderstanding between Atlanta and F.B.I.H.Q. as to the location of the materials that Mr. Weisberg was inaccurately informed in the letter of September 14, 1977, that they were still located in the Atlanta Field Office. It therefore appears that these items (if they still exist) would have been processed as part of the Headquarters Murkin file. A spot check of the latter by me revealed that documents such as lab reports and incoming field office communications that pertain to 44-2386-1B-2 were in fact processed and released to Mr. Weisberg.

The letter of September 14 also refers to Atlanta "1-A Exhibits -- Volumes 1-4," possibly giving Mr. Weisberg the mistaken impression that these volumes had not been sent to Headquarters and processed. Actually, only two Atlanta 1-A items had not been processed at that time. One of them, Item 44-2386-1A-65, a list of motor vehicles and license plates stolen in Georgia, was inadvertently omitted from the letter to Mr. Weisberg. This list -- as well as Items 44-2386-1A-120, a polygraph chart (the second 1-A item not initially processed), and 44-2386-1B-1, a Delta Airlines computer printout -- is still in the custody of the Atlanta Field Office. All of these items will be made available for processing even now, should Mr. Weisberg request that it be done.

9. Based on the foregoing facts, I have, therefore, concluded that, with the proper and very limited exceptions indicated herein, all records pertaining to the assassination

of Martin Luther King, Jr., and contained in the eight specified field offices, as indicated to the Department of Justice in a separate, independent action that took place over three years ago, were in fact processed pursuant to the stipulation of August 5, 1977, except that records not requested by plaintiff in his letter of September 17, 1977, were not processed. Attached hereto as Enclosure 3 is a list of the actual materials to which this paragraph of my Affidavit pertains.

Douglas F. Mitchell
Douglas F. Mitchell

Subscribed and sworn to before me this 19th day of April, 1979.

Sharon Fulton
Notary Public

My commission expires: October 31, 1980

September 14, 1977

Mr. Harold Weisberg
Route 12
Frederick, Maryland 21701

Dear Mr. Weisberg:

Reference is made to your Freedom of Information Act request concerning the assassination of Dr. Martin Luther King, Jr., (MURKIN). Attached you will find a list containing items that have not been copied by the various Field Offices, and have not been sent to FBI Headquarters. To eliminate having to copy documents that you may not desire, please advise us of the items on the accompanying list that you want furnished to you pursuant to provisions of the Freedom of Information Act.

Your prompt response will be appreciated, as it will enable us to make available to you only that material which you desire at the earliest possible date.

Your patience and cooperation are greatly appreciated

Sincerely yours,

C M Kelley

Clarence M. Kelley
Director

MAILED 5
SEP 15 1977
FBI

NOTE: Items taken from WFO, LA, ~~San Francisco~~, Chicago, Dep. AD Adm. Atlanta, New Orleans, and Birmingham airtels concerning Dep. AD Inv. Martin Luther King assassination (MURKIN).

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Serv. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Spec. Inv. _____
- Tech. Serv. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

Enclosure
KRG:JN
(4)
return to Little
6982
AD/Post

MAIL ROOM TELETYPE UNIT

ENCLOSURE #1

Field Offices and items not Xeroxed
and sent to Bureau.

WFO:

Item number 41 of the 1A exhibit section, sealed with "Evidence" tape bearing data as follows: U. S. Post Office Money Orders 5, 615, 057, 923 and 1, 916, 211, 078, to be returned to donor, received from John R. Takach, Chief, Money Order Branch, General Accounting Office, Washington, D. C.

BIRMINGHAM:

The following items were not copied due to the nature of the items and the impracticality of doing so:

1(a) Exhibit 1-A-69, which is a magazine, approximately 8 1/2 x 10 3/4 inches, entitled "Redfield '68, Scopes-Mounts-Sights," consisting of 31 printed pages concerning various rifles, scopes, and other information of interest to sportsmen.

(b) A magazine, approximately 8 1/4 x 11 inches, entitled "Winchester-Western 1968 Sporting Arms Ammunition," consisting of 47 pages concerning rifles, shotguns, ammunition, and other information of interest to sportsmen.

2. Exhibit 1-A-121, which is a magazine with a red and yellow cover, approximately 8 x 10 1/2 inches, entitled "Bay of Pigs," authored by Albert C. Persons, consisting of 97 printed pages concerning the subject matter depicted by the title.

CHICAGO:

Below items all found in Sub D exhibits portion of Chicago file-

Serials 21, 22, 23 - photos of Jerry Ray
Serial 37 - envelope containing 2 photos of James Earl Ray
Serial 39 - standup photos of James Earl Ray
Serials 43, 45, 51 - photos of James Earl Ray
Serial 52 - two photos of Jerry Ray

CHICAGO (continued)

Serial 55 - photos of James Earl Ray
Serial 58 - photos of James Earl Ray
Serial 62 - envelope containing laundry marks
on shirt and bed linen for James Earl
Ray while using the name Galt in the
Los Angeles area.
Serial 68 - one photographic negative of James
Earl Ray
Serial 69 - one photo and negative of James
Earl Ray
Serial 84 - photos of James Earl Ray

ATLANTA:

Volume SF-2- Murkin Newspaper clippings
1-A Exhibits - Volumes 1-4
Item 44-2386-1A-120, polygraph chart
Bulky Exhibits for 44-2386
Item 44-2386-1B-1 This was a Delta Air Lines
computer printout of passengers aboard various
Delta Air Lines Flights including Delta Flight
932 from Memphis to Chicago, 4/27/68 and Delta
Flight 595 from Birmingham to Memphis, 4/27/68.
This was a voluminous, continuous-run computer
printout.

Item 44-2386-1B-2 - maps - newspapers.
Item 44-2386-1B-4 - enlarged copies of an Atlanta
area map and a Los Angeles area map

Item 44-2386-1B-5 - Items furnished by the Newark
Office to Atlanta which include a large loose-leaf-
type book with instructions on locksmithing
and a locksmith kit.

LOS ANGELES:

The following 1A exhibits contained in the Los
Angeles Murkin file were not forwarded to the Bureau:

1a2 - Drivers license of Jerome Willis Vernon
1a3 - Drivers license of Lorraine May Vernon
1a4 - Photo of Jerome Wallis Vernon
1a6 - Photos of Jennings Bryan Lee
1a8 - Photos of Jerry William Ray

LOS ANGELES (continued)

la9 - Photos of James Earl Ray (3/17/60)
la10 - Photos of James Earl Ray (9/8/66)
la11 - Photos of Walter T. Rife (3/28/55)
la12 - Photos of Ray and Rife (3/28/55)
la13 - Photos of Rita Stein (5/18/67)
la14 - Photo and impression of tire (SN4174P867)
la15 - Samples from textile machine (SN31078)
la18 - Samples of laundry tags
la29 - Photo of James Looma Owens
la31 - Photo of J. C. Hardin
la32 - Photo of Myrial Tomaso
la33 - Material - photos
la34 - Photo of Paul Osborn Bridgeman
la36 - Photo of Dennis Wade Fontennat
la37 - Photo of Dennis Wade Fontennat
la40 - Photo of Donald B. Blaa
la42 - Photos of Businesses
la45 - Photos of resident - Davida Gregory
la48 - Negative
la53 - Laundry tags
la54 - Thermo seal marking machine of laundry
mark 20 R-3
la55 - Photos of Susan Lee Harris
la56 - Photos of Eric Leroy Casey
la61 - Photos of Ray
la64 - Photo of John Bevins
la67 - Photo
la69 - Photo of Richard B. Harrell
la70 - Photos of James Earl Ray
la71 - Photos of Dyrell Dennis
la75 - Photos of Eric Starvo Galt (11/67)
la90 - Photo of Jacqueline "Jackie" Kline
la94 - Photos of Fred Drew Schwartz
la95 - Photos of Frederick John Schwartz
la98 - Photo of James Earl Ray and Walter and Rife
la100 - Photo of Frank William Brickley
la101 - Inked impressions of tire number 20427372
la103 - Photos of Jerome Willis Vernon
la104 - Photos of James Richard Hendricks
la105 - Photo of Lion William Short
la106 - Photo of Frank William Brickley
la107 - Photos of James Earl Ray
la109 - Photo of look-a-like

NEW ORLEANS:

The following 1-A exhibits:

- LA-3 - Photos of artist's conception of unknown subject purchasing rifle in Birmingham.
- LA-6 - Photos of Darrel Dexter Gatin
- LA-12 - Negatives of artist's conception of unknown subject by witnesses in Memphis and Birmingham
- LA-15 - Photos of bedspread in which gun was wrapped.
- LA-22 - Negatives of Eric Starvo Galt
- LA-23 - Photo of subject with eyes closed.
- LA-27 - Color photos of Ronald Bardin Simpson
- LA-30 - Photos of James Earl Ray 7/17/60
- LA-31 - Photos of James Earl Ray 9/8/66
- LA-32 - Photos of Walter Terry Rife
- LA-33 - Standup photos of Ray 3/28/55
- LA-34 - Photos of James Earl Ray - 1960
- LA-35 - Photo of Continental Dance Studio Party
- LA-36 - Negatives of James Earl Ray and Walter Terry Rife
- LA-42 - Photo of James Earl Ray 1/4/66
- LA-43 - Color photo of Charles Stein
- LA-45 - Photos of Myral Tomaso
- LA-46 - Photo of Charles Stein
- LA-57 - Photo of Charles Joseph Stein 7/21/61
- LA-62 - photo of James L. Owens
- LA-67 - Photos of Jules Rico Kimble

Mr. Clarence Kelley, Director
FBI
Washington, D.C. 20535

Rt. 12, Frederick, Md. 21701
9/17/77

Dear Mr. Kelley,

In your letter of the 14th, received today, you are helpful in providing a list of items not copied by various field offices in order to save me unnecessary copying cost. I do appreciate this. However, this letter and its attached list illustrate that the improper withholdings about which I have long complained without ever receiving an adequate response are also costly to me. I will be asking for prints of pictures that, if I had the relevant other records in hand and not expurgated, I might not want. That may be less apparent to you but should be well understood by your assistants in that other costs from these unjustifiable withholdings, like the waste of time, are important to me.

I assume that either with the photographs or separately and in a manner that permits easy correlation with the photographs I will receive the relevant other records. In the past I have received copies of photographs from which the legends added to the back are missing. I would appreciate a xerox of the back of each photograph with any information added to that photograph, with the xerox attached to the back of the photograph by any means convenient to your assistant, like magic tape or masking tape.

I would like the following from the list attached to your letter:

Birmingham - 1(a), Exhibit 1-A-69, the magazine "Redfield '68," all; (b) the magazine "Winchester-Ramington 1968 Sporting Arms Ammunition," those pages relating to the Gamemaster rifle in question and any pages relating to the .30-06 ammunition in question. 2. The magazine titled "ay of figs." I would like all, please.

Chicago - most of the listed Serials are pictures of James Earl and Jerry Ray. I would like copies of the relevant records in order to know whether I want copies of any of the photographs or which ones. I do not want the Serials relating to aluxdry marks.

Atlanta - SF-2 - Martin newspaper clippings. If the number of pages is not great I would like a copy of all these clippings rather than indicate a subject preference that might mean more work for the FBI. By this I mean if the reference to Volumes 1-4 that follows refers to these clippings and if they are about the thickness of those Ea and Memphis volumes, I would like them all. If there are fewer then of course I want all. The person subject to polygraph is not indicated. Before deciding I would like the relevant other records. The Delta computer printout: I do not want all of it. Presuming this relates to the passenger who left the plane at Memphis and did not return, I would like copies of the other records relating to this, including any from any other field office. Rather than take time if Item 44-2366-1B - maps - newspapers is not thick I'll appreciate copies. If it is thicker than the average Section I would appreciate knowing what maps and what newspapers. Assuming these to be those said to have been James Earl Ray's, I would want copies together with the relevant records on how they were obtained and by whom. 1B-4, I would like the enlarged map of Atlanta only. I do not want 1B-5 There is no mention of 3.

The Los Angeles items include names withheld from the records that have been provided, name withheld to now despite my prompt protest that the withholding was improper. Under these circumstances I believe it is not asking too much to ask that those ~~of which this is~~ true be provided without cost to me together with copies of the relevant records from which there were the obliterations complained about. However, I am not now ~~able to~~ ^{able to} deal with the issue of this. With regard to the photographs of the Rays I repeat what I state above. I also would appreciate an explanation of the numbers missing in what appears to be the sequential allocation of numbers. In the list of numbers that follows I ask again that the information included on the backs be provided as asked above together with the relevant other records: 1a4-1a8 (here and below inclusive), 1a11, 1a12, 1a13, 1a29-32, 1a34-45, 1a48 (described as "negative" and print desired, 5x7 or 8x10, whichever is easier for the Los Angeles office), 1a55-69, 1a71, 1a90, 1a100, 1a104, 1a106, 1a109. There is no picture of Marie Martin listed, if there is one I'd like a print.

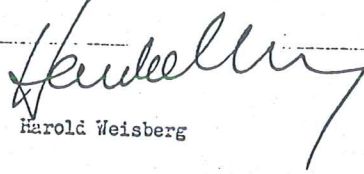
ENCLOSURE #2

New Orleans: 1A-6,27,43,45,46,62 and 67.

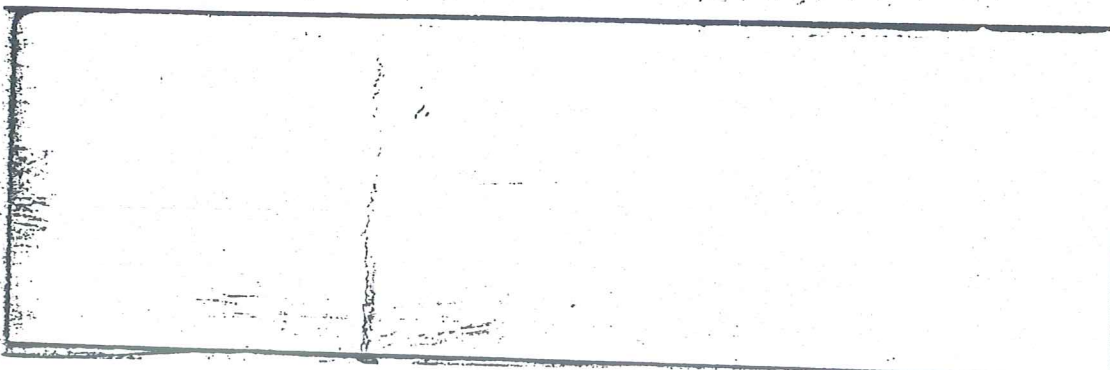
With each of these field offices as with others not included in this list I would have expected other similar items. Perhaps I will hear further from you on this.

In yesterday's mail were Invaders files, #157-1067. This morning I mailed a check for them. I overlooked a covering letter.

Sincerely,



Harold Weisberg



INVENTORIES OF FIELD OFFICE FILES

ATLANTA

Murkin 44-2386

Main File...21 Volumes (2340 serials)

Subfile.....9 Volumes, one of which consisted
of 17 bulky exhibits

ACTUAL FILES SENT TO HEADQUARTERS

1326 items sent from 44-2386

Main file - Volumes 1-5; 7-12; 14-23 (Volumes
6 and 13 consisted of investigative reports).

Subfiles - Items from 7 volumes sent. Cost
data, newsclips, laboratory communications
and real evidence not sent.

157-3094 (Assassination of MLK, Jr. - Racial Mat-
ter). Items from all 3 volumes and 1A files sent.

BIRMINGHAM

Murkin 44-1740

Main file...20 Volumes

Subfiles....1 Volume

1-A files...3 Volumes

Bulky Exhibits - 3

44-1740

Items from 18 main volumes, the subfile, 1-A files
and all 3 bulky exhibits sent. (The 2 main
volumes not sent consisted entirely of investi-
gative reports.)

CHICAGO

Murkin 44-1114

Main file...6 Volumes

Subfiles...18 Volumes

Sent unspecified number of 44-1114 serials pertaining
to John, Jerry and James Earl Ray and Carol and
Albert Pepper. Did not send non-reproducible items
such as cigarette filters, bed linens, tapes and
laundry marks.

INVENTORIES OF FIELD OFFICE FILES

LOS ANGELES

Murkin 44-1574

Main File...10 Volumes (1938 serials)

Subfiles....24 Volumes

All bulky exhibits had been destroyed.

ACTUAL FILES SENT TO HEADQUARTERS

44-1574

Items from 11 main file volumes sent and from approximately 16 of 24 subfile volumes, including reproducible 1-A items

NEW ORLEANS

Murkin 157-10673

Main file...18 Volumes (1308 serials)

Subfiles.... 3 Volumes

1-A files... 1

Bulky exhibits - 6

157-10673

713 items sent.

ST. LOUIS

Murkin 44-775

Main file...14 Volumes (1162 serials)

Subfiles.... 2 (newsclips and cost data)

1-A file.... consisted of 54 exhibits, mostly photographs.

44-775 (insofar as pertained to Rays and Peppers)
Sent 122 serials from main files, 9 serials from Sub A and 60 serials from Subfiles.

INVENTORIES OF FIELD OFFICE FILES

WASHINGTON FIELD OFFICE

Murkin 44-703

Main Files...9 Volumes (799 serials)

Subfiles.....5 Volumes

MEMPHIS

Murkin 44-1987

Main Files... 7 Volumes

Subfiles.....102 Volumes

1-A Files.... 11 Volumes

ACTUAL FILES SENT TO HEADQUARTERS

44-703

Sent 566 documents. Unreproducible real evidence not sent, nor was evidence placed under seal.

All of 44-1987 sent, including 7 main files, eleven 1-A files and 113 Subfiles.

Also sent were the 1 volume 88-10052 file of James E. Ray, the 29 volume 157-1067 file on the Sanitation Workers Strike and the 6 volume Invaders 157-1092.