UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,	:	
Plaintiff,	:	
v.	:	Civil Action No. 75-1996
DEPARTMENT OF JUSTICE,	:	
Defendant.	:	

AFFIDAVIT

My name is Harold Weisberg. I am the plaintiff in this instant cause. I reside at 7627 Old Receiver Road (Route 12), Frederick, Maryland. My qualifications are stated in my prior affidavits.

1. I have read defendant's Motion for Partial Summary Judgment of April 25, 1980, and the attached Statement of Material Facts, Memorandum of Points and Authorities, proposed Order, affidavit of Janet L. Blizard and Seventh Affidavit of Martin Wood (Wood affidavit).

2. As I have informed the Court on many occasions from the very outset of this long, convoluted and costly case in which searches in response to the Items of my requests have not yet been made and attested to, as long as defendant is immune in misstatements, misrepresentations and deceptions, this case will not end except with noncompliance.

3. Defendant's entire filing as itemized in Paragraph 1 above is as described in Paragraph 2 above, except that some of the inaccuracies clearly are not of accidental character. They do not state the truth and, as is detailed below, they have the clear intent of deceiving and misleading the Court. This is consistent with the long record in this case in which the Court has been deceived and mislead by defendant and in particular in a series of false, deceptive and misleading affidavits.

4. In the present affidavits there also is false swearing, as I set forth in detail below.

5. I am aware that the courts do not welcome allegations of deception and false swearing when they are attributed to the Government, particularly not when they are attributed to the Department of Justice (Department) and the Federal Bureau of Investigation (FBI). The plaintiff in an FOIA case who accepts any untruthful representations by the Government makes himself party to that wrong-doing and party to the denial to the people of information to which they are entitled so our system of self-government may function properly, with an informed electorate. If I were to accept this, I would make myself party to a subversion of what I believe in deeply and sincerely.

6. I am aware that courts do not welcome long and detailed affidavits. But as I have informed the Court, dispositive lies can be uttered in few words by those who are immune in transgressions that would have me charged with a felony by the transgressing agency; but proving untruthfulness, particularly when courts are disposed to accept official representations, requires lengthy treatment. I have the burden of taking the time for definitive explanations of the present misrepresentations because in my extensive experience in such matters, experience of more than a decade, experience that has had me to the appeals court four times in single cases not yet ended, that has had me to the Supreme Court, that has had my experienc considered by the Congress in the 1974 amending of the Act and its present considera tion of the Act, there is no misstatement, no false swearing in which the official affiant has not been immune and no court that has not been influenced by such untruths. Faced with a Hobson's choice an FOIA plaintiff opts between being defrauded and being party to the defrauding of the people of their right to know what their government does or assuming a costly, unwelcome and taxing responsibility

7. While reading lengthy documents takes time of the courts and their clerks, preparing them requires more time and is a great burden for a private litigant. As long as the courts accept the kinds of official misrepresentations that I have faced for 10 years and for more than four years in this case, a private plaintiff takes the time for proper response or abdicates. I will not abdicate, much as I regret this use of what remains of my time.

8. When there is extensive misrepresentation to a court of law by the Government, justice is jeopardized. If the court is not made aware of it, the

independence of the judiciary is threatened. In this case the misrepresentations are so extensive (some are brazen lies and some are fakes, as SA Horace P. Beckwith earlier presented fakes to this Court) as to suggest that the Department and the FBI believe they can get away with anything, as indeed they have in the past, and are immune for any offense before this Court.

THE MOTION FOR PARTIAL SUMMARY JUDGMENT AND ITS ATTACHMENTS

9. The opening misrepresentation of the Motion is that it is a Motion for Partial Summary Judgment. Not for the first time it actually is a Motion for Summary Judgment that is disguised as for Partial Summary Judgment. It seeks "summary judgment dismissing plaintiff's remaining claims ... against the Department of Justice" while making no mention whatsoever of most of these remaining claims and none pertaining to any components other than the FBI and the Civil Rights Division (CRD). This is not an oversight. My counsel identified other components as recently as in his affidavit of February 8, 1980.

10. The Statement of Material Facts, a single sentence, is entirely limited to the Wood and Janet L. Blizard affidavits.

11. I have, under oath, described Wood's prior affidavits as deceptive, misleading and falsely sworn. No affidavit contesting my representations has been provided, by Wood or anyone else. He has sworn falsely, and in his present affidavit he swears in contradiction to his prior affirmations. When he and Department counsel were trying to talk the Court out of requiring that copies of the abstracts be provided, his December 21, 1979, affidavit states that "abstracts are not used to locate documents." (page 2) Now (Paragraph 4) he swears to the exact opposite, that they are "for the purpose of ... retrieval of serials."

12. Now Wood dares toy with the Court, with truth and the Act as Beckwith did, by presenting to the Court as documents provided to me documents that in fact were withheld from me. This is material because the questions are of compliance and withholding and of justifying and explaining withholdings. He also swears falsely in swearing that the FBI disclosed all the documents in his Exhibit A. It did not.

All Components Have Not Complied and There Is Continued Withholding

13. The statements in the Memorandum of Points and Authorities are not made in good faith. It is limited to "whether the Department of Justice (DOJ), and

particularly the FBI, properly applied certain of the FOIA's exemptions in withholding from plaintiff certain documents and portions of documents."

14. This representation is not made in good faith

because it ignores many other material facts that are in dispute;

because the Department's own expert, Quinlan J. Shea, Jr., in his testimony and in his two reports stated that the exemptions are not properly applied and that reprocessing is necessary;

because it ignores a file drawer full of almost entirely undisputed, lengthy, detailed and illuminated appeals from these withholdings, a large percentage of which are of information that is within the public domain; and

because it does not mention the major remaining issues of failures, in fact, refusals, to make any search for compliance with specific Items of my requests and refusals to search files I identified for compliance from those files.

15. This statement is not made in good faith because Department counsel knows better. He has personal knowledge of pertinent records that are withheld. He knows that withheld records and portions of records that are withheld are within the public domain. He knows, among other things, that other components have pertinent records and have not provided them, but he provides no affidavits from or for any of them. The Blizard affidavit, which he presented and presumably read, refers to records her Division referred to the Criminal Division: "... sixteen documents were referred to the Criminal Division for its release." (Paragrap 6) She does not state that they have been released. But they were She does not and cannot attest that there are no other pertinent Criminal Division records.

Searches Still Not Made

16. In deposing the FBI SAs who allegedly made the searches and supervised alleged compliance, I established that there was never any search made to comply with most of the Items of my requests and that an effort was made to substitute information I did not request. Department counsel was present as counsel for those and other witnesses.

17. There are seven Items in the April 15, 1975, request, and 28 Items in the December 23, 1975, request.

18. It was testified that there has never been any search for two of the Items of my April 15 request, that the 28 Items of the December 23 request were not searched, and that, despite the suggestion of the Court, see references were

not searched.

Too vague

19. Ir was testified that there is information within my April 15 request that was not provided. It still has not been provided.

20. The Memorandum of Points and Authorities represents that the first of the two Orders issued by the Court on February 26, 1980, "granted defendant DOJ a partial summary judgment as to the scope of its search for documents." This is a nonaccidental misrepresentation, the same misrepresentation having been corrected in the past. That Order is limited to the FBI, of all Department components, and pertaining to the FBI is limited to MURKIN records. All components of the DOJ are involved in this cause and FBI records other than those captioned MURKIN are involved.

21. The second Order is for a Vaughn v. Rosen index justifying and explaining the deletions in every 200th document. It also is limited to the FBI, and within the FBI it is limited to FBIHQ MURKIN records. In an effort to include all the other components in this Order, the Department now provides a single sample from the CRD's records only.

Check This Out

THE BLIZARD AFFIDAVIT

22. The Blizard affidavit is not in good faith because to the Department's knowledge there are CRD records that have not been provided, as without dispute I asserted under oath more than three years ago.

23. As I correctly informed the Court in advance, a sampling of every 200th document cannot serve the purposes of a Vaughn v. Rosen index. It totally ignores my lengthy and detailed consultancy memo and my many uncontradicted affidavits and appeals. These encompass all the records provided, not merely every 200th record. It ignores records withheld in their entirety, although Wood did include one.

24. There is a dramatic illustration of this below, one of many such dramatic illustrations I can provide. In an accounting of every 200th document, the first Atlanta record is not within the first 200 Atlanta serials. It is Serial 434, with the count beginning before the first Atlanta record was counted. The rest of the records in the file counted prior to Atlanta and not fewer than the first 234 records of the Atlanta file thus are automatically excluded from this "index" or "inventory."

25. There also is such a long count in the MURKIN HQ records. Between Document 4, which is 44-38861-725, and Document 5, 44-38861-965, there are more than 200 documents. There appear to be 240. Actually, there are more and the 200th is a Not Recorded Serial after Serial 919.

26. The ridiculous is not eschewed with regard to the CRD. Ignoring all the many records known to exist and not provided, which is another evidence of other than good faith, the Department arbitrarily selected as a sample a document "found to contain no deletions." A document in which there is no withholding is not appropriate to an index explaining and justifying withholdings.

27. When I first received any records from CRD, I informed it promptly that it was withholding the public domain. It continues to withhold the public domain without responding to my appeals and uncontested affidavits. It continues to withhold the public domain under a variety of exemptions, including even (b)(5) for matters not litigated and not considered for litigation, matters disclosed by the Department in other ways by other components.

28. Also ignored is the fact that in November 1977 I informed CRD where its records it claimed not to be able to locate had been moved and stored. My correct information has not been disputed and for years, until recent days, my many appeals have been ignored. However, while these pleadings were being prepared, the Department did locate and did inform me of locating eight sections of CRD records not provided.

29. On April 17, 1980, Mr. Shea wrote me that an assistant had located a "Civil Rights Division file, Number 144-72-662, consisting of eight sections and covering the period from late 1967 through the middle of 1969, which pertains to the King assassination." This is a file Stephen Horn swore to having searched in his July 13, 1976, affidavit. He identifies it by number in his Paragraph 1. He also concluded by swearing that "I am in possession of no information, direct or indirect, to lead me to believe that there are any other pertinent documents in the possession of the Civil Rights Division or any other Division of the Department of Justice."

30. Horn is cute. In his affidavit he does not attest that a single page of any record was provided, yet his affidavit was to attest to compliance.

31. Almost word for word, Horn's false affirmation of no other records anywhere in the Department is repeated by Ms. Blizard in the last sentence of her affidavit.

32. These eight sections of CRD King assassination records referred to in Mr. Shea's April 17 letter have not been provided and are not included in this supposed Vaughn v. Rosen index. They also are not counted by Ms. Blizard. (Sections usually consist of about 200 pages.)

33. If what all of this is can be called an index justifying and explainin withholdings, we have but a single, inappropriate record from which there is no withholding to represent all withholdings from all records of the entire Department of Justice, all of whose components are encompassed by the request. And that inappropriate record was reached by Wood's crooked, long count.

34. Although CRD is not mentioned in the Order, Ms. Blizard's affidavit begins with the statement that she was required to "identify those documents released, or to be released, to the Plaintiff" by CRD. (Obviously, she managed not to "identify" the eight sections of her file 144-72-662. She also managed not to include any file numbers in her affidavit. Strange also is it that the record she attaches, an FBI record, bears neither an FBI nor DOJ file number. Theoretically, such a record cannot be retrieved.) In her version she states that she was required to wait, she does not state by what or whom, until the FBI "completed its index of each 200th document released" so that she could begin counting where the FBI left off. This had the side benefit of further stalling this case. The FBI's last count was 169, a wrong count, so she began with 170, and thus zeroed in on the single inappropriate document of remarkable brevity and no withholding.

35. By this means she also avoided not having even a single sample for her Division and the entire Department.

36. It is bizarre that, in explaining and justifying the withholdings from records of what may be the most important case CRD ever had, the April 1968 assassination of Dr. King, this sample is of September 1970 and thus avoids all substantive records. Some sample! Some representativeness - an FBI record, a two-sentence letter to Director Hoover asking, "Should I write him (meaning CRD's Jerris Leonard) directly?".

37. The Memorandum acknowledges that the FBI now admits to "two errors in the original exemption claims." Actually, Wood acknowledges more and proves still others. True to Orwell, the Department represents admitted error as proof

that the FBI "acted properly throughout in applying the FOIA's exemption provisions." In fact, because this is a 200th sampling, what is actually admitted is that, limited to the large understatement of error, there are more than 400 errors, a not inconsequential number of wrongful claims to exemption.

38. What Mr. Shea testified to, as a Department witness, is that the FBI made claims it should not have made at all, that it should not have made any claim to some exemptions, and that it withheld generically what should not be withheld. His reports state that reprocessing of the records is required and that pertinent records remain to be provided. Mr. Shea's reports are in the case record. My affidavits citing them are not disputed or in any way responded to.

39. While his October 26, 1978, report deals with other matters misrepresented in the present pleadings and dealt with below in this affidavit, I include excerpts from it at this point because it contradicts the Department's above-cited and other present representations. It is 1978 proof that the Department's 1980 representations are not honest or truthful and knowingly and deliberately are not honest or truthful.

40. The MURKIN records inventories of the 59 field offices which were provided to FBIHQ are not exempt. As my prior affidavits attest without contradiction, only one, that of Chicago, was provided. When I asked for them, the others were withheld. The FBI lied about them, telling me that only Chicago provided such an inventory. However, when in other litigation I obtained the HQ directives that all 59 field offices provide such inventories, I appealed. Mr. Shea reported that he had obtained these inventories from the FBI, examined them and requested that they "be reviewed for release." Since then the FBI has not provided them; instead, it has been totally silent.

41. He reviewed the so-called prosecutorial volumes, 25 by number but actually 29. He found that "these reports appear to be the principal repository, in consolidated form, of the Bureau's investigatory efforts in this case. They would, therefore, be the most likely reference for members of the general public who had an interest in it." He discussed his initial review with the FBI and stated, "I believe that there will be relatively few excisions which will remain. This is because no 7(C) excisions can be upheld unless a specific reason can be

articulated for doing so, sounding in personal information essentially unrelated to the assassination of Dr. King, or to the F.B.I.'s investigation of the crime."

42. All withheld information relates to the assassination, the investigation or both.

43. Since then none of the pages of any of these volumes has been reprocessed. When the index was reprocessed, the result was that even what had been previously disclosed was withheld. On deposition, I displayed before and after volumes to Supervisor SA John Hartingh, who was represented by present Department counsel and by the FBI's Legal Counsel, SA Jack Slicks. All saw that the reprocessed volume I displayed was about half the size of the volume requiring reprocessing. This was to have been explained and justified to me. There has been total silence.

44. In further admission of the opposite of the Department's present claim, that the FBI "acted properly throughout in applying the FOIA's exemption provisions," Mr. Shea posed what he described as "the very fundamental question." This is "whether the records already processed in this case can be brought into total compliance with the law and departmental standards by what I term 'fine-tuning,' or whether it will be necessary to reprocess them in their entirety."

45. This states clearly that the records were <u>not</u> processed correctly and that one of two courses is open, partial reprocessing or total reprocessing, one or the other being required for "compliance with the law." Of these alternatives, he states, "I have reluctantly and still tentatively concluded that the latter," or "reprocess them in their entirety," is what "will be necessary. As I have already indicated, it appears that there has simply been too much excised ..." After noting "some inconsistency in the processing," a considerable understatement, as this affidavit also indicates from Wood's sampling alone, he reported that "This reprocessing will commence as soon as all governing standards have been established to the satisfaction of all concerned, or as may be ordered by the court." The Court has not provided guidance, although it involved Mr. Shea to effectuate compliance; the Department has done nothing; the FBI continues to stonewall; and now Department counsel represents the diametric opposite of truth and reality and does that with an affidavit which proves the opposite of his representation of it when it is examined and analyzed.

46. Department counsel's awareness of the content of Mr. Shea's report need not be presumed. It was handed to me in the courtroom by Department counsel and copies are indicated to Department counsel.

47. In this same report Mr. Shea found noncompliance with the Stipulation, to which he also testified on deposition, accomplished by adding provisions not agreed to or stated in the Stipulation. His then assistant, Douglas Mitchell, also testified on deposition that the FBI rewrote the Stipulation unilaterally, as my prior and entirely uncontested affidavits also informed the Court. (Stipulation records are included in the Wood sampling.) Of this Mr. Shea stated, "I have no alternative but to ask whether you and your client are satisfied with the result in this area. If you are not, it seems to me that the issue should be resolved in favor of your client." On this, too, the FBI stonewalls and misrepresents. Although I have expressed myself forcefully on this issue, the FBI is totally silent, except for repetition of its prior misrepresentations.

48. The withholdings from the field office records are not in accord with the Act or the Stipulation, as Mr. Shea made clear.

49. The truth is so opposite the present false representation of it that the FBI itself, in response to my vigorous protests made promptly as I examined the records as they were released weekly, apologized for the low quality of "Operation Onslaught" processing and promised that it would reprocess. This promise, it is now clear, was to deceive my counsel and me in order to confront the Court and us with a fait accompli and to deceive and mislead the Court. The success of this ploy is reflected by the Court's comment that with records processed after "Operation Onslaught" the quality of processing was considerably improved. The MURKIN records were processed during "Operation Onslaught."

VIOLATION OF THE COURT'S ORDER IS MISREPRESENTED

50. These two "errors" (see Paragraph 37 above) do not include a deliberate violation of the Order of the Court prior to the processing of any MURKIN records and persisted in throughout the processing of all of them, FBIHQ's, some 20,000 pages. That Order addresses a matter which is seriously misrepresented under Argument and in Wood's affidavit. It is alleged that "the FBI correctly applied the FOIA's exemptions ... Except for the two minor errors ... and the inclusion of the names of FBI Special Agents." Here (page 2) there is a footnote, followed by the

Orwellian, that disclosing what was withheld through "reprocessing of the sample documents results in no new releases."

51. This also is false because there are other "new releases" in this 200th sampling as cited below.

52. The footnote at this point represents that the withholding of the names of FBISAs "is not due to any error in the original processing but is the result of a policy change by the FBI which permitted the release of such names after the processing of Section 86 of the MURKIN file." And rather than the FBI having expressed a willingness to correct this, which requires a reprocessing, the FBI persisted in this improper withholding beginning before it processed the first of the MURKIN records. My affidavits attesting to this, going back to 1976, have not been contradicted under oath.

53. The Court's Order was issued in June 1976. It is not limited to the names of FBISAs and those are not the only such names that remain withheld. The Order includes all public employees performing public functions.

54. FBI policy in cases like this was not to withhold the names of FBISAs because of the public interest. Thus, throughout the approximately 10,000,000 words published by the Warren Commission in 27 large volumes a large percentage of which is of facsimile reproduction of FBI records, and throughout the approximately 300 cubic feet of Commission records publicly available at the National Archives, these names were not withheld - and that was prior to enactment of FOIA.

55. Rather than there being no "error in the original processing," the FBI was fully aware that it was violating the Court's Order. It neither obeyed the Order nor briefed the issue. It then refused to abide by the Order when my counsel and I requested this - prior to the processing of the first MURKIN record. It also refused to restore those names and to date has not restored them in any of the records provided prior to the processing of the MURKIN records. (Then and later I also informed the FBI and the Department that other names within the public domain were withheld. I provided the proofs. But those names continued to be withheld and the improperly processed records provided prior to and by the MURKIN processing have not been corrected.)

56. The intent to deceive and mislead the Court here is obvious and cannot be accidental. The apparent hope is that the Court will have lost sight of its own Order and my affidavits and consultancy memo because of the great bulk of the record and the enormous amount of information in the record that nobody can possibly keep entirely in mind. The plain and simple truth is that the Order was knowingly and deliberately violated throughout the entire processing of the entire 20,000 pages of FBIHQ MURKIN records; that this was insisted upon by the FBI and the Department despite my prompt and repeated appeals; and that this has not been rectified even when summary judgment is sought.

57. It likewise is not truthful to represent to this Court that there was an FBI policy change "after the processing of Section 86 of the MURKIN file," and that pursuant to this alleged policy change the FBI no longer withholds the names of SAs.

58. I am the plaintiff in C.A.s 78-0322 and 78-0420. These pertain to Dallas and New Orleans FBI records of the investigation of the assassination of President Kennedy. They entail a greater volume of records than is involved in this instant cause.

59. Section 86 of the FBIHQ MURKIN file was processed in 1977. In 1978 and since, throughout the records involved in both suits cited above, the names of FBISAs and other similar names were and remain withheld despite my appeals. No offer to restore them has been made.

60. The withheld FBI names in both JFK and King cases include those already disclosed by the Department and the FBI. They are in the FBI's reading room, the public press, court records and the published and otherwise publicly available Warren Commission records. Quite literally, <u>after</u> the 1977 processing of the FBIHQ MURKIN Section 86, the FBI withheld the names of FBISAs that were published by the Government itself a decade and a half earlier.

61. The intent to deceive and misrepresent in this footnote is magnified by limiting it to "the names of four agents not previously identified." In fact and to the Department's and the FBI's knowledge, <u>all</u> such FBI names <u>were</u> and <u>remain</u> withheld throughout the <u>entire</u> 20,000 pages of FBIHQ MURKIN records. Absent this misrepresentation, it would not be possible to attempt to prevail on a Motion for Summary Judgment without first reprocessing those 20,000 pages to restore the

improperly withheld names, which I did request, contrary to other representations in this footnote. (This misrepresentation pertaining to the withholding of FBI names and the Court Order is repeated on pages 4 and 5.)

PRIVACY CLAIMS

62. In claiming that the FBI correctly applied the privacy exemption, the Department flies into the face of its own policy statement of May 5, 1977, and the reports and testimony of its own witness, Mr. Shea, who said that these withholdings should be restored. It ignores my uncontested affidavits and appeals, which show without contradiction that the claim was made improperly and extensively even to withhold what was disclosed and what was public domain.

63. The Department also represents the opposite of what Mr. Shea found, quoted above, and of what it agreed to in its own Stipulation, that it would abide by its May 5, 1977, policy statement pertaining to privacy. This was also agreed to by the Civil Division in the 1977 conferences it sought with my counsel and me.

64. Moreover, practice in withholding is inconsistent, as Mr. Shea agreed, quoted above. The same kinds of names are both disclosed and withheld. Even the same name is both disclosed and withheld. This extends to the recent processing of the abstracts, as I correctly informed the Court in advance that it would. It includes names I called to the Court's attention at calendar calls, like those of Marjorie Fetters and Claire Keating, in connection with the danger of defaming the innocent by such withholdings. It extends even to the names of public officials performing public responsibilities, whose names are withheld in FBI records but are revealed in disclosed FBI copies of newspaper stories.

65. Using the latter as an example, there is public interest in knowing the names of Bureau of Prison officials who were sent to Memphis as expert security counselors and in this guise had closed circuit TV and microphone surveillances installed in the cell block in which James Earl Ray would spend the next eight months. They arranged it so that he could neither eat nor sleep nor perform bodily functions nor confer with counsel in privacy. (As part of this so-called security system, even Ray's correspondence with his counsel was intercepted, xeroxed and distributed, including to the FBI. The FBI continued to accept such information after the Court prohibited it.)

66. There is public interest in knowing who concocted false accounts of

this horrible crime in order to commercialize it. These also are among the names withheld by the FBI, again even when its own disclosed clippings and the records available in its public reading room reveal them. Both the OPR report and that of the House Select Committee on Assassinations seized upon false reports and include them.

67. My appeals provided copies of the public domain information. These appeals remain ignored and the information remains withheld from the MURKIN records.

68. Even in the examples of third parties used as illustrative, those interviewed by the FBI, the FBI's practices are not consistent. It both discloses and withholds these names, again extending to those that are in the public domain by means ranging from court records to self-sought public attention. The claim also is used to withhold the names of foreign police who did work for which the FBI wanted to take credit and did take credit even when those police were subpoenaed as witnesses for the expected trial and are identified in the guilty plea hearing. This kind of withholding extends to Mexico, Canada, England and Portugal and in all cases includes names that are public domain.

69. It includes other third parties, the names of women with whom Ray slept in Canada, Portugal and Mexico. The FBI both disclosed and withheld these names and this, too, extends to the recently processed abstracts and to Exhibit A to the Wood affidavit. (See below under Wood affidavit.) The same is true of those with whom Ray was in contact while he was on the lam, from Los Angeles to London. One left a message for Ray on the TWA bulletin board at London's Heathrow Airport when, supposedly, nobody in the world knew that Ray would be there. (This name, of Yarum Chandra Dutt, both disclosed and withheld, was called to the Court's attention in 1976, prior to the processing of any MURKIN records, yet it is with= held in the MURKIN records although it was disclosed prior to the processing of any MURKIN records.) There surely is public interest in knowing of possible co-conspirators and of partners in Ray's other crimes.

70. The names of those involved in other crimes with Ray are both disclosed and withheld, again including those that were within the public domain and with the same name both disclosed and withheld.

71. The woman who bore Jerry Ray an illegitimate child is a third party.

She is pertinent to nothing in this case, yet her name is disclosed, along with the location to which she moved from Chicago. The name of a sister of the Rays, the youngest who had had nothing to do with James Earl Ray since she was given for adoption as a baby and who does not bear the Ray name, is disclosed by the FBI. Her name is Susan Donian. What public interest there can be in her allegedly being a gogo dancer is not readily apparent, yet the FBI disclosed that, too.

72. The FBI disclosed the names of black women who allegedly slept with men to whom they were not married. It reported that they bore illegitimate children who, along with their relatives, are identified in disclosed FBI records, sometimes in an apparent effort to get them fired. Black men who are alleged to have been drug pushers and pimps are identified. Named black men are called "monkey faced" and "boys," yet they appear in disclosed FBI records only in connection with support of the Memphis sanitation workers strike or with the group calling itself the Invaders.

73. The names of young white women and even their relatives, along with their home addresses and places of business, are disclosed although they are connected to nothing more than sympathy with black aspirations.

74. There is no proper public interest in knowing these things and they are not properly part of investigations, but there is public interest in knowing who the FBI suspected was involved in a conspiracy, with or without Ray. The names of suspects also are both disclosed and withheld, as are the names of those who reported having been approached to kill Dr. King for large sums of money. Among my many ignored appeals of this nature is the case of two men who were registered at the William Len Hotel in Memphis, appearing and leaving under mysterious circumstances at the time of the assassination. Their alleged names are both disclosed and withheld. A privacy claim is made to withhold even the disclosed name of the William Len Hotel. Of the many cases of those who reported being propositioned to kill Dr. King, with their names both disclosed and withheld, there are the Powell brothers, Claude and Leon. As recently as the last of the abstracts, provided in mid-April, the Powell name is both disclosed and withheld. Wood withheld it in his Exhibit A. The Powell brothers also are pertinent because of criminal charges filed by the House when one was considered to be in contempt because he feared for his life. All of this was in the newspapers two years

before the Powell name was withheld from the abstracts and in Wood's Exhibit A.

75. This also illustrates what Mr. Shea testified to as the Government's own witness and is now ignored. The Department and the FBI cannot withhold what they permitted the Congressional committee to disclose. That committee's legal existence ended 16 months ago. Since then no single corrected record and no single withheld record has been provided in this instant cause.

76. The Department and the FBI permitted that committee to disclose and it did disclose a considerable amount of information withheld in this instant cause.

77. At best the privacy claim is made arbitrarily, capriciously and inconsistently. Where the FBI had interest in defaming people, it made no privacy claim. Blacks have no privacy in FBI records disclosed in this instant cause, especially not when the information is none of the FBI's business. Whites who are sympathetic to black interests have no privacy rights, for the FBI, rather than protecting them, violated them. Those who have been critical of the FBI, like me, have no privacy for the FBI to protect. It fabricated false and malicious records about me. It disclosed some of its fabrications in this instant cause and placed them in its reading room, without including my corrections of them. It also distributed them to Memphis authorities to interfere with and prejudice the processes of justice.

78. I cite my own case because it underscores the spuriousness of the claim of genuine interest in protecting privacy rights. Because I was certain that the FBI would disclose false and defamatory records about me, I sought to exercise my Privacy Act rights with both the FBI Director and the Attorney General. Both ignored this request. Neither even acknowledged it. Still more false and defamatory information about me was then disclosed, in 1977 and 1978, while my request of 1975 still awaits compliance.

79. The statement that "only identities of third parties in the King case and data which would identify them have been withheld" is not factual. Both the identities and identifiers have been disclosed as well as withheld and information other than that which would identify them is withheld.

80. The claim is refuted by Mr. Shea, quoted above, pertaining to public interest in the FBI's investigation.

The (b)(7)(D) Claim

81. It next is claimed (at B, page 5) that the (7)(D) claim is correctly applied in the sample documents, Wood Exhibit A.

82. While as usual the FBI has disclosed what it claims it must withhold, in practice the FBI has again rewritten the statute and the intent of the Congress to regard anyone who talks to the FBI as an FBI confidential source - even those the FBI had not talked to. To get around the fact that in most cases there never was any confidentiality, the FBI and the Department pretend that in all cases there is an implied confidentiality, even where the people had not been spoken to and even for those who have rushed into print themselves - and the FBI's disclosed records reflect this.

83. Where confidentiality is requested or promised, my examination of about a quarter of a million pages of FBI records establishes that the FBI is careful to state this in its records. This is reflected in the samples Wood attaches to his affidavit.

84. The samples are not consistent with the FBI's representation of them or with each other. They do include the names of sources. To justify the withholding of the place of work of one source, the FBI claimed it had to do this to protect him although it disclosed his name. Finding his home address from his name is child's play. One consults the phone and city directories. Yet in another sample the FBI disclosed the place of work while withholding the name of the nonconfidential source who provided entirely nonconfidential, normal commercial information. Examples are below, under "Wood Affidavit."

85. Now, more than a decade after enactment of FOIA and more than a decade and a half after publication of those 27 large volumes of Warren Commission records, the FBI claims (7)(D) to withhold precisely the information it authorized be disclosed by the Warren Commission in its published records and in the about 300 cubic feet of records deposited in and available at the National Archives.

86. What is withheld under (7)(D) claim includes information Mr. Shea stated should be disclosed, not withheld.

87. Pertaining to the many thousands of pages of disclosed records, I have not raised a single question about a legitimately confidential source. To the contrary, I have notified the FBI of its identification of informants so it

could withdraw those identifications from its reading room.

88. The intent to misuse this exemption is clear in the Wood affidavit. While it is carefully broken down by subject heading, there is no heading for confidential informants. He circumvents this with the heading "Confidential Source Material" under which he includes nonexempt information.

Third Parties

89. Withholding the "identities of third parties interviewed by the FBI " (page 6) is not consistent. The FBI also has disclosed these names, including names it also withheld. Here again practice with the Warren Commission records, prior to FOIA, is other than is now claimed under FOIA.

90. The actuality is that the FBI was determined to harass me, to make use of FOIA as costly as possible and to burden the Court without need, and to this end withheld unnecessarily, inconsistently, arbitrarily and capriciously, and now, having to justify inconsistency, arbitrariness and capriciousness, misrepresents its own practice and makes false pretense of confidentialty and of privacy. Once again the Wood affidavit proves the opposite of what it claims, as is shown below.

91. The actuality is that the FBI has claimed confidentiality and privacy in this case for the contents of the public press, the phone book, court records and the content of its own reading room. (It has not claimed confidentiality for the Ten Commandments, but then it has not displayed any acquaintanceship with them.)

92. Mr. Shea, as quoted above and in his testimony, refutes the claimed need to withhold these names.

The (b)(7)(E) Claim

93. It next is claimed (at C, page 6) that the claim to (7)(E) for Document 91 is correct and justified. The information provided in the so-called index is not sufficient for the purpose of the index. There is no claim, not even a pro forma claim, that the "investigative technique" is in any way confidential or unknown. However, the attempt to justify the unjustifiable that is made in both the Memorandum and the Wood affidavit is sufficient to make it clear that the trust of the Court is being imposed upon and that the representations made by an FBI expert and repeated by the Department are knowingly untruthful.

94. For there to be any possibility that disclosing what is withheld in Document 91 "would result in the subjects of FBI investigations taking added

precautions to circumvent detection" it is necessary that the techniques not be known to those who are "the subjects of FBI investigations." This is not alleged and it is not the fact.

95. What is withheld in Document 91 is "a source." If it is a so-called investigative technique, it cannot be a human source. From the content of the document itself, it is apparent that of the techniques that can be described as "investigative techniques" and are referred to by the FBI as "a source," like mail interception, all are eliminated except for electronic intrusion.

96. Bugging, tapping and wiring people with transmitters and tape recorders are not unknown investigative techniques. To my knowledge, the FBI itself has disclosed its use of these methods, including to me, personally, Moreover, it has disclosed such records to me in this instant cause and I have attached other of its records making such disclosures to my earlier affidavits in this instant cause.

97. Here the surveillance was of a legitimate trade union which was sorrowing over the terrible assassination and was preparing to honor the revered victim.

98. The claim to (7)(E) is made in an effort to avoid embarrassment, which is not a legislated exemption of FOIA. It is not made to protect an unknown "investigative technique" and it is not made to avoid and it cannot avoid any disclosure that "would result in the subject of FBI investigations taking added precautions to circumvent detection."

99. Whenever it suits the FBI's political purposes to disclose these investigative techniques, it has for years disclosed them, including by leaking them to the press. A recent example is in the Jack Anderson column that appeared in the Washington Post of Sunday, April 27, 1980. It published the FBI's electronic surveillance of Mafiosos and the content of the conversations as well as other pertinent information. Prior to this litigation a batch of such disclosed FBI records was provided to me and to others. Single-spaced, on legal-size paper, it is about an inch thick, with no deletions. In this litigation the FBI's requests for permission to install these techniques on the Rays is disclosed. There is disclosure of electronic surveillance of Marina Oswald in the JFK case. The telephone surveillance of Dr. King, authorized by the Attorney General, as well

as microphone surveillance of him for which the FBI did not ask permission, is disclosed in the Hoover "Official and Confidential" file. The use of these techniques against Dr. King is public knowledge, as is the fact that the FBI held private sneak previews of their results for the press and for the Congress. There are countless such official disclosures by the FBI, in addition to its multitudinous leaks, which also are official.

100. The Memorandum itself admits to the requirement "that it be an investigative technique not 'already well known to the public'" (quoted on page 6 from the Congressional conference report). The Memorandum does not claim that this technique is "not 'already well known to the public.'" Neither does the Wood affidavit (Paragraph 13). Instead, both state that the technique "is still used today." This is a deliberate effort to deceive the Court. In fact, most investigative techniques "still in use today" are "well known to the public." Some of the most effective and widely used were known to the public of biblical days.

SEVEN OF THE TEN EXEMPTIONS CLAIMED ARE NOT JUSTIFIED - OR EVEN REFERRED TO

101. This sampling does not include a single example of the use of exemptions (b)(1), (b)(2), (b)(3), (b)(5), (b)(6), (b)(7)(A) and (b)(7)(F), all of which are used to withhold in this instant cause. It also does not include any example of withholding under claimed need to refer records to other agencies, including other Departmental components. It does not include any justification of withholding attributed to copyright.

102. I do not recall any attempt at justification of withholdings attributed to the above-cited exemptions with the single exception of one of the copyright claims pertaining to the Louw/Life pictures. The Court did not support that claim. That matter is now before the appeals court. Copyright claim is made for information that is not copyrighted. However, much copyrighted material is provided.

103. Of the ten different claims to exemption that I recall, this sampling involves only three and all three are used improperly, as is set forth in detail below in connection with the Wood affidavit. None of the other seven is justified. The Department's own witness, Mr. Shea, testified that some should not have been used at all and others were not used properly. (See also above,

under Mr. Shea's reports)

THE SEVENTH WOOD AFFIDAVIT

104. In none of Wood's six prior affidavits nor in any of the other earlier affidavits provided by the FBI in this matter has there been a definition of terms. Those Wood now provides (pages 2 and 3) are not accurate.

105. One error, under "Serial," is that each record "is assigned a sequential number in the file in which it primarily belongs, but not in the file into which it is cross-filed." While most of these cross-filed or "not recorded" serials do not bear serial or sequential numbers, some do.

106. Another of his errors is in describing a tickler as "a carbon copy of a document appearing in the regular files, which is prepared for the information and temporary use of individuals at FBIHQ ... and are generally destroyed after a brief period of time." This is an inaccurate description and is of one component of a tickler. The tickler itself is a collection of records, some of considerable volume, some, to my knowledge, considerably more voluminous than entire files. The inaccuracies include "carbon copy" rather than "copy." These are xeroxes. The representation of rapid destruction is unfaithful. I know of ticklers created more than 15 years ago that, rather than being destroyed, were transferred to the FBI's general files. With a continuing case there is continuing need for the information compiled in the tickler. The so-called Long tickler in this instant cause still existed and was still kept in the Division a decade after its creation. It was not destroyed until long after I requested it in this litigation. And although Wood attests that ticklers hold only information "appearing in the regular files," even after it was gutted, what remained in the Long tickler included pertinent information not provided to me from the entire FBIHQ MURKIN file or in any of the records from any of the field offices. Both the compilation of records by subject and notations added provide information not provided from "the regular files."

107. His description of abstract, while now corrected to eliminate the false representation that it is a normal 3x5 card, still is not fully accurate, as I can attest from my examination of each and every one provided in this instant cause and from my study of other FBI records. There are <u>two</u> abstracts prepared for each recorded serial, not one. Wood continues to account for but one. They

are on paper rather than stiff cards. The second copy is a carbon copy. Only the carbon copies have been referred to by the Department or the FBI. It is the carbons that were xeroxed for me. The original set is filed by date rather than by serial number. When he was trying to talk the Court out of directing that copies be provided to me, Wood swore that the abstracts are not used for retrieval. Now he attests that the reasons for the preparaton of abstracts include "to allow for the rapid identification and retrieval of serials." (Pages 2-3)

108. Wood defines "see references," for all the world as though they are pertinent in the samples of his Exhibit A. They are not. Despite the suggestion of the Court that they be used in this case, they have not been. I asked. It was refused. Including them when they are not pertinent serves to suggest what is not true, that they are pertinent because they were used and that there was compliance by means of them. There was not.

109. Wood's description of "Processing of the Retrieved Files" (Paragraph 5) also is not accurate. He does not include in them (or anywhere else) any of the records provided in partial compliance with my April 15, 1975, request. He represents that "the FBI retrieved, processed, and released all non-exempt portions of MURKIN and related files maintained at FBIHQ and the Memphis Field Office ..." This is what the FBI should have done but did not. It did not release all "non-exempt portions" of them. It withheld and continues to withhold nonexempt portions. I have provided innumerable illustrations of this over a period of four years by providing what was and remains withheld in this instant cause from records obtained other than in this instant cause.

110. Not only have "related files" not been "retrieved, processed, and released," the FBI continues to refuse to do this - and I have asked it repeatedly. For example, a major part of the MURKIN conspiracy investigation is not included in any MURKIN file at HQ or the field offices. It is filed separately, classified as bank robbery files. When I learned this from examination of what remains of the gutted Long tickler, I appealed immediately. My appeal has not been acted on, no search for any of these records has been reported, no claim to exemption has been made, and no records have been provided. These are "related" files in the field offices, also.

111. There are other "related files" still not searched and records from

them still have not been provided or accounted for.

112. Although Wood does not use the word "all" he does represent that all "MURKIN material" was provided by all the listed field offices. This also is not true. For example, there is MURKIN material pertaining to the Ray family that was not provided to me but was provided to the members of the Ray family and to the House Select Committee on Assassinations.

113. Wood refers to "Civil Rights Unit ticklers" in the plural. In fact, there were ticklers in addition to the Long tickler. But only part of the Long tickler has been provided after repeated untruthful representations that there were no ticklers at all. I learned of other ticklers from the deposition testimony of FBI witnesses and from examination of the disclosed records.

114. Wood states that "Laboratory Division ticklers have also been processed for disclosure to plaintiff." This does not state that all has been provided to me. In fact, pertinent Laboratory records remain withheld. And if, as Wood represents in Paragraph 4, under ticklers, they are kept for only "a brief period of time" and then are destroyed, obviously they would not exist to be processed for disclosure 13 years later.

115. It is important to note that Wood does not actually attest that all "MURKIN material" was provided by all the field offices listed in the Stipulation. Most "MURKIN material" in those field offices was neither provided nor in any way accounted for.

116. One of the means by which MURKIN material in the field offices was withheld is to claim, with regard to the Memphis records, that they were "previously processed." (See what Mr. Shea found about this, above.) Not even this claim was made for the other field office records that have not been provided. I appealed this promptly. Moreover, the means by which the claim was made with regard to the allegedly "previously processed" Memphis records that were and remain withheld denies any possibility of identifying any of those withheld records from HQ MURKIN records. Most Memphis (and all other field office) MURKIN records are withheld. One means of identifying the allegedly "previously processed" Memphis records in HQ files is by providing their serial identifications on the worksheets. While this still withholds information of importance and value because the copies are not identical, it does permit research that is impossible without such identificatio

Beginning with these withheld Memphis records and pertaining to the claim "previous processed" and following repeated appeals and protests, a compromise was worked out - that I would be provided with the identification of the "previously processed" records. However, while this has been done with some but not all of the records pertaining to the investigation of the assassination of President Kennedy, it has not yet been done with any King assassination records. Moreover, the worksheets on which this was done in the JFK case do not exist for such use except for Memphis records. No worksheets listing the withheld MURKIN records have been provided for any of the other field offices.

117. In his "Selection of Sample" (Paragraph 6) Wood lists 22 files allegedly provided. He states that "the pertinent documents were arranged in the following order, which consisted of each of the categories' main files and respective see references if any." As stated above, search of the see references was refused.

118. Much MURKIN material that is not filed under the MURKIN caption can be retrieved by use of the see references. Information pertinent to specific Items of the requests also is readily retrievable by use of the see references. When I obtained a few of the search slips used for the April 15 request under discovery and learned that they hold references to records not even looked at by the searchers and I then asked that those records be examined and provided, this was refused and remains refused.

119. Wood here refers to "material released or to be released to plaintiff. The FBI has not informed me of any material "to be released" to me, although there remains much that should be provided. He includes no sample from anything "to be released" in his Exhibit A.

120. Wood includes "Civil Rights Unit Ticklers (Long Ticklers)." Only part of one Long tickler has been provided although, as stated above, other ticklers were identified during deposition testimony and I have provided other identification of other ticklers as I perceived references to them in the records I examined.

121. Wood includes "Laboratory Division Ticklers" and I have not received all of them. What was released to me as the Lab's ticklers on the entire case, and is not, was mailed under date of February 21, 1980. The letter is signed with the name of branch chief David Flanders. The signature is initialed MW, Wood's initials. This information was not provided in response to my initial requests

or in response to my appeals of several years ago. It was not provided until the present Motion was in prospect. What then was provided totals six pages, of which three are a Department press release. One of the two other records pertains to the Department's public statement. The remaining single record is hardly a representation of all the work done by the Lab in this, one of its major cases, or of hundreds of different kinds of tests made by different Lab units.

122. This letter is ambiguous, does not report what was searched or by whom or when or what was located. What it does report is inconsistent with deposition testimony in this and a JFK assassination case. It does not state whether the search was made by the one who made the prior Lab records searches in this litigation, it does not quote him, and it does not state why these pages were not provided earlier. It pretends to what is neither probable nor consistent with the records I have obtained and examined. These records and deposition testimony established that there are Lab ticklers for each element of the Lab's investigation. The ballistics experts have their own tickler or ticklers separate from those of other experts, like soils and hair and fibers. What is suggested with Wood's initials is a nonfunctioning tickler system where the purposes of maintaining a tickler are defeated. Everyone would be having to search the same single tickler and only one would have it close at hand.

123. What is provided is virtually void on the Lab's examinations. It consists of but six pages, two records in addition to the Department press release. The covering letter admits withholding but is unclear on what is withheld. The ostensible reasons for withholdings are, first, that the information was provided elsewhere, which is not the case because my request for the entire "Enclosure Behind File" has not yet been met. It also admits to withholding of three other documents Wood presumes were misfiled. This is suspect because the description of the kinds of cases to which they are said to pertain is entirely consistent with aspects of the MURKIN investigation and because of the ease of xeroxing three records, sending them and eliminating any question at all about them.

124. This letter also reflects the FBI's preconceptions and the limitations it attaches to its searches. It presumes its own infallibility in preconceiving Ray's lone guilt and assumes that my information requests and interests are in terms of its preconception and in the expectation of finding a smoking

gun. I do not share its preconception, my major interest is in the FBI's investigation and I expect to find no smoking gun.

125. There is no doubt at all, from the records provided to me and those withheld from me but provided to another, which I have read, that there are other Lab records pertaining to the MURKIN investigation and not provided to me in this litigation. One example is the Lab's work associated with bank robberies the FBI theorized were the means by which James Earl Ray was financed. (My appeal pertaining to bank robberies has not been acted on in several years.)

126. When the FBI mailed me two records and a press release as all the Lab's ticklers in this major case, it continued to withhold records within my April 15, 1975, request. The existence of this information was established in last year's depositions.

127. Ticklers are compilations of records. Compilations of records have their own separate values and importances, particularly in a study of the functioning of an agency of government. In this case, because of the great volume of records, it is impossible for anyone making a study to prepare any separate compilation. While a requester may not expect any compilation to be made for him, he can expect that any existing compilations be provided and this is what I did request. What was sent me as the Lab ticklers, atypically referred to in the singular in the letter and in the plural in Wood's affidavit, is a very bad joke on a very serious subject.

128. The Lab's ticklers should exist because they pertain to a continuing case. There is continuing need for these ticklers because Ray is still litigating. Moreover, such records are not to be destroyed while any litigation is pending. Ray's litigation has been continuous. My litigation was pending from the time of my first requests, in 1969. I filed the complaint in November 1975. In the similar case, of the JFK assassination investigation, after 15 years those Lab ticklers still exist.

129. The second of the two records provided, not initially a Lab record, establishes what I have stated in the past, that all MURKIN material is not captioned for or filed under the MURKIN caption or file number. It is a MURKIN record which does not bear either identification. This constitutes further proof that any search limited to the caption or file number for MURKIN, even if a full

and honest search, does not yield all MURKIN information.

130. Wood's affidavit, under "Processing of the Retrieved Files," Paragraph 5, includes "Abstracts corresponding to HQ listed above." The abstracts provided are incomplete. The original set of abstracts has not been searched for copies of what is said to be missing from the carbon copies of the abstracts. More on the abstracts and compliance is below.

131. In representing a meticulous count "to facilitate the selection of every 200th document" (Paragraph 8), Wood states that the worksheets were used, "circling every 200th item." This means that every 200th document was not used for the sampling because some of the individual entries on the worksheets actually consist of multiple documents. Where a series of memoranda were given a single serial number, the worksheet identifies one only. There are dozens of instances of many individual documents being collected within a single binder and being given a single serial number. One example is the so-called prosecutorial volumes, each of which Wood counts as a single record. Many hundreds of individual documents thus are not accounted for on the worksheets because they are listed by serial number, not by document. Wood, the FBI and the Department thus omit all of them.

132. By this means no samples of some of the files are included in this so-called index to justify and explain claims to exemptions. This was accomplished by the means of selecting the samples and by lumping all files together as a single unit. (Paragraphs 6 and 7) The FBI did not use the first record in each file. After arranging them for continuous counting, the FBI skipped the first 200. Wood lists the files from which a sample was selected in Paragraph 9. Comparing this with the list of files from which records were provided, Paragraph 6, shows that there was no sampling from the second, third, sixth, seventh and twenty-second. That is, no sampling from more than a fourth of the files from which records have been provided, and from those not entirely omitted in the sampling, one record only is included for a third of them. What is omitted entirely are such HQ files as those on the Memphis sanitation strike. Where a single document is the sample, that is for such files as HQ Invaders, HQ James Earl Ray, Memphis Office James Earl Ray, St. Louis MURKIN, and Civil Rights Unit Ticklers, again given as plural when part of one tickler only has been provided.

133. Under "Use of Exemptions" (Paragraph 10) Wood manages not to even list all the exemptions used. As a result of this manner of so-called sampling, the FBI wound up with an alleged Vaughn v. Rosen "index" that omits 70 percent of the exemptions claimed. He treats only three of the ten, none of them fully, fairly or even honestly. In some instances he does not correctly identify the exemptions claimed.

134. Of these three of the ten exemptions claimed, he begins with the privacy exemption, (7)(C). Under it he has five breakdowns. The first is "Unwarranted Invasion of Personal Privacy."

135. A basic consideration, as Mr. Shea testified, is that for it to be protected privacy must exist. Although Wood is careful to avoid this - and he is aware of it - in a large number of instances, this privacy does not exist. Among the means by which it does not exist are disclosures by the FBI itself and by the Department. If Wood has not read a single one of the many appeals and records I have provided pertaining to this, and my appeals take up a full file drawer, he has personal knowledge from having been in the courtroom when I have provided illustrations of it. He should also have knowledge of this from his FBI responsibilities. He does know better and other than he attests. He swears falsely here. For example, he attests (Paragraph 11) that "where it was apparent in the file itself that the information was publicly known, it was released." Countless instances of withholding of what the disclosed records do disclose gives the lie to this attestation, pertaining to the most widely used exemption.

136. The FBI provided written assurances that all my written communications alleging improper claims to exemption were read and considered. (It responded to none of them and it ignored all of them. The identical unjustifiable withholdings are repeated in the most recently processed records, the abstracts.) In them and by other means, like the consultancy memo, I called to the attention of the FBI's FOIA/PA branch countless instances of withholding what it disclosed.

137. Mr. Shea also testified that these withholdings should be restored.

138. The FBI withheld and continues to withhold what was "publicly known" by the following means:

by the FBI itself in the records provided in this case;
in the FBI's own newspaper and magazine files provided in this case;
in the Office of Professional Responsibility's (OPR) notes on the records

provided in this case;
by other Department components;
in court records;
in the books on the subject (to which I provided a consolidated index so that these unjustifiable withholdings could be avoided), which the FBI assured me it used in processing the records;
with the FBI's permission, by the Congress;
in telephone and city directories;
by the persons themselves, not uncommonly in an effort to commercialize the crime by fabrications and for personal attention;
by prisoners and those under charges, who fabricated false information in the hope of receiving the FBI's favor in return.

139. Wood's case files hold the illustrations I provided for each of these kinds of wrongful withholdings, including copies of the FBI's own records. In three years and more the FBI has not disputed the evidence I gave it, for it can hardly dispute the evidence of its own files, yet it has not restored what it withheld improperly. Wood seeks to mislead the Court on this and to perpetuate improper withholdings to avoid being required to reprocess.

140. Wood also represents that claims to (7)(C) "were considered in view of the historical importance of and the continuing interest in this investigation." The record refutes him. In this regard, however, he makes no mention of the Attorney General's historical case determination or of his May 5, 1977, policy statement on the privacy claim. It was agreed that this standard would be followed. This is stated explicitly in the Stipulation. Wood does not state that this standard was followed and it was not followed, neither in the processing of the records nor after appeal.

141. He quotes the language of the Act, "unwarranted invasion of personal privacy," (emphasis added) but he does not show that disclosure is not warranted and he does not state that disclosure would constitute an invasion of privacy. Instead, he presents conclusory generalities that simply are not truthful. The record, including the record in his own files, refutes him. He does not make even the pro forma allegation that what is withheld was not already disclosed, as I had alleged.

142. He represents untruthfully that only "where it was felt that the disclosure of this information would announce to the world facts or allegations from which derogatory inferences might be drawn was the information deleted." This is untruthful.

143. The FBI announced much such information to the world, including

its own baseless and defamatory fabrication, that I, a Jew, allegedly conspired with the notorious racist and anti-Semite, J. B. Stoner, to defame the FBI.

144. It announced to the world the names of women who slept with James Earl Ray and both of his brothers, including how and what they were paid and where they lived.

145. It announced to the world the names of black women who allegedly slept with men to whom they were not married as well as the names of their relatives

146. It announced to the world that countless named and uncharged people were criminals of various sorts.

147. These are in both the case record and Wood's FBI files. In addition, there is an endless stream of defamatory records, disclosed by the FBI, attributing alcoholism, thievery, drug offenses, homosexuality, mental illness and a wide variety of character flaws and crimes to many identified persons.

148. Under "third parties" Wood represents that in all cases the names of suspects were withheld. This simply is not true. The FBI itself identified suspects, as Wood himself does in his Exhibit A samples. In some cases the FBI both disclosed and withheld these names. In some instances the Department disclosed what the FBI withheld. The converse also is true.

149. Wood does state that "suspects were investigated and eliminated by the FBI." Notwithstanding this, he represents that if the name is "contained in the MURKIN or related files" this person would be "intrinsically linked with the murder." FBI clearance means the exact opposite. Moreover, in the MURKIN and related files, the FBI did disclose its interest in hundreds of identified persons, exactly what Wood here claims would defame them. For example, throughout the large Memphis sanitation strike and Invaders files the FBI did not withhold defamatory information about a vast number of identified persons, mostly blacks, and its interest in a large number of blacks and whites not liked by the FBI. (This also is in the case record and Wood's FBI files on the case.)

150. What is stated above pertaining to third parties who were investigated applies also to third parties who were not investigated and whose names appear in the records. These are both disclosed and withheld.

151. Examples directly contradicting Wood, in addition to the criminal, sexual, medical and political defamations released by the FBI, include special

campaigns it waged against third persons it did not like. It did investigate them. Its investigations were not limited, as Wood represents, to suspects. It singled out pacifistic and anti-racist ministers, not only black ministers, for special treatment. After concocting prejudicial misrepresentations about them, it disclosed the defamations it created. (It found white ministers with black congregations especially suspect.)

152. Wood deliberately misrepresents the actualities pertaining to the withholding of the names of FBISAs, as stated above. After failing to mention that, months prior to the processing of the MURKIN records, the Court ordered that such names not be withheld, he goes further and seeks to convey the idea that these withheld names were restored. They were not. He says that it was only "During the early processing of records pertinent to plaintiff's requests" that these names were withheld. "Early processing" means throughout 20,000 pages. He concludes this passage with, "The (b)(7)(C) exemption for these names is hereby withdrawn." Not a bit too soon, considering that the Order prohibiting that withholding, the most common single one, was of four years ago. Having stated this, apparently assuming that the Court would not examine his Exhibit A or that I also would not or the Court would pay no attention to anything I might say, he then proceeds to withhold SA names under the claim to exemption he attests is withdrawn. (See his sample Document 89 description.)

153. Wood states that the claim is withdrawn but he does not state that these many improperly processed records have been replaced, as they have not been, or even that they will be replaced. Yet this affidavit, save for the Blizard affidavit, constitutes the entire Statement of Material Facts contending that there is no genuine issue, in support of the motion for summary judgment which is misrepresented as a Motion for Partial Summary Judgment. This is and has been a genuine issue since prior to the processing of any MURKIN records. The issue has existed since the processing of the first records in response to my April 15, 1975, request, or since December 1975.

154. Violation of the Order is not accidental. My counsel and I raised it in conferences with the FBI, including its Legal Counsel Division, months before any MURKIN records were processed. The FBI stated explcitly that it would

not obey the Order, and it then violated it throughout the entire HQ MURKIN file. Department counsel were also aware of this from many discussions, including at conferences arranged by the Civil Division. The violation and perpetuation of the violation of the Order are deliberate. So also is the misrepresentation.

155. The plain and simple truths are that the FBI deliberately violated the Order of the Court, with the support and assistance of the Department, especially the Civil Division; that both now misrepresent this; that it then waited four years to slip a mention of withdrawing the claim into the case record without replacing or stating that it will replace many hundreds of improperly processed records and at the same time makes a new claim to the allegedly withdrawn claim in a new violation of the Order.

156. Under "Third Parties Interviewed" (page 8) Wood states that the (7)(C) claim was made in conjunction with the (7)(D) claim. This is tacit admissio of what I have alleged from the first and throughout this long case, that the FBI deliberately violates the Act and treats any source as a confidential source. This is not true, despite the contrivance of "implied confidentiality," which does not exist. Wood's own Exhibit A and his samples are clear in distinguishing those persons for whom a legitimate confidentiality is claimed. When there is confidentiality, the records reflect it. When it is not reflected, the source is not confidential.

157. Wood's statement that "all reasonably segregable information furnished by the third party interviewed was released ..." simply is not true, as I have proven, with illustrations, throughout this long case. The most recent example of this is an extensive listing of the information withheld by the FBI as it was disclosed by the Department. I provided this in connection with the abstracts. As I informed the Court in advance would happen, the FBI processed the abstracts with the intent of doing the opposite of what Wood now attests to. In an effort to protect the improper processing of the underlying records, rather than correcting it, the FBI duplicated the wrongful withholdings, including of the reasonably segregable, in the abstracts. Where there is withholding in the underlying record, it is not withheld in the pertinent abstract. The FBI both withheld and disclosed the identical information pertaining to third parties interviewed in the underlying records and in the abstracts.

158. That the foregoing was known to Department counsel is established in the depositions. I then provided illustrations of it. Instead of correcting error, the Department counsel protested and objected, claiming not to know the authenticity of the Department's own OPR records.

159. Wood concludes this section with an incredible representation, that to disclose that citizens cooperate with their government would end their cooperation. This is incredible because the FBI itself decided to disclose precisely this kind of information in the multitude of its records that it sent to the Warren Commission. The Commission published these records in facsimile, in 27 large volumes, without any excisions. There is no single case of any third-party identification being removed, yet citizens have willingly cooperated since, and without asking for confidentiality, as the large volume of MURKIN records in question reflect. The FBI also agreed to the identical disclosure throughout the 300 cubic feet of Commission unpublished files, and I have published hundreds of pages of them in facsimile because there is no FBI restriction on them at the National Archives. No single person has complained to me about this. In addition, the FBI gave the identical permission to many Congressional committees, which also published identical records in facsimile, without the withholding Wood now pretends is a minimal law-enforcement essential.

160. Under "Confidential Source Material" Wood lumps together "a confidential source" and "confidential information furnished only by a confidential source." The second provision applies only to "an agency conducting a lawful national security investigation." It is not applicable to the law enforcement part of (7)(D), which is limited to "the identity of a confidential source" of a record "compiled by a criminal law enforcement authority." The MURKIN investigation was not a national security investigation. It was an investigation under the Civil Rights statute and is so classified by the FBI itself.

161. Here again (page 9) Wood seeks to extend the language of the Act, "confidential source," to any source. He knows better than the Congress, so after first mentioning that confidential sources are exempt under the statute, he never again refers to "confidential sources." He includes all sources as confidential.

162. As it pertains to both provisions of this exemption, the practice of the FBI is to claim confidentiality for almost anything, from the press, from publications of various kinds, and even when the people who were the sources went

public on their own. The FBI has claimed (7)(D) for what was published even though the second provision requires that the information be confidential and be available from a confidential source only.

163. Under "Persons Interviewed" (pages 9 and 10) Wood repeats, in conclusory terms that are not supported by the record, that where the Act says "confidential source" only, it means any source.

164. Wood does distinguish and has a separate section titled "Expressed Confidentiality." (pages 10 and 11) In this litigation there is no question of disclosure of a confidential source because I have not appealed any such withholding. There likewise is no question in this case pertaining to symbolled informants, his section "Sources Reporting Information on a Regular Basis," where disclosing the identity of the informant is not involved. There ia a question he seeks to circumvent, pertaining to disclosure of the symbol identifications. In the past I have rebutted the claims made to withhold these arbitrary symbol identifications, that they are a code that can be broken. They are not. Now Wood substitutes the claim that the accumulation of information provided by symbolled informants can be analyzed to disclose their identifications. There is no such question in this case because there is no such accumulation of information from any informant. However, the FBI, in this case, has disclosed the symbols of a number of informants without once reporting any harm has come to any of them. As recently as in the processing of the abstracts it disclosed symbol identifications, some of the larger number of them disclosed in the underlying records. The real purpose of withholding the symbol identifications is to prevent disclosure of the misuses the FBI made of bad sources. Among these misuses, as I informed the Court prior to the fact, was misleading the House assassins committee. Where there is no danger of disclosure of identification, the symbols are valuable and necessary in what is of considerable public interest, evaluating the information and the FBI's performance in this major historical case.

165. Underscoring Wood's evasiveness is the absence of any breakdown for symbolled informants. He lumps them in with other "Sources Reporting Information on a Regular Basis."

166. Wood's section "Investigative Techniques and Procedures" (page 12) provides a single sample, dealt with above. (See Paragraphs 93ff. Exemption (7)(E) was used more extensively in the underlying records.) His conclusory

description of the exemption and the underlying record is designed to mislead and misrepresent both the statute and the information withheld. It is not an unknown technique. However, if it were, then he is amply rebutted by the FBI's disclosure of records in which permission is sought to employ such techniques and the voluminous disclosure of records in which the techniques are identified. This exemption is misused to try to protect the Bureau from what can embarrass it and for no other purpose.

167. Wood's affidavit concludes with "Itemization and Description of Deleted Material" in his samples that are attached as Exhibit A. The descriptive material, added to the sample documents on separate sheets of paper, refers to cited paragraphs allegedly pertaining to the exemptions claimed and alleged justification for the claims.

Wood's Sample Documents, Their Description and Justification

168. In the following paragraphs I address the records he uses as samples, first by subject to which his affidavit attaches more importance, then, in sequential order, the descriptions added by Wood. Because of the importance of the genuine issues of material facts that do exist; because of the extensiveness of the distortions, misrepresentations, untruthfulness and false swearing; and because of overt fakery in the manner of the prior FBI fakery attested to by SA Horace P. Beckwith, I have taken much time to check Wood and his descriptions and samples against the records provided. More extensive checking, which is not possible for me even with an extension of time, might well disclose more such abuses and impositions on the trust of the Court. Despite my extensive experience with official abuses and dishonesties, I am surprised at the extent of them when Wood, the FBI and the Department had every reason to expect me to do as I have in the past, expose them to the Court. I am particularly surprised that Wood goes so far as to attach samples of what he swears were provided to me when, in fact, they were withheld and the records he describes as basic in his selecting of samples, the worksheets, are specific in stating that they were denied. One such denial, of photographs promised to me by Director Kelley and still not provided when I requested them in response to his offer, was recently at issue before the Court, so Department counsel is also aware of that, as is FBI Legal Counsel Division SA Jack Slicks. Within my extensive experience with unfaithful official

representations to a court, Wood has achieved the closest approximation of totality.

The Samples Are Not Representative of the Withholdings and the Withholdings Are Inconsistent Within the Samples

169. Samples from which there is no withholding are not suitable for an index of withholdings in which each withholding is explained and justified. Of the 147 samples, 90 are of this character, having no withholdings. This proportion is not representative of the withholdings in the records provided.

170. Of these 90, 16 are of newspaper clippings or wire-service stories: Nos. 27, 29, 36, 37, 38, 49, 51, 52, 53, 54, 61, 74, 75, 76, 87 and 92. This is more than 10 percent of the samples, a percentage that is hardly representative of the records provided and is entirely unrepresentative of the records in which there is withholding.

171. Of the 90, another three are copies of monthly reports of costs allocated to the investigation: Nos. 34, 70, 73. This also is not representative of the records provided.

172. Another 25 have no information of other nature that is subject to withholding on any ground: Nos. 3, 6, 10, 23, 31, 35, 40, 43, 80, 86, 97, 98, 104, 108, 109, 113, 114, 116, 118, 121, 130, 135, 138, 141 and 142. Of these, 13 are abstracts and three are cards from the so-called prosecutorial index. While these total more than 15 percent of the sample, they are less than one percent of the records provided. The entire sample includes 33 abstracts and 14 index cards. This is almost a third of the entire sample. This also is not representative of the records provided.

173. Forty-nine have no withholdings but do contain what is withheld in other samples under (7)(C) and (D) claims. Of these, 17 hold information that in other records is withheld on claim to (7)(C), three hold information that is withheld in other records on claim to (7)(D) and 29 hold the kind of information that is withheld on claim to both (7) (C) and (D).

174. The specific kinds of information that is withheld throughout the records and is disclosed in these 49 documents include names, addresses, phone and licence numbers, places of employment and prison numbers. The names of cooperating police agencies and personnel is disclosed, as is the cooperation of three

identified foreign police agencies. Sources, not confidential sources, withheld throughout on the false pretense that any source is a confidential source, are disclosed, with personal identifiers.

175. Derogatory information is disclosed, not withheld under (7)(C) claim in these 49 samples. One example pertains to William Lee Stimson, a black: "Stimson was a sniper in Greensboro during a racial disturbance last month in which three police officers were wounded. He has been arrested for assault with a deadly weapon, rape, and in November 1966, for carrying dynamite and threatening to blow up his mother and other members of his family. He has had previous psychiatric care." In this Document, 39, two sources are identified.

176. There also is inconsistency within these 49 illustrations. There is some withholding in four of them. Most sources are not protected but one is. One record reflects the actuality, that when there is confidentiality, it is stated in the record.

Analysis of Lower-Numbered Samples

177. Of the first five samples, three do not fit the description and three withhold information that is not described in the description. This also includes the withholding of what is disclosed in other samples. Another of these five is accurately described but it withholds information that is disclosed in other samples. There is reason to believe that the name it withholds has been disclosed. Another similar example in the lower-numbered samples is 7. This is true throughout the samples.

178. Nowhere does Wood state that the public domain is not withheld and, in fact, the public domain is withheld extensively.

179. In the first three dozen samples, nine, or a fourth, are "confidential source" claims where no confidential source is referred to in the samples: Nos. 5, 7, 11, 14, 17, 19, 20, 21 and 23. Of these one (20) withholds the names of two nonconfidential sources and another (21) withholds four of them. At least one (11) is a blatant fabrication. Another (5) is public domain by publication, by the FBI's own disclosure and by use in the Ray guilty plea hearing.

180. There are at least four other cases of withholding that the Government disclosed in the first two dozen samples: Nos. 8, 9, 12, and 20. Of these 8 is not accurately described. It pertains to a sister of Walter Rife, an earlier criminal associate of James Earl Ray, and to Ray's sister Melba, whose address

is withheld here under privacy claim but is disclosed in other records and was widely published before any records were processed.

181. In the first 20 samples there is inconsistency in the withholding of names and addresses under (7)(C). In some samples names are not withheld but the place of work is withheld. In some the names are withheld but the place of work is not. In some home addresses and phone numbers, available from public sources like the phone and city directories, are withheld but the names are not. Phone numbers and addresses are not withheld in later samples, where exemption is not claimed under identical circumstances. (See Nos. 13, 14, 19) One of these, 19, withholds what is disclosed in 65, the name of a company that employed a cab driver. Sample 19 withholds what was provided by gossip columnist Walter Winchell. The original claim to exemption was (b)(2) and (7)(C). Here Wood adds (7)(D). Neither Walter Winchell nor the copy of a letter he received is a confidential source. He provided the letter with racist and political motive, in order that the FBI might defame Dr. King. (There are other changes in claims to exemption in which (b)(2) is dropped and (7)(D) added. For example, see Document 26.)

182. Sample 20 is a phony (7)(D) claim for additional reasons: the source was not the FBI's but a newspaper's, the Los Angeles Times. The FBI then had not been in touch with that source. It was looking for him. Withholding here makes positive identification impossible, but I recall only one such Los Angeles Times source in all these records. The FBI disclosed his name in other records. It is Lester Packett. His nickname would fit the space of the obliteration, which is not of a full name.

183. Also in 20, which identifies another source, when nonconfidential information was obtained from a public official, who was performing official duties, confidentiality is claimed for his name. In other records and the identical situation, there is no withholding. This and several other similar cases violate the June 1976 Order that the names of public officials performing public duties not be withheld.

184. Four samples later the name of a former Special Agent is withheld. Former Special Agents have a society which publishes their names and how to get in touch with them. The record is his letter congratulating the FBI for capturing Ray, which the FBI did not do.

185. Errors in processing are admitted in 25 and 28, also.

186. The (b)(2) claim is abandoned in No. 26, replaced by (7)(D). These abandoned claims and new claims are not mentioned in Wood's affidavit or his descriptions. He pretends the claims in his descriptions are those made for the records as provided. Exemption is claimed in No. 26 for an informant symbol number, which does not identify the informant and cannot. Moreover, a number of informant symbols are disclosed in the records provided. In the samples a number of informant file numbers are disclosed. The file numbers are as pertinent as symbol numbers to the new claim made to withhold symbol numbers, that from repetition of the information disclosed the informant can be identified. The claim is not true in any event for there is no such abundance of information attributable to any informant in all the records provided. The investigation was not of that character. In all cases in the samples the information provided by the informant was negative. This means there was no information that could lead to identification. Three New Orleans criminal informant file numbers are disclosed in Samples 93, 94 and 95: 137-2817, 137-3007 and 137-2513.

187. In Sample 32, Marie Martin's address is withheld, although the FBI disclosed it in other records provided and it is disclosed in Wood's Sample 55. While in No. 18 and elsewhere the names of prisoners are withheld under (7)(C), in No. 32 the fact that Martin's common-law husband, R. Denino, was a Soledad prisoner is disclosed although he was in jail and in no way connected with the crime or its investigation. That he has an FBI number is disclosed.

188. Practice with prisoners is inconsistent, arbitrary and capricious. FBI and other prisoner numbers are disclosed as well as withheld, including in these samples. Those who fabricated exaggerated conspiracy stories, seeking personal benefit, are protected, their names withheld, while others, like Denino, who were connected with nothing, have their names disclosed. Still others, like Raymond Curtis, have their names both disclosed and withheld, creating needless confusion. This is conducive to inaccuracy in use of the records. Claims on (7)(C) and (D) are made for these names when there is no indication that confidentiality was expected and every indication that it was impossible. Curtis, for example, tried to sell his fabrications to Ebony. Eventually, he did palm them off on George McMillan, who wrote a biography of Ray.

Photographs Are Disclosed and Withheld and Are Lied About in the Descriptions

189. James L. Owens is the subject of a number of the sample documents. This is out of all proportion to his appearance and significance in the records and the investigation. Pertaining to him, exemption is claimed and is not claimed in the samples. With regard to No. 46, in which his photograph is withheld, Wood makes the conclusory claim of an unwarranted invasion of his privacy. With all that the FBI did release about Owens, little if any privacy remains for him. Wood does not state that his photograph has not been published or disclosed elsewhere.

190. Owens' photograph and one of Rita Stein are among those that should have been provided under the Stipulation. Instead, the FBI asked me, over the Director's signature, if I wanted those it listed. It said it would provide those I want. It then did not and still has not, without justifying the refusal, which, as my prior affidavits reflect, was inconsistent, arbitrary and capricious.

191. Rita Stein's photo was provided to me, according to Sample 60 of which it is part. (Exhibit 1) Wood's representation that his No. 60 is a faithful sample and that I was provided with the Stein photograph is not true. The work-sheet, which Wood attests to having examined, is attached as Exhibit 2. Serial 1A13 is described as "Photos of Rita Stein." The cover or envelope was provided but, as the worksheet reflects, one page only was released. A (7)(C) claim was made for the photograph, which was withheld. While claiming that to release the Owens and other photographs would invade privacy, Wood's device for trying to protect the withholdings in the records as disclosed, he simultaneously provided the withheld Stein photo with the false pretense that it had never been withheld. In this he also disclosed her police number, another kind of information he swears must be withheld and elsewhere is withheld in these samples.

192. Adjoining the withholding of the Stein photos in Los Angeles 1A13 is the disclosed photograph of James Earl Ray and Walter Terry Rife, Serial 1A12, one of several such disclosures of a Rife photograph. (Exhibit 3) Rife had no connection with the King assassination, yet there is no privacy claim made for him.

Sources Not Confidential, Privacy Does Not Exist and Other False Representations

193. There is other outright untruthfulness along with conjecture that lacks credibility pertaining to other withheld photographs. Wood states about

Document 89, an Invaders record, that the "exhibit envelope containing" it was disclosed except for "the bottom part on which is listed the name and past criminal record of the subject" and "the top ... which contains the symbol number of an established FBI confidential informant ... and the name of his special agent contact." The last gives the lie to Wood's Paragraph 11 statement that the FBI abandoned claim to exemption for the names of SAs when HQ MURKIN Section 89 was processed and that in all documents used in his Appendix A the names of SAs were restored. This Memphis record was not processed until after all HQ MURKIN sections were processed and Wood states that it does withhold an SA's name. The first part of Wood's explanation also cannot be true from the worksheet itself (Exhibit 4). Rather than identifying "the subject" whose alleged criminal record allegedly is withheld, it refers to a group of unidentified people, "Photo unknown males." Majestic as the arts of the FBI may be, especially in FOIA cases, it has not yet been established that the FBI possesses the magic to wave a Wooden wand and transform a group of unknowns into a single known person. Nor does it have the magic required for condensing both a photograph and the "exhibit envelope containing" it into a single, see-through xerox.

194. Wood is further untruthful in attesting that I was provided with anything at all with regard to Document 89, which is ME157-1067-1A43, and in telling the Court that (7)(D) was claimed. Only (7)(C) was. Wood here again alters the claims to exemption without informing the Court of it. As the attached worksheet reflects, there was and there remains total withholding of a single page. He also claims (7)(D) for the photograph, although a photograph can hardly be a confidential source and it clearly is not of a confidential source from his own description. Having reduced a group to one person, Wood conjectures that after 12 years, assuming that he is still alive and has some means of seeing it, "the subject of the photograph would most likely be able to identify the photographer." This concoction contrasts with disclosed records reflecting the fact that a Memphis informant was given permission to take the pictures by those he photographed. There is a greater likelihood that the disclosed worksheets can lead to identification of the informant - if his identification is not already disclosed - than any photograph can because the worksheets list a series of such photographs of identified persons. They would have no trouble making identification if they

put their heads together.

195. In this entire Memphis section only 13 pages, or six documents, were released and they are mostly Invaders literature. With regard to other of these photographs, the worksheets are inconsistent in not disclosing the existence of the exhibit envelope in which each is filed. Contrary to Wood's representation, all such envelopes were withheld although all the subjects of the photographs, known and unknown, cannot be informants or have criminal records.

196. (Examination of my notes for these Memphis records discloses what refutes the Department's representation and, if my recollection is correct, Mr. Shea's testimony, that early in the processing of MURKIN HQ records, claims to (b)(2) were abandoned. They were not. At one point, on five pages of notes, I recorded 47 claims to (b)(2) in these Memphis records that were not processed until after all HQ MURKIN records were delivered.)

197. The untrue claim that only part of the exhibit envelope for Sample 89 was withheld also proves that there is reasonably segregable information that was not provided, what remains after the excisions. Many of my ignored appeals prove that reasonably segregable information was withheld. These are as current as the processing of the abstracts. My abstract appeals include some of the withheld information that is reasonably segregable and was disclosed in another cause.

198. With all this great weight Wood would have his No. 89 bear there is no wonder that the overworked page that was not provided initially, despite his contrary affirmation, has disappeared entirely from his Exhibit A. It is not included, which is other than his affidavit represents. With all of Wood's other legerdemain, an invisible exhibit is not all that exceptional.

199. Also pertaining to the (7)(D) claim for sources in the Invaders is the immediately preceding sample, Document 88, which is ME 157-1067-1880. Wood describes it as an FBI memo "enclosing a three-page report of the Memphis Report dated May 27, 1970 ..." He does not state that this Memphis Police Department record was withheld and in fact it was not withheld. Along with hundreds of other pages of similar Memphis Police Department records, it was disclosed. This in itself refutes the claim made throughout this long case that all records of all police agencies, foreign and domestic, were and must be withheld.

200. Wood makes two claims for the excisions in this document. The first is that the "names of the individuals listed in the copy count on whom the FBI was conducting an investigation" were withheld under (7)(C). This is straight-out false. Each and every one of those names is disclosed in the text. What is withheld is the correlation of those names with the highly improper FBI domestic intelligence files on them, the numbers of which are disclosed. This serves only to prevent requesting those files by their FBI identifications. It does not protect the thoroughly violated privacy of these people. It merely denies them the opportunity of identifying the files pertaining to them.

201. Wood also states that (7)(D) was used "to protect the identity and activities of a Memphis Police Department Undercover Officer, whose report was furnished ..." This likewise is straight-out false, hoax the proof of which also includes proof of the incompleteness of Wood's list of files included in his samples, descriptions and justifications. His claim that "Release of this information would reveal the officer's identity" is ridiculous.

202. This former Memphis policeman, Marrell McCullough, did not leave that employment because of his exposure as a spy within the Invaders, the black community and the King party at the time of the assassination. He left later, after he was accused of framing other blacks on criminal charges that then were dropped. But he was exposed while he was a police spy in the black community and he was not harmed. I identified him by name to the FBI when I first detected the improper withholding. In fact, the FBI's own disclosed records report his exposure as an undercover operative and as a policeman. Those records, provided in 1977, withhold his name but include his covers and some of his activities. I appealed the withholdings to the FBI and then to Mr. Shea. When he testified he informed the Court that the Marrell McCullough file was being processed and would be provided. The FBI then stonewalled for more than a year. It will withholds McCullough records, including the earliest and the latest. His career after he left the Memphis Police Department is not included. My personal investigation discloses that he was given federal employment, in Washington. When the OPR interviewed him for its 1977 report, in which he is included, that was in the Safeway Building, in Washington.

203. From the records disclosed in this case alone, any withholding

pertaining to Marrell McCullough is entirely unjustified, particularly under (7)(C) or (7)(D) claim. Wood's sworn explanation and justification are entirely false and their falsity is disclosed by the records he is required to have examined to justify these withholdings, unless, as appears to be the case, he just made it all up.

204. McCullough also testified in public before the House assassins committee in 1978 and his testimony is published.

205. Despite Mr. Shea's January 1978 testimony, the FBI did not provide the McCullough file until March 20, 1979. That was quite some time after SA Beckwith was no longer supervisor on this case and presumably Wood was. There were withholdings and I appealed them by return mail. There has been no response to that appeal after more than a year. Now Wood makes false claims based on fabricated and untruthful representations.

206. This McCullough record, Serial 1880, is not included in what was, supposedly, the complete McCullough file or all pertinent records. The worksheet listing the McCullough records is attached as Exhibit 5.

207. In order to make keeping it honest more difficult, the FBI now omits the dates of processing and the names of the analysts from the worksheets. The combination of Wood's affirmation and the worksheet for the McCullough records requires an effort to keep them honest because the worksheet does not include Serial 1880. It begins with Serial 1084, of March 1969, which is a year later than the first McCullough records, and it skips from Serial 1863 to 1992, which omits 1880. With my use of McCullough's name at calendar calls and in affidavits for almost four years and Mr. Shea's use of his name more than two years ago, there is no possible excuse for withholding it now under claim of (7)(D) save for the continuing effort to justify unjustifiable withholdings in which false swearing is an indispensable requirement. Moreover, after all the controversy over the Louw/Life pictures, which show McCullough crouching over Dr. King's corpse, everyone in the FBI's FOIA branch who has any connection with this litigation ought to know that no honest claim to exemption can be made for McCullough or could have been made to begin with, four years ago.

208. The covering FBI memo in Serial 1880, Wood's sample, Document 89, disproves the continuing claim of need to withhold police names. It identifies

Lieutenant Arkin as the source of the disclosed Memphis Police Department record that is included in Serial 1880.

209. It cannot now be claimed, as the FBI improvises claims, without regard to fact or truth, that the McCullough file, as provided, is complete because the other records had been disclosed, because all other records were not disclosed and because there are unjustified and unjustifiable withholdings in the records that were provided.

210. Another of the cases of Wood's boilerplated justification of the withholding of what the FBI itself disclosed in the records he is supposed to have examined and is in court records and was reported in the press is his Document 33, which is MURKIN Serial 6036. In it the names of the brothers Claude and Leon Powell are withheld under both (7)(C) and (D), allegedly to protect privacy and because they are what they were not alleged to be, possible "conspirators" in the King assassination. Wood again added the (7)(D) claim. It is not asserted on the worksheet for the record. The Powells are neither confidential nor only sources.

211. These names are disclosed by the FBI in the abstract for MURKIN Serial 6311. Supposedly Wood supervised the processing of the abstracts. The abstract for Serial 6311 does include the names of the Powell brothers. That for Serial 6036 does not. As I informed the Court in advance, the abstracts were processed with the objective of hiding the improper withholdings in the underlying records. This is but another case of it, accompanied by two phony claims, one made ex post facto by Wood.

212. As I also informed the Court in advance, the FBI was misusing this case to Cointelpro the House assassins committee and to feed it all the bum steers and bad sources possible. This happened with the Powells. Their visualization of the man who allegedly propositioned them to kill Dr. King, made by an FBI artist and disclosed by the FBI without concern for privacy, was widely distributed by the House assassins committee. It made the major news of the TV networks and was distributed by the wire services. It appeared in the Washington papers in 1978, along with accounts of the travails of the Powell brothers, one of whom was charged with contempt by that committee.

Other Misrepresentations

213. Time does not permit a full and detailed analysis of all the deceptions, misrepresentations, fabrications, inaccuracies, new claims now added and outright false statements in the descriptions and justifications provided under oath and in samples by Wood. What follows is indication of some of them and their extent and intent.

214. Document 7, "Deletions ... to protect information, which if released, could reveal cooperation from a confidential source." Claim is (7)(D). This is not a confidential source. Here as elsewhere throughout the Wood concoctions, "cooperation" is not an exemption under the Act. Here, too, as Wood has to know if he knows anything at all about the case, there is nothing to disclose because it has all been within the public domain for 12 years, through the press, books and the 1969 guilty plea hearing. What is withheld also is disclosed in other MURKIN records. Ray's correspondence was with the Superior Bulk Film Co. Were all this not within the public domain, as it is, complete with disclosed copies of the correspondence, that company still is not a confidential informant.

215. Document 9, claims to (7)(C) and (D) "to protect the identity and street address of an individual who allegedly conducted a personal relationship with suspect. Release of this information would be an unwarranted invasion of personal privacy ... (7)(D) was used to protect the confidentiality of the individual who was assigned to locate and interview the above person ..." (Does the FBI "assign" investigations to other than its own SAs?)

216. If there is a single area in which the FBI was not chinchy in disclosing personal information, it is sexual information. According to Hoover's former assistant director, the late William Sullivan, Hoover relished it and delighted in passing it on to the White House.

217. The FBI disclosed the names of the women with whom Jerry and John Ray slept and by one of whom Jerry had a son. (One was a PCI, Marjorie Fetters.) It disclosed intimate personal details of the private life of Jerry's former wife. With James it identified each and every one of the women with whom he is known to have slept after his escape from jail in 1967. Only one, Mrs. Claire Keating, of Canada, is not known to be a prostitute. Ray's known association with prostitutes is the reason for its search of the health department files that is the subject

of (7)(D) withholding in Document 22, the belief that Ray might be located through venereal disease records. Even what and how he paid the women (clothes in Portugal rather than money and an offer of marriage to one of the two in Mexico) is disclose in records provided in this case. This information was public domain prior to the filing of this instant cause. The name withheld in this record is disclosed in other records. This one is pinpointed in the OPR's notes on it, disclosed by the Department. She is Elisa Arellano Torres.

218. Inconsistently, however, in his Document 72 Wood discloses the name of one also consulted as a source in a different state health department, making no claim to any exemption.

219. The Department also disclosed the name withheld under (7)(C) in Document 12. This, as with all OPR records, was disclosed several years ago. The Civil Division also defended the Department in that litigation. The withheld name is Fred Zeigler. As Mr. Shea testified, for the privacy claim to be made, there must be privacy to protect. Wood claims that Zeigler's name is withheld because "he was suspected of being a possible conspirator." Countless names of alleged "possible conspirators" are disclosed by the FBI in other records, and early in this litigation SA Thomas Wiseman swore that there never were any other suspects.

220. With this and many other similar records the FBI was merely building up phony statistics which are its answer to everything and its proof of diligence and great effort, although these statistics are built on the irrelevant. This is one of the many cases in which it got out all the known past threats against Dr. King and wasted much time and money on checking them out without first trying to establish any possibility of any connection with the crime or with Ray. It had already charged Ray, in a conspiracy charge that had him conspiring with an unidentified brother. Undenied other similar instances are in the case record. One of the false swearings by former case supervisor SA Horace P. Beckwith, to which the Court addressed itself with pointedness after I provided the proofs, pertained to a false account of the extent and withholding of an Atlanta Police Department file in which identified men are reported to have threatened the life of Dr. King. Consistency is not an FBI FOIA vice.

221. In Document 26 it is not true that (7)(D) was used "to protect the

FBI symbol number of an established confidential informant." Only the claim of (b)(2) is made on the worksheets. Here as elsewhere Wood alters the claim and fails to inform the Court of it.

222. The note added to the second record in Document 40 is one of the many proofs of FBI awareness of what was disclosed in court records and is not properly subject to withholding in this instant cause in which it is withheld. In covering up the fact that Gerold Frank had access to and used FBI reports in his 1972 book, this note includes, "during the various pleadings in the King case, a great deal of information concerning evidence gathered was disclosed. Tennessee authorities report that many outsiders have reviewed these public-type court records."

223. Document 40 is from the HQ James Earl Ray file. Document 41, ostensibly 200 documents later, is Serial ~~343~~ 434 of the Atlanta 44-2386 file. That there can be more than 200 documents between two consecutive sample documents is explained by the wholesale and unaccounted withholdings from the Atlanta and all other field office records, except those of Memphis. Except for Memphis, the withheld records are not listed on the worksheets or in any way accounted for. They still have not been correlated with HQ records they allegedly duplicate. As stated above, although the JFK correlations have been provided, I have not received any for these King assassination records. This means that there is total withholding of them without any accounting of them whatsoever. While there are larger skips in other records, because this is an Atlanta record I provide as Exhibit 6 the worksheets for the first volume of Atlanta records. It discloses that of the first 128 records only 32, or a fourth, are provided. The three-fourths not provided are not even listed.

224. In explaining the withholdings in Document 50, Wood attests that (7)(D) is claimed to "protect the identity of an established FBI confidential informant who provided information on a regular basis." He refers to his affidavit, Paragraph 12c. There is little doubt that what is withheld is the identification of the phony Morris Davis, whom the FBI planted on the House assassins committee to mislead and waste it. Without any denial my prior affidavits in this instant cause identify Davis as <u>former</u> BH PCI-1079. His and a

number of other informant symbol identifications were voluntarily disclosed to me by the FBI, also undisputed in my prior affidavits. Several years ago I did provide a full accounting of the disinformational activities of Morris Davis, including how the Cointelproing FBI planted him and other former FBI symbolled informants like Oliver Patterson and Richard Geppert on the gullible House assassins committee. The committee then turned Davis over to Mark Lane. This and his complaints about Lane's views are included in my prior affidavits, also undisputed. There can be no dispute because, contrary to Wood's affirmation, the FBI disclosed all this and much more.

225. Wood cannot make the obvious claim, that of protecting the identity of a symbolled FBI informants which would be within the Act, because he does not dare. Instead, he resorts, as elsewhere, to irrelevant circumlocutions. If he did not, he would expose his own irrelevant circumlocutions made to stretch the Act to encompass improper withholdings. In addition, Davis did not survive the probational period. It thus is less than accurate to represent him as Wood does, as providing the FBI with "information" on "a regular basis." With the obvious fabrications he provided after he failed probation, there is no wonder he did not make the grade. His fabrications were not even original. He plagiarized them and I pinpointed all his cribbed sources. (The FBI needed no more to feed him to the gullible committee.)

226. Although Davis's name is withheld, the content leaves little doubt that it is he who is the "former (obliterated)" of Document 50. The content is identical with the notes of the agent who provided Document 50 to his Birmingham SAC. Davis's name is in those notes. He also is identified on the FD-340 attached to them (Exhibit 7) as "Former BH 1079-PCI, Agent interview notes."

227. This provides a more reasonable explanation than fear of harassment from old men like me for the FBI's beginning to withhold the names of agents after enactment of FOIA. Knowing SA Patrick Moynihan's name assisted me in locating his notes. Atypically, they were in Birmingham records. Although all such notes are within the requests and the Stipulation, they are almost entirely withheld, without being accounted for or exemption being claimed for them.

228. In Document 55, for which no claim to any exemption was made, the address of Marie Martin (Denino), withheld in 32, is disclosed, along with that

of Rita Stein, misspelled as Steen. It was not withheld because all was in the public domain, contrary to the withholding in 32. There is significance in the address: she lived in the same inexpensive hotel that Ray lived in, the St. Francis, and she was a cocktail waitress where he hung out in Los Angeles.

229. This record also discloses the place of business of an identified source, which is precisely what Wood swore had to be withheld in privacy interest in his Documents 13, 14, 19 and others. How he can with a straight face withhold what he also discloses, then try to justify it, he does not explain.

230. In Document 59 Wood attests to a need to withhold the Los Angeles FBI informant symbol number under (7)(D) on the contrived basis that the informant's "negative" information would disclose his identity. As stated above pertaining to these New Orleans records, there is no such information because all contact with legitimate informants yielded only negative results.

231. Also as stated above pertaining to those three informant file numbers disclosed on three other FBI informant contact forms and in a large number of others not included in the samples, these not withheld informant file numbers are no less an identification than informant symbol numbers and what Wood attributes to the symbol numbers is no less true of the file numbers. The file numbers are disclosed while Wood persists in the contrived claim that is no less pertinent to them because 134 denotes "security" informant, 137 means criminal informant and 170 is "extremist" informant. Instead of correcting improper withholding, Wood is determined to make it appear to be proper processing, so he applies the contrivance to what was withheld only. In addition, not withholding the name of the case agent from the informant contact forms, which Document 59 and the similar New Orleans records are, is entirely inconsistent with withholding the case agent's name on the exhibit envelope form in Document 89 above. An arbitrary number on an exhibit envelope need not be taken as an informant number, but on an informant contact form, a numerical identification of the informant is logical and expectable.

232. In attempting to justify the withholding of the names of suspects in Document 72, Wood states what is blatantly untrue, that the names were "inadvertently" disclosed, so they are restored for "consistency." There is little the inconsistent FBI is more inconsistent about than in disclosing and withholding

the names of alleged suspects, which it also swore never existed. It has disclosed countless names of suspects. But in 72, two of the three names there captioned as suspects are aliases of James Earl Ray. Disclosing these names is hardly "inadvertent."

233. Document 81 is one of those illustrating that when there is real confidentiality, it is stated on the record when it is generated.

234. Document 90 reflects one of the means by which the FBI protects sources it wants to protect while not disclosing their actual identities in records to be disseminated. It also reflects the fact that when these sources are identified by name, even when they reported regularly to the FBI on intensely controversial matters that were accompanied by considerable violence attributed to those on whom the sources reported, nothing happened to these identified sources. Instead of using the names, the FBI replaces them with "Source 1," "Source 2," etc. Actual identification is usually on a sheet of paper that is separated from what is to be disseminated.

235. In Document 90, while the FBI Memphis office did refer in the text to "Source 1," instead of following usual practice and identifying him separately, it included the identification at the bottom of the first page: "NOTE: Source 1 is Dr. VASCO A. SMITH, JR., liaison source and Executive Vice-President, NAACP."

236. Document 90 is of March 9, 1968, a month before the April 4 assassination of Dr. King. Document 90 was disclosed in 1977. It revealed Dr. Smith's name and FBI association. Other disclosed records, which also include his wife as reporting to the FBI, reflect that the Smiths reported much to the FBI, before and after the assassination and during the turmoil that followed the violence that disrupted the March 28 demonstration which was the direct cause of Dr. King's being in Memphis on April 4 to be assassinated there. The Smiths also reported during student demonstrations and take-overs of school buildings and facilities, inflamed situations involving those alleged by the FBI to be violence-prone. Both Smiths appear in the disclosed sanitation strike and Invaders files as informing to the FBI.

237. Yet as with Marrell McCullough, who was spying on the same violence-prone people and on Dr. King's party at the time he was killed, nothing happened to the Smiths. McCullough was identified as a provocateur and spy by the Invaders

during the period of tumult, but he was not harmed in any way. He was not hurt even when he was exposed as framing black associates in criminal cases. He still returns to Memphis without fear.

238. Throughout about 53,000 pages the FBI disclosed the actual identifications of many symbolled informants, including even a woman within the Mafia. At least two symbolled informants reported on the National States Rights Party to which much violence is attributed. At least three reported on Jerry Ray. At least two informants inside Dr. King's SCLC headquarters are readily identifiable from what the FBI disclosed, if anyone wants to do this, as clearly nobody does.

239. The Smiths, McCullough and these other cases illustrate that while there can be danger to informants when they are identified, the FBI has greatly exaggerated any danger and the FBI's effort to extend the alleged fear of hurt to sources who are not actual confidential sources, as defined in the Act, is entirely without basis in fact as well as law.

240. Document 117 is one of those in which the FBI withholds what it discloses in other records, as stated and illustrated above, a place of work, on the alleged ground that it is "to afford at least minimal privacy to an individual whose name was released." Wood does not explain how disclosing the name and a complete physical description, which was done, affords "at least minimal privacy."

241. With his well-developed instinct for the least credible, Wood here singles out for special emphasis, "to afford at least minimal privacy," one of the worst of possible cases, and not only because phone and city directories provide addresses if one has the name. The underlying record is an abstract. Reference in it to "ATAERO MARINE" is actually to the Aeromarine Supply Company. All those persons with knowledge of Ray's purchase and exchange of a rifle at that place were the subject of extensive newspaper, magazine, book, radio, TV, extradition, guilty plea hearing and other court attention. Of the many instances of entirely unjustified and improper withholding of the public domain, those involving Aeromarine witnesses are the very first that I personally, called to the attention of the FBI by informing FBI Supervisor Thomas Wiseman and Legal Counsel SA Parle Blake. For the four ensuing years the FBI has stonewalled this without replacing improperly processed records. Instead, it duplicated the same

and similar improper withholdings in records processed since then. Rather than admitting and correcting error and being truthful with the Court, Wood unleashed an uninhibited FBI FOIA imagination.

242. Pertaining to Document 124, Wood attests that it was "originally denied in its entirety pursuent to exemptions (b)(7)(C) and (b)(7)(D)." It would be more precise to state that this was done with claim to those exemptions because it was not done "pursuant" to them. Wood only now, not in response to appeal, states that "upon re-examination (b)(7)(D) is being withdrawn" and that "an amended copy of the abstract and an amended copy of the document from which it was derived are attached hereto." He then states that under (7)(C) the name of the "individual whose financial records were being sought" is withheld as "an unwarranted invasion of personal privacy."

243. In stating under oath that he provides an "amended copy of the abstract and an amended copy of the document from which it was derived," Wood lies deliberately under oath. The underlying record was not provided in any form, so that copy cannot be an "amended copy;" and Wood uses the identical copy of the abstract, which is not "amended" in any way. I attach the abstract as originally provided as Exhibit 8 and the one Wood swears is "amended" as Exhibit 9. The two versions are identical. The identical handwritten notation of claim to exemption is on each. The (7)(D) claim Wood states was made originally is not on the original abstract, so that cannot be "withdrawn." Features that are unique in handwriting, like the shape and length of the parenthesis, are exactly the same, as are the size, shape and spacing of the letters and the parenthesis. Each abstract is xeroxed at the same angle from straight. All of this is visible on casual examination. All of it is obvious when the two copies are overlaid and held to the light. Even the imperfections in xeroxing are duplicated on Wood's "amended" copy.

244. Wood's falsely sworn representations are an elaborate cover for other improper processing he tries to cover up. The FBI slipped up and disclosed this abstract to me after denying the entire underlying record. The abstract reflects that there is at the very least reasonably segregable information and thus there is no basis for total withholding. No source of any kind is included so there was no basis for any (7)(D) claim.

245. What Wood does not state is that the identification he withholds is not already within the public domain. The probabilities that it is not are so remote as to make it a virtual certainty that it is and that there is no basis for any (7)(C) claim, either.

246. This overtly dishonest handling of the matter required Wood to face the fact of wrongful claims to exemption. But instead of honestly admitting error, he tried to cover it up, fearing the consequences of such an admission. He does, however, admit some error in his affidavit and Exhibit A. There also are other errors he does not admit. Applying the percentage of admitted errors to the 53,000 pages provided, several hundred pages are processed improperly. Applying the actual and unacknowledged number of errors yields a much larger figure, many hundreds of improperly processed pages.

247. Pertaining to Document 125, Wood claims the need to withhold the name of a prisoner under (7)(C) and (D), but he does not make any (7)(C) claim for the name of another prisoner, Jimmy Carpenter, whose name is disclosed. There is nothing to indicate that the prisoner whose name is withheld was a confidential informant and there is abundant indication that he was not and could not have been. Wood does not describe him as a confidential informant.

248. In Document 127 Wood withholds "the name of the correspondent's niece at whose home she was staying" because she "had absolutely nothing to do with the incident ..." If the FBI were to apply that standard to its King assassination records, relatively few would be disclosed because relatively few had anything to do with what Wood terms "the incident." The FBI did not investigate the crime itself. Wood does not apply this standard consistently throughout his own samples because he cannot. The underlying records preclude it.

249. In Document 143 Wood attests to the need to claim (7)(C) and (7)(D) to withhold what it discloses, the name of a person who gave the FBI false information. Reading this very short abstract - and Wood should at least have read it before swearing to anything about it - discloses that the name, Coull, is disclosed in it and thus neither claim is tenable.

SUMMARY

250. The length and detail of this affidavit are required by the great number of distortions, misrepresentations, inconsistencies and open untruths in

defendant's pleading and affidavits. Some are so obvious and deliberate I have not eschewed pointed characterizations of them because neither FOIA nor justice nor real judicial independence can survive them unless they are exposed. Given the purposes of FOIA and the indispensability of an informed electorate in a representative society, these abuses amount to a subversion. They include offenses for which the defendant that practices them punishes others.

251. The false swearings that cannot be accidental in nature are to what is material, compliance and whether questions of material fact are in dispute. So there can be no reasonable doubt on this score, I have addressed most of these distortions, inconsistencies, misrepresentations and overtly untruthful statements.

252. The two affidavits are so material they constitute the entire Statement of Facts about which it is alleged there is no genuine dispute. It is obvious that counsel and affiants knew other and better than they represent to the Court in order to procure an inappropriate summary judgment.

253. Ms. Blizard cannot discharge her responsibilities without knowing of records neither searched nor provided, at the very least the eight sections referred to above, yet with only the slightest change, of a few words, she plagiarizes the uncontestedly falsely sworn Horn affidavit. She swears to not knowing of any other pertinent records anywhere when prior to the execution of her affidavit some of the missing and withheld records of which I had informed her predecessor and Department counsel and the appeals office had been located by the appeals office which notified me that they would be processed and provided. How this could be done without her knowledge, if not involvement, is not apparent.

254. This fairly summarizes the history of this long case. At the first calendar call, in February 1976, we were notified of a coming Motion for Summary Judgment. Since then, tediously and ever so slowly under an Act that requires promptness, records totaling some 53,000 pages have been disclosed - and this without proper searches being made or even attested to for compliance with my requests. There was and there still is information within my requests that was known to exist and was not provided. When it was no longer possible to avoid following up on the leads and information I provided, other records were ultimately located, usually after repeated false representations that they did not exist or could not be located. In addition to these eight Sections of CRD records,

convenient examples are the Long tickler, the so-called prosecutorial index and what still has not been provided to me, the withheld Somersett/Milteer information, copies of large volumes of which, released to a later requester, I displayed to the Court the day I informed the Court that Beckwith was an unindicted co-conspirator and had made untruthful representations, including by fabricating dishonest records.

255. Wood, who has yet to make even pro forma denial of my prior allegation of misrepresentation and false swearing, and knowing full well that he is immune from any offense, repeats the same ones.

256. Department counsel, knowing that he also is immune and aware that all those who preceded him were immune after the same practices, represents compliance and no issues of genuine dispute when he has personal knowledge of searches not made, of existing and pertinent records not provided and of uncontested factual affidavits identifying existing records that are pertinent and are withheld. He does not provide answers to existing questions, factual response to factual allegations and proofs, or even manly rejoinder when faced with allegations of proven misrepresentations. He has complained, "They don't believe us," for all the world as though this is a meaningful response to proven misstatements and identification of pertinent records not provided. His concept of professional responsibility and manliness is to stutter, "What can I say?" when confronted with his personal repetition of unfactual statements to the Court after they are proven to be unfactual. Theoretically, what he does is prohibited by the Federal Rules of which he and all his colleagues were reminded in the recent past by the Attorney General.

257. No matter how little use he made of the time he requested to familiarize himself with the case record, he has personal knowledge of pertinent and withheld information from his participation in the case. If he read none of my unrefuted affidavits, he did represent FBI and Department witnesses at the depositions. And if he then learned nothing else, he did learn that the Department had disclosed in another case what his FBI witnesses withhold; that no search has been made to comply with most of the Items of my requests; that I did identify files not searched that are required to be searched to comply with specific Items of the requests; that specifically identified records responsive to specific Items

like spectrographic plates and neutron activation analysis records were identified as existing and not provided by the FBI and are still withheld; and even that in the reprocessing of the so-called prosecutorial index for further disclosures, what was provided after reprocessing is considerably less in volume than this index was prior to reprocessing, a matter pertaining to which I was to have been informed and have not been.

258. He also heard Mr. Shea, whom he represented, testify that FBI records disclosed by the House assassins committee with the FBI's agreement could not be withheld in this litigation. He has not reported any effort to learn if there is the disclosure of what was withheld from me and he has not asked me. The House committee did disclose FBI information withheld from me. This is not secret. While I was not able in advance to identify all of it, in advance I did identify some of it in appeals that have not been responded to after two years.

259. Yet with personal knowledge of these and other similar material matters, he moves for summary judgment without eliminating, or even addressing, any one of them in any way. Simultaneously, pretending he seeks limited summary judgment, he phrases his Motion to make it all-encompassing, as he did in his prior efforts.

260. In the record in this long, tiring and costly litigation in which the purposes of the Act are already defeated, there is nothing to contradict what I stated to the Court in 1976, that as long as such practices and abuses are tolerated and unpunished, this case will not end except with noncompliance.

Harold Weisberg

HAROLD WEISBERG

FREDERICK COUNTY, MARYLAND

Before me this 14th day of May 1980 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.

LILLIAN WEISBERG NOTARY PUBLIC FREDERICK CO., MD.

Lillian Weisberg

NOTARY PUBLIC IN AND FOR
FREDERICK COUNTY, MARYLAND

C.A. 75-1996
EXHIBIT 1

FD-340 (REV. 6-24-68)

File No. 44-1574-1-a 13

Date Received

From L.A. PD
(NAME OF CONTRIBUTOR)

(ADDRESS OF CONTRIBUTOR)

(CITY AND STATE)

By L.L. Swanton
(NAME OF SPECIAL AGENT)

To Be Returned ☐ Yes ☒ No

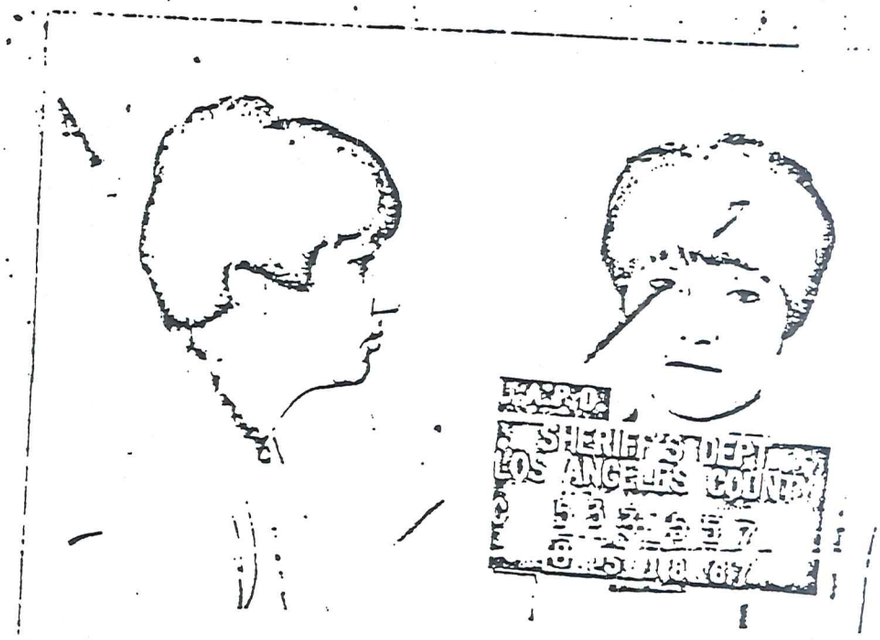
Receipt Given ☐ Yes ☐ No

Description:

1 Negative & 5 photos
of Rita Steintaken
5-18-67

7-18-68

60



LOS ANGELES

RITA STEIN

44-1574-1A-13

Inventory Worksheet
FD-503 (2-18-77)

84 pages
55 documents

1-A

File No: 44-1574 Re: MURKIN b7(C) Date: 10-77 (month/year)

CA 75-1996
EXHIBIT 2

Serial	Date	Description (Type of communication, to, from)	No. of Pages Actual	No. of Pages Released	Exemptions used or, to whom referred (Identify statute if (b) or (3) cited)
—	—	COVER SHEET	1	1	
1-A-2	4-15-68	DRIVERS LICENSE FOR J. VERNON	2	1	b7(C)
1-A-3	4-15-68	DRIVERS LICENSE FOR L. VERNON	2	1	b7(C)
1-A-4	4-15-68	PHOTOS OF JEROME VERNON	2	1	b7(C)
1-A-6	4-18-68	PHOTOS OF WILLIAM LEE	2	1	b7(C)
1-A-8	4-22-68	PHOTOS OF JERRY RAY	2	1	b7(C)
1-A-9	4-22-68	PHOTOS OF JAMES RAY	2	2	[redacted]
1-A-10	4-22-68	PHOTOS OF JAMES RAY	2	2	
1-A-11	4-22-68	PHOTOS OF WALTER RIFE	2	1	b7(C)
1-A-12	4-22-68	PHOTOS OF RAY AND RIFE	2	2	
1-A-13	—	PHOTOS OF RITA STEIN	2	1	b7(C)
1-A-14	4-25-68	INKED TIRE IMPRESSION	4	4	

18.

CA 75-1996
EXHIBIT 3

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

File No 44-1574-12

Date Received 4/2/68

From Kansas City
(NAME OF CONTRIBUTOR)

(ADDRESS OF CONTRIBUTOR)

(CITY AND STATE)

By Jr Gardner
(NAME OF SPECIAL AGENT)

To Be Returned ☐ Yes ☒ No

Receipt given ☐ Yes ☐ No

Description:
2 stand-up photos
Ray & Rifle taken
3-28-68

See Ser 564

5/24/68

Inventory Worksheet
D-503 (2-18-77)

SUB SEC 1A-2

File No: 157-1067 Re: INVADERS Date: 7-77 (month/year)

C A75-1996 EXHIBIT 4

Serial	Date	Description (Type of communication, to, from)	No. of Pages Actual	No. of Pages Released	Exemptions used or, to whom referred (Identify statute if (b) or (3) cited)
SUB 1A UNNUMBERED	10-8-68	COVER MEMO	1	0	b7(D)
SUB 1A-27	8-21-68	APPLICATION BLANK FOR INVADERS	2	2	b7(D)
SUB 1A-28	9-5-68	PAMPHLET "SPEAK OUT BLACK PEOPLE"	2	2	b7(D)
SUB 1A-29	9-5-68	INVADER LEAFLET "BLACK POWER BROTHER"	2	2	b7(D)
SUB 1A-30	9-5-68	INVADER LEAFLET "ALL BLACK STUDENTS & TEACHERS; APPLICATION	3	3	b7(D)
SUB 1A-31	9-5-68	INVADER LEAFLET "ALL BLACK STUDENTS"	2	2	b7(D)
SUB 1A-32	9-6-68	LEAFLET "BLACK STUDENT UNION"	2	2	
SUB 1A-33	10-3-68	PHOTO OF UNKNOWN FEMALE	2	0	b7(C)(D)
SUB 1A-34	10-18-68	PHOTO WILLIE RANKIN	1	0	b7(C)
SUB 1A-35	10-9-68	PHOTO DONALD PIGFORD	2	0	b7(C)(D)
SUB 1A-36	12-12-68	PHOTO UNKNOWN MALE	1	0	b7(C)
SUB 1A-37	10-3-68	PHOTO UNKNOWN MALE	2	0	b7(C)(D)

FBI/DOJ

Inventory Worksheet
D-503 (2-18-77)

File No: 157-1067 Re: INVADERS Date: 7-77 (month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages Actual	No. of Pages Released	Exemptions used or, to whom referred (Identify statute if (b) or (3) cited)
SUBIA-38	10-3-68	PHOTO PETER SMITH	2	0	b7(C)(D)
SUBIA-39	10-3-68	PHOTO UNKNOWN MALE	2	0	b7(C)(D)
SUBIA-40	10-3-68	PHOTO UNKNOWN FEMALE	2	0	b7(C)(D)
SUBIA UNNUMBERED	12-12-68	COVER MEMO	1	0	b7(D)
SUBIA-41	10-3-68	PHOTO FNU FERGUSON	2	0	b7(C)(D)
SUBIA-42	10-3-68	PHOTO UNKNOWN MALE	2	0	b7(C)(D)
SUBIA-43	12-19-68	PHOTO UNKNOWN MALES	1	0	b7(C)
SUBIA-44	10-3-68	PHOTO RICK JOHNSON	2	0	b7(C)(D)
SUBIA-45	10-3-68	PHOTO UNKNOWN FEMALE	2	0	b7(C)(D)
SUBIA-46	10-3-68	PHOTO UNKNOWN MALES	2	0	b7(C)(D)
SUBIA-47	10-3-68	PHOTO UNKNOWN MALE	2	0	b7(C)(D)
SUBIA-48	10-3-68	PHOTO 2 BEALE ST CHARACTERS	2	0	b7(C)(D)

FBI/DOJ

Inventory Worksheet
FD-503 (2-18-77)

C A 75-1996
EXHIBIT 5

File No: 157-1067 ME INVADERS Re: MARRELL McCULLOUGH Date: (month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages Actual	No. of Pages Released	Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
1084	3/28/69	MEMPHIS INTERNAL MEMO	5	5	b7C, b7D
1086	3/26/69	MEMPHIS INTERNAL MEMO	6	6	b2, b7C, b7D
1110	4/2/69	MEMPHIS INTERNAL MEMO	3	3	b7C, b7D
1113	4/8/69	MEMPHIS INTERNAL MEMO	4	4	b7C, b7D
1114	BLOCKDATE 4/10/69	MEMPHIS INTERNAL MEMO	4	4	b2, b7C, b7D
1202 A	5/17/69	MEMPHIS AIRTEL → FBIHQ	2	2	b2, b7C, b7D
1203	5/19/69	MEMPHIS LHM	9	9	b2, b7D
1203A	5/19/69	MEMPHIS AIRTEL → FBIHQ	2	2	b2, b7C, b7D
1339	7/3/69	MEMPHIS INTERNAL MEMO	4	4	b2, b7C, b7D
1863	5/27/70	MEMPHIS CHARACTERIZATION OF INVADERS	2	2	b2, b7C, b7D
1962	7/20/70	MEMPHIS LTR → FBIHQ	2	2	b2, b7D
1964	7/20/70	MEMPHIS LTR → FBIHQ	2	2	b2, b7D
			45	45	

FBI/DOJ

CA 75-1996
Exhibit 6

Inventory Worksheet
FD-503 (2-18-77)

38 Pages

File No: 44-2386 Atl. Sub 1 Re: Martin Atlanta b7(c)(1) Date: 8-77 (month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages Actual	No. of Pages Released	Exemptions used or, to whom referred (Identify statute if (b) or (3) cited)
181	4-7-68	Bulky exhibit sheet	1	1	
182	4-15	" "	1	1	
183	4-18	" "	1	1	
184	4-17	" "	1	1	
185	4-22	" "	1	1	
186	4-15	" "	1	1	
5	4-6	memo of Evans	1	1	
7	4-6	" " Rose	1	1	
11	4-7	Chicago Tel.	4	4	
12	4-7	memo of Reynolds	1	1	
13	"	" " Evans	1	1	
24	4-8	" " Nitt	1	1	

FBI/DOJ

Inventory Worksheet
FD-503 (2-18-77)

File No: 44-2586 vol. 1 Re: Martin: Atlanta Date: 9-17 (month/year)

Serial	19 Date 68	Description (Type of communication, to, from)	No. of Pages Actual	No. of Pages Released	Exemptions used or, to whom referred (Identify statute if (b) or (3) cited)
NR	4-8	memo SAC Hitt	1	1	
34	4-8	memo Raseberry	1	1	7-D
44	4-9	memo Ceim	2	2	
45	4-7	Savannah tel.	1	1	
48	4-9	memo Semjason	1	1	
65	4-10	memo Rose	1	1	
66	4-10	" Rasberry	1	1	
67	4-10	memo SA Check	2	2	7-D
68	"	" " "	1	1	~~7-D~~
73	4-8	memo Rosebery	1	1	7-D
77	4-8	memo Hayes	1	1	7-D, 7-C
78	4-10	" Miller	1	1	7-D

FBI/DOJ

Inventory Worksheet
FD-503 (2-18-77)

Atlanta

File No: 44-2386 vol. 1 Re: Martin Date: 9/17 (month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages Actual	No. of Pages Released	Exemptions used or, to whom referred (Identify statute if (b) or (3) cited)
79	4-10	Memo Wabrick	1	1	
82	4-10	tel.	1	1	
95	4-11	Memo Lenjeson	1	1	
97	"	" Rosberry	1	1	7-D
98	"	" Hughes & Brandt	2	2	
118-A	"	Birmingham Tel.	1	1	
121	"	Memo SA Fuguth	1	1	
122	4-11	" " Henry	1	1	
		— End of volume —	—	—	

FBI/DOJ

C A 75-1996
EXHIBIT 7

FD-340 REV. (6-24-85)

File No. 44-1740 1A127

Date Received 12-14-76

From Former BA 1079-1C1
(NAME OF CONTRIBUTOR)

(ADDRESS OF CONTRIBUTOR)

(CITY AND STATE)

LJ Mayneka
(NAME OF SPECIAL AGENT)

To Be Returned ☐ Yes ☑ No

Receipt Given ☐ Yes ☐ No

Description:
Agent interview notes.

O 44-1740
NOTES
12/14/76
Patrice J.
Mangiaban

(1) I met Perrin ~~1st~~ Ours
~~put~~ Late 67 - 2/68
at Oula's Lounge
drinking - each one
he moved here fr Hattiesville?
"wife had run off
"he's down + out
+ bitter."
Loaned him $200 at a time
he's setting up
a practice

he does not want people to know that he was JOHNS WILLARD

(2) fr - P. known to me as
[redacted] LABURTO
LIBURTO. c 2/68.
seen Feb thru March 68
usually weekends.
W/M - ~~40~~ 6'-190 - dark complexion
Late 30's-40 supp. a Greek
full head black hair
dark eyes
dressed - neat
WELL BUILT
NICE LOOKING

~~owner~~ OWNER of an unnamed T-shop on Lake P. in NO
+ head of being Inspec in N.O.

(3) c 2/68 heard stories having ~~&~~
come & patch in spotlight
& things ~~French~~ + Zinkov(?)
had great deal CONV.

1st March ~~68~~ just c 3/15/68

(A1 meeting) paul lot of GULF'S NIGHT. 8:30 p.m.

I OBSER. → { R. W. SHUTTLEWORTH (w) / Ralph Obermeth (w) in FRONT CAR
joined by after SHUTTLE came to driver seat + asked for / to other
{ Prusch / F. LIACENTO
in Black ~~car~~ MAROON car (~~SPECK~~ grey car)

4 sit + talked for an HOUR
I was sitting in a corner BOOTH
looking out WINDOW + OBS. THEM.

(I knew BOTH Black crew I had
infil. Black groups for BUS. (MAN) W. ANY
capt. House + Len Jones).

They came in in an hour
+ said 'O' about it
I wondered but said 'O'

POSSIBLY in GULF'S at TIME but NOT AT TABLE

my drink (?) PARKER (?) TAKEN DET. BILL BARNES will know real clear

(4)

~~#~~ Shortly after I bel.
Frazel came in w a w/m.
+ intro guy to me as
GAULT (f.n.)
saw 2X
(later saw to me as James
fr. N-papers EARL RAY)

a/m 30s
5'10-11/160
neat + respectable
NOT dressy CLOTHES - SUIT & TIE
prob sport shirt + coat
or work CLOTHES

GAULT - LIBERTO + Frazel
had private conversation
prob 1 hour.

NO ~~I saw them~~
waitress + b-tender should
have seen them.
Possibly Bill Berry was there

Convers. broke up
Gault left alone
Frazel + LIBERTO stayed
+ we contin drinking

They made no comment
about it

(5) **# 2 meeting**

past. c 1 week later
same place
same 4 men
same car
[illegible] dark
past longer than 1 hour

Friend - [illegible] face in
[redacted] "O" said

(6) a few nts later at Gulas (past late 3/61

~~[illegible] [illegible] [illegible]~~

LIB. there at Gulas
friend [illegible] in Gault.
2 at time saw Gault
3 [illegible] a [illegible]
conversation
4 Gault left.
all c. said "O"

I at Bel. I saw F.L. again

(7)

~~past~~. 4/3/~~77~~68 (Then 12 on w/ Hunt Co.)
Ian Gwens c 4-4"

~~Prosch~~ present at bar -
drinks quite a bit
Said he had a new car
Then a drink.
Went out & show me his car.

Red Cad. Elec. Conv.
w white Top.

Took me for a ride
around about to

AERO MARINE
at Airport
he went in - I'm in car
" spends 15" - out w
wooden crate 4' x 15" wide x 8"
put it in TRUNK
(Figure rifle)

(8) We drive back to Ouli's

"I want to show you something"

opens TRUNK

~~??~~ I see several pistols

& scatter [illegible]

James [illegible] off Box

"What do you think?"

"Nice."

** THIS IS THE GUN that is going "to kill MLK"

BOLT ACTION - SHORT CLIP

no scope

Then [illegible] his words.

(9) Still standing then he says. | & he was Ohio quit a ...

& I listen Screened

~~Could tell in ... ... a ...~~

He said the Abernath & Shuttlesworth

bought a contract for $265,100. & ~~Kill~~ have King killed

They felt King had gone soft & coming in & SCLC in which ... was falling off -

S & A felt civil ... & a halt & Kings non violence

not effective but King popular

& if he was shot he'd be a MARTYR & $ would flow in & Cong. settlement would push out Bills Hung up.

(10) steve talk

(RAOUL) [illegible] what had gone on & DETROIT
+
Gault had BOUGHT another Car.

THIS IS NOT NSW CULTOR [illegible] said it.

Gault was & he th "decoy" to take the heat off the man who would do the KILLING.

Gault was & lay his gun down after he saw KILLER leave the bldg.

Then Gault was & meet with in Det.
get rest of his $ &
get papers to get out of COUNTRY
He FINISHED THIS on COUNTRY LOT.

Gulas
[illegible] C 9 or 10 PM
I had a lot of [illegible] THE NIGHT I saw RUTH
(I guess. told my wife about [illegible] left of 4/3/68
I do not remember TELLING HER
but she later said to me I did)

✱ . ([illegible] I [illegible] Press Hear 4/3/68)

(1) 4/4/68.

Had a bus. appt w

?? np. ← TRANS WORLD INSUR. Co.

at my office

for a stock ISSUE

Bus w HAL DODSON [redacted] money owner the

who'd sell stock.

Frank Moisant Jr [redacted]

was to be pres.

+ flew up from MIAMI

F.M. Jr.

put him at "P.H."

BIG SUITE

c STM

had drinks

pass. lots

Heard CRYING in HALL

colored people "cry + screaming"

INQ. at: MLK KILLED

"Stock FM up the cancelled + LEFT

Pass stitched

Went home"

Economy Pres Inc. c 3120 12 or N.

Business to get pres in stock + pres be [illegible]

SELLS STOCK

(Paul) dec. c 1973

POLLY JOURNEY - See in S.F. - close CONFIDANTE

(told her at TIME) no one else

(12) I tried to put out of my mind

lived afraid to talk on it.

" later to tell somebody about it - wouldn't listen

prob. c 1970

know not who I talked to.

(Helper FBI) ? then I or somebody

Angela Dav.

(Notes at Home)

(13)

?

4/5?/68?

Eddie Upshaw 5/14

Bl. Lif. Front

→ EV & me

Let's make photos of MLK.

B. made $

Operation THOUSANDS

$1.00 each

Over 10,000 sold. I got went

I got 10 a photo

-> preceding photo

Operation costs for his sales men

as in Amer Legion Conv

|12 OV NOON|

AS + RNB } TURNED ME OFF

COST me all 33,500.

then as this going I got involved.

in 87 case w FBI (1969) (1 COUNT CONSPIR. + CONVICTED - 2 TRIALS + appeals 4 ONE TIME BACKED)

* Was so much in my personal 87 case + Bus.

TIL 1970 - this kept MLK out of my mind

(14) Steve

Followed what they in papers
+ any references
over the years -
I'm told many people
JER did not kill MLK.

---

(15) NO
Talks of DEA + SS in the past year (1976)

A. I'm talking about it + have a good [illegible]

B. ∴ I became aware more [illegible]
+ Wash DC extent
House + Sen. etc
me wrong.

They explain it shows go to the FBI Bureau

C + recently saw name
a - John WILLARD (NO LUGGAGE
Reg in 3:30 PM. 4/3 or 4/4
in Hotel or Rm House
at JRE.

Landlady could not ident JER as JOHN WILLARD
Ident. The JOHN WILLARD could be Gus Prusch

D I read FBI could not match bullet from King w gun P-U at SITE

(16)

AERO MARINE + Gun used

Prosch + 2

① we P.O. given on 4/3/68
N.R. of sale of rifle
on 4/1-2-3

He and DAVIS know

for my son (MARK-DAVIS)
gun girl — Gary's — wife
Ethel.

HEAR.

1 set of paper

Data 4/ /68 "INVOICE MISSING"

Gary ______ (.816 for gun)
35

put scope on 2nd GUN for ______
he thinks J E Ray would visit
store for 1st gun
which he set in a few
days. NOT BIG ENOUGH.

Rec at AERO MARINE
Remington Model 760
PUMP 30.06 rifle.
Redfield scope - adjustable
2 to 7
3 to 9 POWER.

UNDER name HARVEY

* ~~[illegible]~~

"artist drawing" (Gun I saw w/ Prosch was BOLT ACTION
~~[illegible]~~ gun FOUND was BOLT ACTION
∴ a GUN SWITCH [illegible] [illegible] REMINGTON.

Records on 4/5/68

Gus Frosch

BOUGHT a

COLT AK 15

Later Frosch BOUGHT a

lot of guns.

(12) I wonder if [illegible]'s
red Ford Conv. was seen
in Memph 4/4/68
if he drove it to
MEMPHIS.
Was JCN [illegible] asked about
John WILLARD??

44-38861-2037	16	4/22/68

SAC, LA

MURKIN

EFFORST TO LOCATE CHECKING OR SAVINGS ACCOUNT
IN NAME [redacted] NEGATIVE TO DATE.

(b)(7)(C)

CR 25-1996

44-38861-2037	16	4/22/68

SAC, LA MURKIN

EFFORST TO LOCATE CHECKING OR SAVINGS ACCOUNT IN NAME [redacted] NEGATIVE TO DATE.

(b)(7)(C)

124