

The Court's February 26 order, at least insofar as it pertains to FBI Headquarters records, is limited to MURKIN files and does not address other than MURKIN files. The records contained in FBI Laboratory tickler files are not MURKIN files, otherwise they would have been located in and produced at the time the MURKIN files were processed and released.

Secondly, Mr. Flanders February 21, 1980 letter carefully limits what was searched for in these ticklers to documents:

A. The originals of which appear in the Headquarters MURKIN file, but which contain hand-written notes that would not appear on the original;

B. Concerning the assassination, but copies of which were not placed in any of the files released to you.

C. Consisting of raw work papers.

There is no basis for placing these limitations on the search that was made. These records were not searched pursuant to the August, 1977 Stipulation, and even if that Stipulation were applicable, it had no such limitation as the FBI made here under Mr. Flanders' "A". Even if these records had no notations, they would still be within plaintiff's requests. In addition, it must be remarked that the FBI frequently places typewritten notations on documents which are of great interest to plaintiff.

Finally, with respect to the three documents that allegedly "have no apparent connection" with Mr. Weisberg's requests "and were probably simply misfiled," according to Mr. Flanders' letter of February 21, 1980, the description of these documents given by Mr. Flanders is not sufficient to establish whether or not they are unrelated to plaintiff's requests, and what description is given by Mr. Flanders--that they concern "a kidnapping; Interstate Transportation in Aid of Racketeering-Bribery, Conspiracy; and Bomb Threats-Explosives and Incendiary Devices"--makes it plausible that they might be relevant. Neither plaintiff nor the Court can tell on the basis of the description provided, and the Court, not having extensive knowledge or all

matters possibly related to the King assassination, is not in a position to reliably judge this from an in camera inspection. Because there are only three documents involved and the FBI makes no claim of exemption, the easier course to pursue would simply be to provide the records to plaintiff regardless of whether or not they are thought by present FBI agents unfamiliar with the King assassination to be unrelated to it.

II. DEFENDANT HAS FAILED TO SHOW THAT IT HAS PRODUCED ALL SPECTROGRAPHIC AND NEUTRON ACTIVATION ANALYSIS MATERIALS SOUGHT BY PLAINTIFF.

With respect to plaintiff's motion to compel disclosure of neutron activation and spectrographic analysis materials, defendant first claims that neutron activation analysis materials have already been produced. In support for this claim defendant relies upon a receipt signed by Mr. Weisberg on March 23, 1976. However, item 8 of that receipt refers only to "Nine pages of raw data calculations used in neutron activation results compiled in FBI Laboratory report dated April 29, 1978." Plaintiff contends that this is not all of the neutron activation materials. (See, January 18, 1981 Weisberg Affidavit, ¶21) Although defendant tries to buttress its claim by reference to the deposition testimony of Special Agent John W. Kilty, defendant misrepresents that testimony. During the deposition Agent Kilty conceded that the FBI might not have given plaintiff the computer printouts of the NAA testing. (See, January 18, 1981 Weisberg Affidavit, ¶23; see also Exhibit 2 to Weisberg's January 18, 1981 affidavit, which contains p. 24 of Kilty's deposition testimony on this.) The receipt signed by Weisberg contains no listing of any such computer printouts.

With respect to the spectrographic materials sought by Weisberg, defendant limits this to spectrographic plates and declares that the FBI has never considered these part of plaintiff's request, and that they haven't found them anyway. The plates are clearly

relevant to plaintiff's request; defendant's attempt to pretend otherwise just illustrates the extraordinary--and silly--lengths to which it will go to obstruct plaintiff's access to records. Defendant makes no claim that the plates do not exist, only that they cannot be located. There is no sworn statement attesting to the nature of the search that was made, nor is there any claim that these records have been destroyed. This issue has recently been dealt with by the Court of Appeals in Weisberg v. United States Department of Justice, 627 F.2d 365 (1980), where the Court held that summary judgment was not warranted for for exactly the same kind of documents as are involved here because

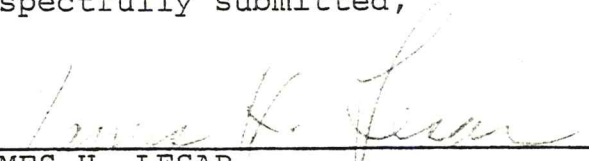
. . . the agency affidavits now before us do not denote which files were searched or by whom, do not reflect any systematic approach to document location, and do not provide information specific enough to enable Weisberg to challenge the procedures utilized.

627 F.2d at 371.

In this case the Department of Justice has not even proffered an affidavit attesting to the nature of the search undertaken, much less met the requirements laid down by the Court of Appeals in Weisberg, supra.

Accordingly, the Court has no alternative but to require the FBI to conduct a further search to determine where the non-produced spectrographic plates (and any other spectrographic materials, such as notes) are.

Respectfully submitted,

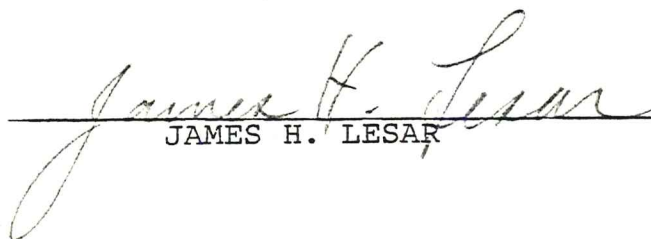


JAMES H. LESAR
2101 L Street, N.W., Suite 203
Washington, D.C. 20037
Phone: 223-5587

Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that I have this 30th day of January, 1981, mailed a copy of the foregoing Plaintiff's Reply to Defendant's Memorandum in Opposition to Plaintiff's Motions to Compel Release of (1) "Withheld" FBI Lab Ticler Materials and of (2) Neutron Activation and Spectrographic Materials to Mr. William G. Cole, Room 3137, Civil Division, U.S. Department of Justice, Washington, D.C. 20530.


JAMES H. LESAR

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

.....	:	
HAROLD WEISBERG,	:	
	:	
Plaintiff,	:	
	:	
V.	:	C.A. 75-1996
	:	
DEPARTMENT OF JUSTICE,	:	
	:	
Defendant.	:	
.....	:	

SUPPLEMENT TO HAROLD WEISBERG'S AFFIDAVIT OF JANUARY 6, 1981

My name is Harold Weisberg. I reside at 7627 Old Receiver Road (Route 12), Frederick, Maryland. I am the plaintiff in this case.

1. On January 6, 1981, I mailed my counsel an affidavit in which I dispute representations of compliance by the FBI in the most recent of its Motions for Partial Summary Judgment. In my January 6 affidavit I state that among the information sought in my requests and not provided are the spectrographic plates and certain neutron activation analysis (NAA) records. I also state that these had been promised by the FBI; that the appeals office in 1978 obtained the FBI's agreement to provide them; that Department counsel and the FBI's house counsel both have knowledge of the withholding of these plates and NAA information from participation in the deposition of SA John Kilty; and that no Motion for Summary Judgment can be made in good faith while these pertinent records remain withheld.

2. On January 7, 1981, I received the attached letter from Thomas H. Bresson, Chief of the FBI's FOIPA Branch. (Exhibit 1) Mr. Bresson acknowledges that the plates have not been provided and now, almost five years after SA Kilty swore to full compliance and I disputed him under oath, Mr. Bresson claims they did not "turn up" in an alleged search made at some carefully unspecified time.

3. If those plates are missing, as under normal circumstances will be impossible, that should have become apparent before Kilty swore to having provided complete compliance with that Item of my April 15, 1975, request. (The plates and neutron activation information are also pertinent to my 1969 and December 23, 1975, requests.)

4. Further explanations are included in my response to SA Bresson.

(Exhibit 2)

5. In my affidavit of January 6 I also state that the FBI has not made any real search to comply with the surveillance Items of my request. Bernard Fensterwald and I are among those included in these Items. Under date of December 19, 1977, my counsel provided SA John Hartingh with Fensterwald's privacy waiver. In it he authorizes the FBI to disclose to me "any records responsive to Mr. Weisberg's requests which mention or pertain to me."

6. The FBI has and the FBI's FOIPA Branch knows that the FBI has information on surveillance of Fensterwald. It has just disclosed proof of this. Exhibit 3 is a record disclosed in response to appeal in which what had been previously withheld reflects this surveillance. I first saw this record after I mailed my affidavit to my counsel.

7. This previously withheld information about Fensterwald is, "In September, 1972, he received a letter from Dr. Julius Mader of East Berlin, soliciting an order for Mader's book, Yellow List: Where is the CIA? He returned the order blank with a check for the book (105-44852)."

8. This brief summary identifies the FBIHQ file from which it comes, 105-44852. Reference to it should have been reflected in even the most rudimentary search, if any had been made, to comply with the surveillance Item of my requests.


9. This information is the result of mail interception, a form of surveillance. The Church Committee held hearings on the FBI's and CIA's mail surveillance activities, published those hearings and filed a report with the Senate. (The CIA intercepted for the FBI.)

10. Dr. Mader also wrote me about his earlier book, of which he sent me an unsolicited copy. It is among my mail I believe was intercepted by the CIA/FBI.

11. Neither has complied with my requests for all their records pertaining to me.

12. This surveillance information was withheld by the FBI in this instant cause. There has been no response to my appeals, which include surveillance information on me, except for the essentially meaningless and evasive statement that I am not listed in the electronic surveillance indices. In my appeals I have

provided FBI and other proofs of surveillance of me.



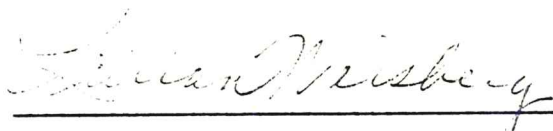
HAROLD WEISBERG

FREDERICK COUNTY, MARYLAND

Before me this 7th day of January 1981 Deponent Harold Weisberg has appeared and signed this affidavit, having first sworn that the statements made therein are true.

My commission expires July 1, 1982.





NOTARY PUBLIC IN AND FOR
FREDERICK COUNTY, MARYLAND



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

Mr. Harold Weisberg
7627 Old Receiver Road
Frederick, Maryland 21701

Dear Mr. Weisberg:

Reference is made to your letter dated November 15, 1980, from your Attorney, Mr. Lesar, to Mr. William G. Cole, Civil Division, Department of Justice, wherein you requested in part spectrographic plates concerning the murder of Dr. Martin Luther King, Jr., noting that these plates were previously promised to you by the Department of Justice, Office of Privacy and Information Appeals (OPIA).

Please be advised that an extensive search for these materials was conducted when we became aware of the offer by OPIA to you of the plates. This search turned up no plates relative to the King case. We shall keep your request on file should such plates be located in the near future.

Sincerely yours,

Thomas H. Bresson / THP

Thomas H. Bresson, Chief
Freedom of Information-
Privacy Acts Branch
Records Management Division

Mr. Thomas H. Bresson, Chief
FOIPA Branch
FBI
Washington, D.C. 20535

1/7/81

Dear Mr. Bresson,

In your letter of January 5 you state, of the King assassination spectrographic plates you refer to as promised to me by Mr. Shea, that after "an extensive search," none "turned up."

It is my understanding that they were promised by the FBI, through SA Horace Beckwith, and that Mr. Shea merely relayed the FBI's assurances.

That you cannot find any of these plates is not consistent with the deposition testimony of SA John Kilty.

It is not merely that these were, belatedly, promised to me. They are within the second item of my April 15, 1975 request. Your people have sworn to compliance over and over again, your counsel provides the same untruthful assurances to the Court repeatedly, and he is again seeking summary judgement. Of course your claim that you cannot find these plates, now made for the first time, raises substantial questions about your failing to inform the Court or me of your alleged inability to find them while swearing to full and complete compliance with an Item requiring their production.

If you can't find something like spectrographic plates how can you file affidavits claiming that I received records based on a field office's belief that they were sent to FBIHQ?

It is my understanding that such records may not be destroyed without authority, and that in the files they are replaced by a citation of the authority and a report of any such destruction. If they were destroyed, it would seem that you should have a record of it. Because authority is also requested, your files should hold a copy of any request.

This is, I believe, quite unusual and entirely inconsistent with all the FBI has represented about its preservation of records, particularly with regard to a matter that is in litigation, as this has been, constantly, since 1968, in one court or another.

I would like to know who made the search, when and where it was made, and anything else you can provide pertaining to the search. I regard this as important and by a carbon of this letter I will ask my counsel to call it to the attention of the Court.

Your own records reflect the fact that the FBI, supposedly, was preserving everything and in all ways being extraordinarily careful because, as of the time of my requests and continuing until after C.A. 75-1996 was filed, Ray had not exhausted his appeals. You therefore were required to have these plates long after the beginning of the instant litigation.

The FBI was also to have provided the spectrographic plates pertaining to the JFK assassination. It has not. I do not expect to hear from you, whenever you get around to this after all the many years ~~and~~ with that case now on remand, that those plates also cannot be found because you, personally, displayed them to me in your office, when SAs Kilty and Frazier were with you and my counsel was with me.

SA Kilty also testified to the FBI's having information pertaining to neutron activation analyses that had not been provided. I have not received it and have not heard anything further about it from the FBI although I have raised this question on appeal and through counsel. With regard to this the FBI has also provided untruthful sworn assurances of full and complete compliance to the Court, even recently and ~~and~~ in the name of the SA whose initials are after your name. Your Legal Counsel Division counsel and Department counsel both heard this Kilty testimony. This withheld information has not been provided. Will you please let me know when to expect it?

You date the time of the alleged search at "when we became aware of the offer by OPIA to you of the plates." This is a rather strange formulation. However, the time SA Beckwith said the plates would be provided was the summer of 1978. You were "aware" then and long before then, from my letters. You also were "aware" as of the time of the Kilty deposition. You do not state that you made the search in response to my counsel's letter of about three months ago to "r. Cole, although that also would reflect an exceptional delay with a case in court for more than five years and when you are pushing motions for summary judgement.

Was not the FBI aware of the pertinence of these plates at the time of my 1969 and 1975 requests that include them, or at the time I filed C.A. 75-1996? Was it not aware in 1976 when SA Kilty swore to full and complete compliance and persisted in this after alleged continued non-compliance?

While this is not the first occasion, in this I am making you aware of false affirmations filed in this litigation by the FBI. The FBI has an unblemished record of doing nothing at all about false ~~swearings~~ ^{swearings}, except, perhaps, for promoting those who utter them. I would like to hear from you what, if anything, the FBI intends to do, with regard to the untruths presented to the Court and with regard to those who provide untruths to a court of law.

I am taking your tacit acknowledgement that I have not been provided with information called for by my requests and for which no claim to any exemption was made as an admission that the attestations of full and complete compliance are not truthful.

Sincerely,



Harold Weisberg

April 29, 1974
1 - Mr. Mintz

REC-112 105-82555-5709

Bernard Fensterwald, Jr., Esq.
910 16th Street, N. W.
Washington, D. C. 20006

Dear Mr. Fensterwald:

A search of our records has been conducted in an attempt to locate the original signed statement of Silvia Tirado de Duran, which you requested in your letter of April 17th enclosing a copy of the first page of this Bureau's translation of the statement (Warren Commission Document No. 776a).

The original of the desired document does not appear in our files. As the sworn statement was taken by Captain Fernando Gutierrez Barrios, Mexican Federal Security Police, presumably the original is in the custody of the Direccion Federal de Seguridad, Mexico City, D. F. You may desire to contact that agency relative to your request.

Sincerely yours,

C. M. Kelley

Clarence M. Kelley
Director

MAILED 22
APR 29 1974
FBI

- 1 - The Deputy Attorney General - Enclosure
- 1 - Bufile 62-115530 (FOI-REPLIES)

NOTE: For four years in 1960's the correspondent was chief counsel of the Subcommittee on Administrative Practices and Procedures, U. S. Senate Committee on the Judiciary, during which period was anti-FBI. In January, 1969, the National Committee to Investigate Assassinations was formed with Fensterwald as executive director (77-44206). In September, 1972, he received a letter from Dr. Julius Mader of East Berlin soliciting an order for Mader's book "Yellow List: Where is the CIA?" - He returned the order blank with a check for the book (105-44852). In 1970 under FOIA he unsuccessfully brought civil suit for the Bureau's reports in the Senator Robert F. Kennedy assassination investigation (62-587). In response to a Bureau cablegram to the Legat, Mexico City, the Legat advised on 4/24/74 that the original sworn statement of Silvia Tirado de Duran is presumably in the custody of the Mexican Federal Security Police (DFS). A Xerox copy is in the Legat's files; however, the signature of the subject on several pages is barely discernible. As clearance should be secured to disseminate a copy, the Legat recommended that the requester be referred to the DFS.

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Admin. _____
- Comp. Syst. _____
- Ext. Affairs _____
- Files & Com. _____
- Gen. Inv. _____
- Ident. _____
- Inspection _____
- Intell. _____
- Laboratory _____
- Plan. & Eval. _____
- Spec. Inv. _____
- Training _____
- Legal Coun. _____
- Telephone Rm. _____
- Director Sec'y _____

TELETYPE UNIT

John J. ... 4700

MAY 3 1974

cc dist. of Bufile 62-115530-5709

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

.....
HAROLD WEISBERG, :
 :
 Plaintiff, :
 :
 V. :
 :
 DEPARTMENT OF JUSTICE, :
 :
 Defendant :
 :
 ,.....

AFFIDAVIT

My name is Harold Weisberg. I reside at 7627 Old Receiver Road (Route 12), Frederick, Maryland. I am the plaintiff in this case.

1. On January 6, 1981, I executed and mailed an affidavit (my affidavit) to my counsel. In it I repeat allegations I have made throughout this long and deliberately stonewalled case, that as long as Department counsel and affiants are immune in misleading, deceptive and false representations made to the Court, this case will never end except without compliance.

2. Had Department counsel set out to prove my allegations, he could succeed no better than he has in his Memorandum in Opposition to Plaintiff's Motion to Compel (new Memorandum), mailed to my counsel but not to me on January 6, 1981. This Memorandum has the clear and intended purpose of misrepresenting, deceiving and misleading; deliberately withholds what is material in what is cited so that it can be misrepresented, and it is misrepresented; and states untruths, as I specify below.

3. In addition, he has and has had the intention of stonewalling and delaying to the degree possible, while pretending to the contrary. One of his means of stonewalling and of applying unnecessary time restrictions and problems on me was to abrogate the long-standing arrangement under which copies of all documents were sent to me as well as to my counsel. I asked my counsel to raise this at the August 15, 1980, status call, in general and with specific reference to the new Vaughn showing. (Transcript, pp.7-8) Despite the understanding at that calendar call and the reminders in my subsequent affidavits, he still refuses to

do this. The result with the Vaughn showing is that I had to request more time, which displeased the Court. With regard to the new Memorandum, it reached my counsel on January 8, he made and mailed me a copy that day, but it did not reach me until midday on the 12th, an extra delay of four days. Delay is built into the abrogation of the long-standing prior arrangement.

4. Fortunately, the time of the filing of this new Memorandum coincided with the return for a few days of Ms. Rae Barrett. She had helped me on a part-time basis until about August 1, 1980, when she returned to her family in Vermont for personal reasons. While Ms. Barrett had come to catch up on filing and other matters now beyond my capacity as a result of complications following two operations last fall, she was able to make some searches I would not have been able to make. She also located a collection of copies of documents, mostly MURKIN and FBI FOIA records, I had made for other purposes. Some of them are pertinent to recent allegations by defendant. They follow below.

5. One of the allegations in my affidavit is that Department counsel cannot make any motion for summary judgment in good faith when he knows of pertinent and withheld information for which no exemption is claimed. As an example I cite the still-withheld spectrographic plates and neutron activation analysis (NAA) records I knew existed and had not been provided. I state that Department and FBI house counsel both have personal knowledge of this from having represented the witness who testified that the information exists and was not provided. I also state that I had filed a number of appeals with Quinlan Shea, Department Director of FOIPA appeals.

6. Item 2 of my April 15, 1975, request reads: "2. The results of any spectrographic or neutron activation analyses." This clearly includes all pertinent records, including spectrographic plates and NAA printouts.

7. These same materials are also within my 1969 requests, which were ignored and do seek all evidence said to incriminate James Earl Ray, and the converse Item 28 of my December 23, 1975, request, for all "information which exculpates or tends to exculpate" Ray.

8. Moreover, these are all FBIHQ MURKIN records and are required to have been produced in compliance with the Department's offer of all MURKIN records.

9. If there might be any pretense that the spectrographic plates and NAA

materials are not within these requests, the FBI's own interpretation is to the contrary. The FBI interprets both as included. If the FBI chooses to regard these withheld materials as "raw data," the new Memorandum establishes in its Attachment A that raw data is, to the FBI's understanding, within my requests.

10. In C.A. 75-226 I also seek the similar records pertaining to the assassination of President Kennedy (JFK case). This was originally C.A. 2301-70. It is the case over which, according to the Congressional Record, courts and Mr. Shea, the Congress amended the investigatory files exemption of FOIA in 1974.

11. In the JFK case the FBI asked my counsel and me to confer. When we met in the office of SA Thomas H. Bresson, now chief of the FBI's FOIPA branch, he was accompanied by SAs Robert Frazier and John Kilty. They had with them and they offered me the spectrographic plates - at a cost of \$50.00 each. They knew full well that I could not pay something close to \$1,000.00 for them and their smiles reflected this.

12. At a point in C.A. 75-226, Department counsel in that case, anticipating his next move in court, made hand-delivery of a large envelope of raw NAA data to my counsel, at his home at night, immediately prior to a scheduled calendar call. Examination of the contents of that envelope reflected the fact that it consisted mostly of NAA computer printouts.

13. In accord with his usual practice, Department counsel uses his Memorandum as a ^{unsworn} ~~vehicle~~ for his own/testimony (henceforth, "testimemo"), in which he seeks to add to the record what is not correct, is not in the record and cannot safely be stated by others under oath. Thus he states (p. 2) that the spectrographic plates "have never been considered by the FBI to be part of plaintiff's Information Act requests." The immediately preceding Paragraphs refute his unsworn and inaccurate attempt to testify.

14. Contrary to the present representations of Department counsel, the Department and the FBI have always understood that both the spectrographic plates and NAA printouts are within my requests, as clearly they are.

15. Mr. Bresson is careful not to state that the plates do not exist because FBI regulations prohibit the unauthorized destruction of such records. He also provides no details of the alleged searches.

16. Department counsel, this late, now represents that these spectrographic

plates "do not exist." In support of this "testimemo," he offers Attachment B, which does not state that they "do not exist." (I attach as Exhibit 1 a copy of this letter as I received it because that copy is clearer. The date does not appear on either copy.) All that SA Bresson claims in this letter, without specifying whether or not his claimed inability to find these plates is normal, is that they were not found: "This search turned up no plates relative to the King case." My uncontested prior affidavits, illuminated with excerpts from FBI records, is that the destruction of such evidence is precluded by FBI regulations and the destruction of any records pertinent in any litigation also is prohibited. There has not been any time since Dr. King was killed that there has not been some litigation. This instant cause was filed long before Ray reached the Supreme Court. He is again/ⁱⁿthe courts and those records all are pertinent to his ongoing litigation.

17. Department counsel, pretending that these plates are not pertinent, again offers his "testimemo" that, "to honor an informal promise by a Department of Justice employee to give copies of any plates that might be located to Mr. Weisberg," the FBI only recently instituted a search for them. From beginning to end, this is not truthful.

18. When the FBI sought to extort \$50.00 a plate, I could not pay for them. After I was awarded the fee waiver, I did request them. When I did not receive them, I appealed their withholding to Mr. Shea. He took this up with the FBI's then supervisor on this case, SA Horace P. Beckwith. Beckwith agreed that they are pertinent, that for most persons the cost was prohibitive, and that in this and the JFK assassination case they would be provided without cost. Mr. Shea then informed me that copies would be provided, but for more than two years I heard nothing further from the FBI. Despite this 1978 FBI promise, only recently did I receive any copies of the JFK spectrographic plates. They are not identified and they are not complete, but once I received them I perceived new reasons for their being withheld: they refer to testing on dates the FBI represented in C.A. 75-226 that no tests were made.

19. Department counsel misrepresents the deposition testimony of Laboratory SA John Kilty. He states of it that "On pages 20 through 25," Kilty was asked about "both neutron activation and spectrographic materials. As to

neutron activation documents, he testified that these documents had already been provided to Mr. Weisberg (p. 22, 23), a recollection supported by a receipt for these documents signed by Harold Weisberg on March 23, 1976 (see Attachment A, item 8)." He says nothing else about these materials.

20. The intent to deceive, mislead and misrepresent is made apparent by what Department counsel does not attach, the transcript for the pages he cites. (I do, as Exhibit 2.) It is his representation, although he omits the word "all," that I received, as required, all the "neutron activation documents" and that this is "supported by a receipt for these documents" I signed. The suggestion that I lied to the Court is obvious. I am not the liar.

21. The receipt is for various records. Item 8 reads, in full, "(8) Nine pages of raw data calculations used in neutron activation results compiled in FBI Laboratory report dated April 29, 1968." Nine pages are hardly all the neutron activation records. Kilty did not testify that they are and they are not. As stated above, in the similar case, C.A. 75-226, when the "raw data" was provided, it was of about three inches of xeroxes.

22. Kilty was evasive. On page 20, lines 5 and 6, he pretends that the Lab has no files. He does admit that records were in the Lab, which is contrary to the Department's representations in this case (that all records are in Central Records). However, he acknowledged that there "were things physically in the Laboratory that are in response to these items." He identified "the data, the raw data on the neutron activation analysis." "The" raw data signifies all the raw data, in the absence of any contrary testimony.

23. On page 22, line 13, he was asked, "What about the printouts?" He replied, "That was the raw data, what I'm talking about ..." (lines 14-16) Asked, "When did you provide us with that?" he responded, "I think we gave that in a meeting we had down in Tom Blake's office." (lines 17-19) My counsel contradicted Kilty, saying, "I am advised we were given only the handwritten notes, not any printouts." (line 23 and page 23, line 1) Kilty then admitted, "You might not have been. They're right with them." (line 2, emphasis added) This states the opposite of Department counsel's "testimemo," for we were not given any of the existing and located printouts.

It also states that they were with the few pages of notes Kilty did provide, his Item 8 pages, and nonetheless, in his supposedly thorough searching, he did not provide them.

24. Mr. Lesar stated, "We do not have the printouts. Is there any objection to giving them to us now?" Kilty pretended that "now" meant that very instant and responded, "I don't have them." Mr. Lesar said, "I don't mean right this minute. But will the FBI make them available?" Kilty's snide rejoinder is, "I guess, if you make a request for them." (lines 18-23) This for pertinent records he had testified had been provided. Mr. Lesar's correct statement at the top of the next page is, "Well, that doesn't require a request. They are a part of the original request." (Later, I also said I would not file a 1979 request for what I had requested four years earlier.) This is without contradiction, in the deposition testimony and in fact. Department counsel asked to go off the record, after which Kilty became evasive and obstructionist again. He even disputed that the printouts he called printouts are printouts and are but "pieces of Polaroid film." (lines 10-18) (On page 23, lines 6 and 7, he refers to them as "Optikon printouts," again confirming that they exist and that he had not provided them.)

25. All of this comes out in Department counsel's "testimemo" as "he (Kilty) testified that these documents had already been provided to Mr. Weisberg," for which he cites pages 22 and 23 only. This, apparently, is his basis for the prejudicial canard of the first sentence of the new Memorandum, that what I asked for is "already in plaintiff's possession." This is a very large and a very deliberate lie, a lie that is essential to summary judgment.

26. The very next matter in the deposition transcript is Mr. Lesar's question, "With respect to the spectrographic analysis, there would also be spectrographic plates, would there not?" Kilty's pretense is that he does not know if in spectrographic analysis there are spectrographic plates. His answer is, "I don't know." (page 24, lines 21-23) Then after confirming that "spectrographic plates are created in that test," he claims that he does not know whether or not they now exist, a strange representation of his having made a search for all spectrographic materials in response to my April 15, 1975, request. Mr. Lesar asked "that you check on that, too, because we were not provided those." Department counsel asked that a new request be made. I refused. He then said, "We will see if they can be made available to you." This is hardly consistent with Department

counsel's representation that he and the FBI's first knowledge was when they "recently searched for them to honor an informal promise by a Department of Justice employee to give copies of any plates that might be located to Mr. Weisberg."

"Any" is underscored because, without question, they were created and, without question, there is no authority for destroying them. More than a year earlier Department counsel had said, "We will see if they can be made available to you."

27. It cannot be denied that these plates are within my original requests. The FBI's own record is that it interpreted spectrographic plates to be within my request. The Department regulations require that, if there is any question about a request, the requester is to be asked to provide explanation. I was not asked for any explanation of any item of any request. The transcript of the deposition leaves no doubt that we believed these plates and the NAA materials are within the requests. Under the Department's own regulation, we made this clear the day of the deposition, October 12, 1979.

28. In attaching the receipt, to which he gives a meaning it does not have, Department counsel suggests that this is the net result of a search of the files. It is not. The most recent of my reminders of the withholding of these materials is my letter to the FBI of August 17, 1980. (Exhibit 3) It is in response to his client's letter of August 11. (Exhibit 4) After indicating the evasiveness of the FBI with regard to the so-called "bulkies" in this case, I go into the existence and withholding of these identical NAA and spectrographic materials beginning at the bottom of page 1. I refer to Kilty's deposition testimony, to the participation in it of Department counsel, state again that they are within my requests, refer to the knowledge provided by the cited earlier litigation, refer to the undisputed content of earlier pertinent affidavits, and state that "It is now about a year since SA Kilty acknowledged the existence of records that still are not provided and are included within your quoted language." (This is a reference to the quotation from Exhibit 4 at the bottom of page 1 of Exhibit 3, "You have previously been provided approximately 100 pages of laboratory documents ..." which does not say that the 100 pages are all the pertinent "laboratory documents." This is still another proof that defendant knows other and better than is represented in this "testimemo."

29. My letter, Exhibit 3, like so many others, remains ignored and is

now misrepresented in the new Memorandum.

30. If Department counsel had searched even those deposition discovery records that were not provided until too late for them to be used in the questioning, he would have learned other than he represents to the Court. There are pertinent records among them. Some are included in the copies I made for other purposes that Ms. Barrett just located. Department counsel should know about them because he is the one who, so belatedly, ultimately did provide some. Those included in the following paragraphs, while they may not be all pertinent records because of noncompliance, are copies made from the FBI's own FOIA files. (See Paragraphs 90ff. below.)

31. Exhibit 5 is a March 2, 1976, McDermott to Cochran memo. It states that the FBI had "narrowly construed" my request, pretendedly to save me "undue expense." This had been stated earlier by the Deputy Attorney General. In response, my counsel wrote him that I did not want them either narrowly construed or rewritten. Exhibit 5's first two addenda reflect the fact that the Laboratory Division would not search some of the Items that, despite this, SA Thomas Wiseman attested it did search. The deposition testimony of both Wiseman and Kilty confirms my 1976 affidavits alleging that no search at all had been made in response to several of the Items of my April 15, 1975, request. To date and to Department counsel's knowledge, those searches still have not been made. Wiseman's affidavit is untruthful. This and other of his own FOIA files establish that he knew his affidavit not to be truthful when he executed it. The third addendum, Kilty's of November 14, 1975, states that he could search only Items 1-4 and that the Lab has spectrographic and NAA records.

32. Exhibit 6 is the March 25, 1976, Legal Counsel to Adams memo reporting the meeting at which the receipt provided by Department counsel was signed. The memo was written by SA Parle T. Blake. It acknowledges that I "indicated a strong belief that the FBI possessed additional material responsive to his request which we had not furnished him." While without basis limiting this to what might be in the Memphis office, Blake states, "There is a possibility he is correct in this contention." I knew of the existence of the spectrographic plates and the NAA printouts, as well as other NAA records, that were not provided and remain withheld. Among these other records are those prepared prior to and pertaining to the

submission of specimens to neutron activation. I have not received a single one in this case. The recommendation of Exhibit 6 is that the Memphis office "immediately review its files to locate any information in its possession not previously furnished to FBIHQ which might be within the scope of plaintiff's request." (Emphasis added) Memphis also had pertinent information furnished to it by FBIHQ. Contrary to the representations made to this Court to stonewall the case and limit compliance, Exhibit 6 acknowledges forthrightly that searches at FBIHQ alone do not constitute sufficient compliance. It states that "this position is not considered tenable, given the facts in this case." After more than a year of further stonewalling, I was enticed into agreeing to the Stipulation in order to be able to obtain this withheld information because the Department persisted before this Court in the "untenable" position, that it could and would comply fully from FBIHQ files.

33. Under "Details" on page 3 it is acknowledged, as I state above, that Ray's appeals were not exhausted and were before the courts. In fact, this is the reason initially advanced for total noncompliance. This exhibit also confirms that there was no time when there was not some litigation which required the preservation of all records. At the same point it is admitted that I was not provided with "the results of a great number of ballistics tests." Whereas Wiseman swore that there were no photographs of the scene of the crime and AUSA Dugan persisted in this untruth before this Court, the Deputy, whose information was provided by the FBI, acknowledges the existence of "several hundred photographs in Bureau files," including "the inside of the room rented by Mr. Ray." While Blake states on page 4 that all these pictures were "made available to plaintiff and his attorney for a review at FBIHQ on 3/23/76," in fact we were lied to about most of them and I faced the need to persuade the FBI to make a better search. As a result, two additional sets of photographs were first located and then denied. (We had to go to the appeals court to get the Louw/Life pictures, delayed until late in 1980.) The next paragraph includes this and more in the language, "plaintiff strongly indicated his belief that he had not been furnished all the material in possession of the FBI falling within the scope of his request, and specifically indicated that he was positive that we would have more laboratory material and photographs than had been made available to him. He was politely but firmly advised (arrogantly and untruthfully would be more accurate - HW) that we had thoroughly reviewed the entire

Murkin file at FBIHQ and made available to him all material located which could possibly be within the scope of his request and which could be released. ... When plaintiff continued to persist in his statements that the laboratory material was incomplete, SA Blake requested SA Kilty to join the meeting in an effort to convince plaintiff of the completeness of the laboratory material." He pretends that Kilty was "somewhat successful," which is not the case, as the record in this litigation and my appeals reflect. This was after I had been provided with copies of those nine pages Kilty had come up with. Blake admits (page 5) that I was correct in ridiculing the absence of photographs of the scene of the crime. They had not been provided and the FBI did have them.

34. Blake acknowledges that I offered to provide "information which would help us locate other material in our possession responsive to his request," but that they would not accept it orally and insisted upon it in writing. He also acknowledges my statement that what was not in FBIHQ files "most certainly would be located in appropriate field office files," which has since proven to be correct, as any FBI agent should have known. He acknowledges that I told them I "was not interested in suing, harassing or embarrassing the FBI, but that he only wanted all information he had requested."

35. It thus is clear that the FBI was accurately informed on noncompliance, including with regard to the Laboratory material; that I offered cooperation in locating what had not been provided; and that the FBI insisted that I write it. (Later, of course, I did write it and was faulted for this, as Department counsel deprecatingly faulted it to this Court.) It is clear that what I wanted is what I had asked for, that the FBI knew I wanted it, and that, without asking me or obtaining any authorization, it then construed my requests "narrowly," which means it rewrote my requests and that this is one of the reasons this litigation has not ended.

36. Exhibit 7 is one of several self-serving representations of what happened when I testified to some two dozen FOIA requests that were ignored. The Court asked for an accounting of them. The FBI and Civil Division "narrowly construed" the request of the Court to avoid full response. This November 18, 1976, Legal Counsel (Blake) to Assistant Director memo acknowledges, under "Details," that the FBI ignored several of my 1969 requests. It then seeks to mislead in an effort to justify ignoring the Act by stating what suggests that the fault lay in

the Department, that the FBI had located copies of three requests I had sent to the Department. In that period, one was required to address all requests to the Deputy Attorney General and to use a special form, DJ-118. The FBI acknowledges that all three of my requests that it found received no response. This dates intent not to comply in this case and with the Act to 1969, more than a decade ago.

37. Civil Division's attitude, of contesting and litigating rather than complying or trying to work out reasonable compliance without litigation, is reflected in the Civil to FBI Litigation Unit letter of December 5, 1975./ In it Civil states (p. 2, under 5), "We suggest that you include in the affidavit or affidavits a statement of facts demonstrating the manner in which production of the records requested would prejudice the operation of your office," meaning the FBI. Civil did not ask if there would or could be any impairment in FBI operations from complying with my requests, and there would not have been. It came up with this nonexemption as a means of frustrating and preventing compliance. There is nothing in this letter in which Civil undertakes to learn if there had been full compliance or if a good faith search had been made. There then was virtually no compliance. There has never been a good faith search, as of today, more than five years later. Civil Division does preside over noncompliance and this explains the excesses of Department counsel and the dirty Cointelpro trick of the consultancy in which it deceived and misled the Court and imposed upon me.

38. In my earlier affidavits I state that on the operating level there was an effort to deceive and mislead higher authority into believing that this case was mooted by the production of a few records and that Civil Division pretended that the case was moot before the first calendar call. Confirming this is Earl Silbert's letter to Civil of January 15, 1976. (Exhibit 9) It states that "Apparently plaintiff's counsel does not feel this action is moot, as suggested in the memorandum of the Director of the FBI under date of December 19, 1975." That the FBI, on the operating level, knew there were pertinent records not provided is indicated in preceding paragraphs and in the exhibits pertaining to SA Kilty and the March meeting with him and others. While the FBI was propagandizing alleged "mootness" it knew the searches had not been made and all records had not been provided.

39. In his deposition, as quoted above (Exhibit 2), Kilty claims that the

Lab has no files. Exhibit 10 is a JFK assassination record which reflects, nonetheless, that the Lab does have means of storing information. A handwritten note on Exhibit 10 states that the records are to be returned to the Lab "for retention" and to go to "evid cabinet." This reflects the fact that the Lab does retain records, contrary to Kilty's misrepresentation.

40. Pertinent to my earlier affidavits addressing the unjustified and improper withholding of FBI names - after the Court issued an Order prohibiting it - and of information that was and was intended to be made part of the public domain is the Memphis airtel of November 5, 1968, to the Director, FBIHQ Serial 5329. (Exhibit 11) It lists a dozen SAs who were to be witnesses at the trial of James Earl Ray, then scheduled for six days later. They were to have testified to Lab and other evidence. The "Operation Onslaught" agents censored all names. Five only were restored. All are nonsecret and, to repeat, this is a deliberate violation of the Court's Order of June 10, 1976. The FBI refused to comply with the Order prior to the processing of the FBIHQ MURKIN records, during that processing and afterward. Here it withholds the names of those scheduled to testify in public. These names remain withheld despite the assurance of the Wood affidavit, albeit a false assurance, that the FBI changed its policy and was not withholding such names.

41. I refer above to the fact that the FBI did recognize that all spectrographic and NAA information is within my request and had so understood from the first. Exhibit 12 is a JFK assassination record - self-serving, inaccurate and incomplete. Nonetheless, it does indicate the kinds of records generated by these tests. That information had not been provided in this instant cause at the time defendant was making initial summary judgment noises and some of it still remains withheld. Bearing on the dependence that can be placed on the FBI's word, particularly its sworn word, is the fact that, after this memo was written, with its full acknowledgment that I "made specific requests for spectrographic and neutron activation material," the FBI withheld all NAA material and then swore falsely to that court that I had stated I had no interest in NAA information. For this and similar reasons, that case is still before the courts.

42. Exhibit 13, the October 5, 1976, Legal Counsel to Assistant Director memo, is attached because it reflects more of defendant's contemptuous attitude toward the Court and because the reference to the prosecutorial index serves to

remind of extensive noncompliance in it. On page 2, under "Details," it is represented that the FBI was not required to comply with FOIA requests until 1974. That matter was raised by AUSA Dugan prior to the writing of this memo. The Court stated otherwise and that my 1969 requests are still pertinent. During the depositions we produced individual pages of the reprocessed prosecutorial index and entire volumes of it to reflect the fact that in the so-called liberalized reprocessing what was not originally withheld was withheld. One sample volume was only half the size after the Orwellian liberalization. The FBI was to have provided explanations. In a year and a half it has not provided any explanation or justification of increased withholding in the name of greater disclosure.

ATTORNEY GENERAL AND DEPUTY ATTORNEY GENERAL RECORDS

43. My Motions to which the Memorandum is addressed were filed by preagreement, to address areas of noncompliance. Some of these pretendedly are addressed in several parts of the newer of Defendant's Motions for Partial Summary Judgment. In response to them I provided several affidavits (my recent affidavits). My ability to provide full information to the Court is restricted by my physical and medical limitations and the time constraints imposed by the delays caused by Department counsel's failure to mail documents to me. With Ms. Barrett's temporary assistance, in this affidavit I am able to provide more information.

44. The Department provided an affidavit by Quinlan Shea that is remarkable for its lack of specificity. It is so vague and conclusory it does not even identify a single file claimed to be searched nor does it identify any searcher. It does not date the alleged search in response to my 1975 requests. As my earlier affidavits state, FBIHQ MURKIN records report the routing of a great amount of pertinent information to the Attorney General. This includes regular progress reports that constitute a separate and historically important record, a record of what the FBI and its fabled Director (who detested the Attorney General) deigned to let the Attorney General know about the most serious crime of his tenure. These have not been provided and Mr. Shea neither accounts for nor mentions them. Whatever the basis for Mr. Shea's affidavit, not only does the case record dispute him, an FBIHQ MURKIN record does. It is the June 18, 1968, letter from the Attorney General to the Director. (Exhibit 14) The text makes it apparent that the Attorney General and several of his top assistants felt that the FBI was not informing them to the

degree they desired. The document holds two Department file numbers, 144-72 and 41-157. Mr. Shea does not attest to any search of either file. Exhibit 14 makes it obvious that both hold pertinent and withheld information. I have not received a single piece of paper represented as coming from the Attorney General's files.

FOREIGN AND OTHER POLICE

45. Defendant represents that it is essential to withhold in order not to disclose the cooperation of foreign police. Macdonald attests that, unless information reflecting this cooperation is withheld, it can lead to the most dire consequences, including the rupture of diplomatic relations. I have stated that this cooperation is well known and is disclosed throughout the records that were provided. Exhibit 15 is the FBI Director's letter of thanks to a superintendent of the Royal Canadian Mounted Police (RCMP). Exhibit 16 is a routing slip to FBIHQ from the London Legat forwarding identified evidence "received from the Special Branch, New Scotland Yard." These two records represent a large number of disclosed records pertaining to the cooperation of a number of foreign police and intelligence components that, sometimes along with what was provided, were disclosed to me in this instant cause and in the JFK assassination case. The actuality is that the affidavits were provided to pretend that the withholdings are justified, whether or not they are. These are among the many records reflecting the unjustified nature of the withholdings. (See also Paragraph 63 below.)

The Pritchett Affidavit - The ATF Record

46. Another illustration of the blind withholding of what had been withheld, whether or not the withholding was justified, is Phillips Document 78A, which is also the subject of the Pritchett affidavit which is so vague it does not even identify the record to which he attests. With regard to Document 78A, Pritchett abandons the original claim to (7)(A). He attests that he reviewed the record and all that can be disclosed is disclosed. The actuality is that he and Phillips both used the record as originally disclosed and blindly, save for the realization that the Court would frown on improper claim to (7)(A), rubber-stamped the original claims. However, as a referral, this identical record was disclosed by the FBI a second time, under date of June 8, 1978. (Exhibit 17) Pritchett and Phillips even withheld the name of the City of Denver under claim to (7)(C) and/or (D), without specifying whether either or both applied to the city - or could. I have encircled

the four proper names the FBI disclosed but now are withheld by the Pritchett/Phillips combine. Ms. Barrett's check also discloses that there are related documents. The one attested to is Serial 37 in that file. Serial 39 also is pertinent. It has three lettered parts. The worksheets provide no description of Serial 39B. It consists of eight pages, all withheld, without attestation that nothing is reasonably segregable or that any balancing test was made.

TICKLERS AND OTHER FBI RECORDS NOT PROVIDED

47. The FBI claims that ticklers are kept for a matter of days only, hence were not produced. My contrary statements and proofs have not been addressed and are not disputed. Instead, there are only vague, conclusory and untruthful claims, as by SAs Kilty, Wiseman, Wood and Phillips, that ticklers are automatically destroyed after a matter of days. Despite this, when Mr. Shea followed leads I provided, after a decade he found part of what was once a much larger tickler kept by then Supervisor (Assistant Director) Long. Much pertinent in this instant cause was destroyed after this litigation was filed. Part of a Lab tickler has been provided. But no search for ticklers, which are records of the divisions, has been attested to and none was made. The reason is apparent: there is continuing need for those ticklers because this is still an open case. Any search would disclose what the FBI and the Department do not want to have disclosed.

48. The OPR reinvestigation was after the beginning of this instant cause. OPR did what the FBI's FOIA personnel did not do: it interviewed Assistant Director Long. (Two pages from OPR records attached as Exhibit 18) He informed OPR that his "tickler system" was "maintained ... with approximately 35 key classifications. This system was maintained in addition to the MURKIN file." (Emphasis added) This reflects the intent not to destroy the tickler but to preserve and "maintain" it, an obvious need in a continuing case. The most perfunctory search should have disclosed the existence of this and other ticklers that are still withheld. (There has been no compliance with regard to the Lawn tickler, evidence of which was established in the depositions.) It is not likely that FBI agents are not aware of the fact that ticklers are kept as long as there is need for them. (There were additions to the Long tickler after the beginning of this litigation, or seven years after it was begun.)

49. Long also informed OPR of what has not been produced in this instant

cause, that two "daily reports" were prepared for Director Hoover. One was provided at 9 a.m., the other at 1 p.m. This represents hundreds of pages of records not accounted for. No search for them is attested to and none was made, not even after I requested it more than two years ago. This is an historically important file, reflecting what the Director was - and was not - told. It is difficult if not impossible for one with any knowledge and understanding of these records and of the Hoover FBI to believe that the FBI did not have instantly available a separate file of everything Hoover had been told. It is not at all difficult for one familiar with MURKIN to see why the FBI today would not want to disclose what it had and had not told its autocratic Director at a time when, for all its puffery, the largest manhunt in its history also was its largest flop.

WITHHOLDING OF THE PUBLIC DOMAIN

50. In addressing the Blizzard affidavit I stated that the Byron Watson matter was and for years had been within the public domain, that the information he and his mother provided was confessedly fabricated, that all the details were known and disclosed, and that Watson and his mother sought and attained the widest attention for his fabrication in their effort to keep him out of jail because of drug-related criminal activities for which he was convicted. FBIHQ MURKIN Serial 5913 (Exhibit 19) provides confirmation. The FBI, in identifying the Watsons, makes no privacy claim. It discloses that the fabrication was admitted, that there was a subsequent investigation by the Atlanta police and that it also was disclosed: (Page 2, under "ACTION: ... to preclude any further misguided releases on the part of Mr. Eaves," who was head of the Atlanta police.) Aside from many public statements, the Atlanta police also made copies of their report available.

51. As with all other subjects, this is but a sample of the extensive disclosures of what supposedly must be withheld. One of the extensive flaws in the uncorrected "Operation Onslaught" processing was the extensive withholding of the public domain. In the JFK case this flaw is so conspicuous and so opposed to public interest in an historical case that Associate Attorney General Schenefield directed the FBI to become familiar with the publicly available information from the Warren Commission and the House Select Committee on Assassinations. His letter is attached to my January 6, 1981, affidavit. In order to be able to withhold the public domain in this case, the FBI refused to accept a consolidated index to the books and my

index to the transcripts of the 1973 Ray evidentiary hearing.

ITEM 7 OF THE APRIL 15, 1975, REQUEST: NO SEARCH HAS YET BEEN MADE

52. The deposition testimony of SAs Wiseman and Kilty established the untruthfulness of the early affirmations of compliance with the captioned Item. This is one of the many instances where records other than those arbitrarily classified as MURKIN are pertinent. However, search of the MURKIN files does disclose that one of the other writers listed in this Item, Jeremiah O'Leary, was given information by the FBI and used it in a Readers Digest article which greatly influenced Ray and his counsel. The information provided to O'Leary remains withheld, replaced by sworn-to lies.

53. If by any remote chance the FBI did not know the content of its own files, my affidavits and appeals provided all the leads and similar information they needed. I even identified files to be searched. Two of Department counsel refused this search and the pertinent information remains withheld. In the face of this (and so much more like it), no Motion for Summary Judgment can be made in good faith. However, this illustration, like the others, is characteristic of the misrepresentations of the new Memorandum. It does not provide what is pertinent or do anything to help end this case except by perpetuating noncompliance.

54. Exhibit 20, a MURKIN record, concludes with the recommendation that the FBI provide O'Leary with information for his Digest article. Director Hoover and Associate Director Clyde Tolson did not agree. This is self-serving, cover-up paper or it represents the fact that political operators in the FBI did what they wanted despite the Director because it was done. The recommendation to help O'Leary is from the FBI's propaganda office, "Crime Records."

55. Exhibit 21 also is what is known as "cover the Bureau" paper. The FBI got O'Leary to boast to the vast Digest audience about how closed-mouthed it was when he knew it was the opposite - was his source - even his editor. This phony "Crime Records" memo also states, the cover-up part, "As the Director is well aware, we have furnished to information to O'Leary concerning this case..."

56. Exhibit 22 reports that O'Leary submitted his manuscript for prior "review and any changes we desired made," in plain English, for prior censorship. This exhibit holds the words that were magic with the FBI: "the article is not attributed to the FBI." (FBI emphasis, repeated twice.)

57. Some of these records were duplicated in the FBIHQ general JFK assassination disclosures. Other reporters found O'Leary's agreement to prior censorship to be newsworthy. The embarrassed O'Leary sought to explain this away by saying of the FBI, "They gave me most of the information." (Exhibit 23.)

58. For his part, O'Leary operated as an adjunct of the FBI as he had of the CIA. He asked questions for it, gave it information including about others in the press, and wrote the kinds of stories it wanted printed. I can provide many illustrations, from the FBI's own records. In return, the FBI leaked to him and gave him exclusives. Hoover was so anxious to reward O'Leary with "scoops" that his propaganda bureaucrats had to intercede so that the FBI would not receive less attention than was possible with some stories the FBI wanted out.

59. I provided prior Department counsel with a copy of O'Leary's confession to having gotten most of his information from the FBI, yet no search has been made to comply with the Item of the requests which seeks this information. And, knowing that there is noncompliance, Department counsel still seeks summary judgment.

PRIVACY - THIRD PERSONS; THOSE NOT SUBJECT OF FBI INVESTIGATION

60. SAs Wood and Phillips and Department counsel attempt to justify the withholdings practiced by the "Operation Onslaught" personnel. They should never have been assigned to an historical case involving many records. In his effort to justify the unjustifiable actions of "Operation Onslaught," Department counsel uses SAs Wood and Phillips to claim that they must withhold the names of those who provide information; those who are not the subject of FBI investigatory interest; and that even when the FBI has disclosed names, they must withhold addresses and phone numbers, pretendedly to preserve "minimal privacy." I have stated that once the name is disclosed, there is no privacy remaining to be protected by withholding addresses and phone numbers, that standard sources provide them and that the FBI's affidavits and the claims of its counsel are not in accord with the FBI's record in this case and others. Two records reflecting the actuality of FBI practice are among those Ms. Barrett found. There are countless others and I recall more important illustrations.

61. One of these records, on the other extreme, is Exhibit 24, FBIHQ MURKIN Serial 5367. It withholds the name of the director of public relations and

information of the magazine which then had the largest circulation in the country, LOOK. He spends his working life in touch with the press and is anything but unknown. This record represents normal practice of providing advance copies to those the magazine wanted to have them. This man is well known. His name is Leon Rubin. After LOOK suspended publication, he went to Playboy, in the same capacity.

62. Exhibit 25 is a Memphis "Invaders" record. It reflects that, as I have stated over and over again in many uncontested affidavits, the FBI's practice is not what its counsel and affidavits preach. It has different standards for blacks and women. They have little or no privacy in hundreds of pages as disclosed by the FBI in this case.

63. This record also reflects that the FBI does, contrary to its many claims, identify other police organizations as its sources and it discloses the information they provide. With regard to this kind of information, the FBI provided me with hundreds of pages of xeroxes of Memphis police records, often with more and more defamatory information.

64. This record is not a law enforcement record. It is a domestic political intelligence record. The FBI tried unsuccessfully to persuade the then Internal Security Division (ISD), which required less persuasion than other divisions, to find these young blacks prosecutable. After about three years, ISD finally replied that there were no prosecutable offenses.

65. Beginning on the first page the FBI discloses the addresses SAs Wood and Phillips and Department counsel claim must be withheld for "minimal privacy" even after names are disclosed. Further to "protect" FBI "minimal privacy" in this record, it discloses personal descriptions and even the descriptions of automobiles. A white woman seeking to find a job for a black is fully identified. Drug-related offenses are attributed to named young blacks, thus protecting their "minimal privacy."

66. The withheld source identification is known. It is the code name of Marrell McCullough, Max. McCullough's undercover role was public domain prior to the processing of any MURKIN records. That he was known to the Invaders as a police spy is revealed in records disclosed to me in this instant cause, so there never was any basis for any McCullough withholding after 1968. (McCullough withholdings continue and my appeals are ignored.)

67. My earlier affidavits state that one of these named women was identified in disclosed Memphis records as carrying a child conceived out of wedlock. The alleged father is identified. The FBI then searched out, reported and disclosed the names, addresses and places of work of all known relatives who had jobs that enabled retaliation, to get them fired. Such "privacy," without reasonable doubt, is "minimal."

68. Exhibit 25 reflects the fact that the FBI discloses extensively what its affidavits attest must be withheld.

SURVEILLANCE

69. I have alleged that there has not been any good faith search to comply with the surveillance Items; that the FBI has such information; that surveillance need not have been by the FBI and that the FBI has disclosed proof that much was not; that surveillance is not limited to electronic but includes shadowing, mail interception and other methods; and that the persons named in my requests need not have been the subject of surveillance to have been under surveillance. FBIHQ MURKIN Serial 5386 (Exhibit 26) discloses what I knew and early on informed the Court: that the Memphis sheriff intercepted all of Ray's mail, including to and from counsel; had him under physical and electronic surveillance; and provided copies and information to the FBI. Exhibit 26 reports the contents of Ray's intercepted mail and his opinions of what would eventuate at the expected trial. (When the trial judge ordered that there be no surveillance on Ray, especially not on his mail, Memphis reported this to FBIHQ. FBIHQ told Memphis to stop accepting copies and, instead, to provide paraphrases. The FBI, knowing that the Order of the trial judge was being violated and that the violation extended to privacy of communication with counsel, did nothing about this violation. Instead, it sought only deniability and to be able to protect itself from complicity. It continued to receive and use the information that resulted from these illegal surveillances.)

70. I am listed in the surveillance Items. Mr. Lesar's January 29, 1975, letter to the Acting Attorney General (Exhibit 27) does not allege that I was the subject of FBI surveillance. He refers to my requests, which ask for records of surveillance and "other intrusions into his life." The letter drafted for FBI Director Kelley's signature, almost illegible in the copy provided, is evasive and

nonresponsive and is limited to me as the subject of surveillance. The note added on the internal copy, a note that would mislead and misinform all inside the Government who see it, adds that a complete main file and other reference check "disclose no evidence of him being subject of a surveillance nor indication of any dissemination being made along lines he makes reference to," i.e., other intrusions into my life. Aside from the evasiveness built in by rewriting the actual request, which is not limited to me as the subject of surveillance, both parts are deliberate and nonaccidental lies, the second a particularly big and vicious lie. I was picked up on surveillances of others and FBI records I provided on appeal reflect this. Typically, these appeals also remain ignored while the Department moves for summary judgment. FBI intrusions into my life are from coast to coast, to the White House, to Members and committees of the Congress and to others, according to FBI records I provided on appeal. The FBI provided what it calls "public domain" information used against me by four New York lawyers on a TV show. In San Francisco an FBI symbolled informer, armed with (mis)information he could not ordinarily have obtained on his own or known of, tried to ruin me by red-baiting me on the largest west coast radio talk show. In both cases the FBI helped me. In both cases those it used against me failed in their purpose. The resulting sensations made my books best sellers in New York and San Francisco. But the fact is that the FBI's own records do reflect these entirely improper intrusions into my life. Its intent was to ruin me and under most circumstances it would have succeeded.

71. The most vicious of these personal fabrications is the canard that my wife and I celebrated the Russian revolution every year with a gathering at the farm we then operated. The only annual gathering at our farm was a religious one. The Jewish Welfare Board rabbi brought Washington area service personnel and their families out for a picnic. The children saw eggs laid and gathered them, saw chicks hatch and played with chicks and tame animals. The FBI had no interest in our "minimal privacy" in retailing such dastardly lies to the White House and the Congress and in disclosing them in the general JFK assassination releases months after I invoked my supposed rights under the Privacy Act. The FBI has these and similar records and has not provided them in this case - for the obvious reasons indicated above.

72. Bernard Fensterwald, who had been chief counsel to James Earl Ray,

is included in Items 11 and 12 of my December 23, 1975, request. What was provided pertaining to him - after a privacy waiver was insisted upon even though the FBI treated him as a public personality in its FBIHQ JFK assassination releases - illustrates intent not to comply and another rewriting of my requests by FBIHQ in directives to field offices that told them how not to comply.

73. In the discovery materials I was provided with six 0-63 forms, "REQUEST FOR SEARCH OF SPECIAL INDICES." Of the 23 persons listed in Item 11 (Item 12 identifies an organization without naming its members), forms were provided on only four: my counsel, me, James Earl Ray and Judge Preston Battle, who had been trial judge. What indices are to be searched is not indicated. Mr. Shea's letter stating that my counsel and I were not the subject of any electronic surveillance included in the records that were ~~searched~~^{searched} indicates that the search was limited to electronic surveillance and then only when the named person was the subject of it.

74. That Fensterwald, who is not included in these special indices searches, was under electronic surveillance is reflected by several records. In no case has any of the results been provided. (He also was under informant coverage.)

75. That the request is not limited to electronic surveillance, defendant's deliberate misinterpretation, is indicated by the language of the request: "This is meant to include not only physical shadowing but also mail covers, mail interceptions, interceptions by any telephonic, electronic, mechanical or other means as well as conversations with third parties and use of informants."

76. None of the 0-63 search forms provided was filled out at or near the time of my requests. The first were prepared on April 12, 1977, or a year and a half later, the others on November 13, 1978, or three years later. None refers to the language of the requests. The time alone reflects the intent not to comply.

77. One means by which FBIHQ aborted compliance is the January 20, 1978, Director to Memphis letter (Exhibit 28), copies to 18 other offices. (To stonewall my counsel and me, the FBI refused to comply with the request and required us to write each of the field offices separately. Then FBIHQ also wrote each and in each case indicated how not to comply.) Exhibit 28 was written by the analyst on this case, Ralph Harp. Reportedly, Harp has since been promoted to special agent. Harp built in two devices for noncompliance. One was to interpret my requests as

limited to MURKIN and the other was to interpret the Fensterwald privacy waiver to be "restricted to that information which only falls within the purview of the subject matter of Mr. Weisberg's Murkin request letters dated April 15, 1975, and December 23, 1975." Neither mentions MURKIN and my requests are not limited to MURKIN. An example of the FBIHQ recognition of this is information it provided on named persons, for example, Judge Battle, where there is no possible MURKIN connection with the information provided. Some of the information provided on Fensterwald also is not MURKIN information. To be certain that the misconstruction of the requests was not overlooked at FBIHQ, Harp added the note, "... access to information concerning Mr. Fensterwald which relates to the MURKIN case only."

78. Harp persisted in this misinterpretation to the Knoxville office because it, apparently, came across Fensterwald records FBIHQ did not want me to have. He manipulated the field offices. On March 1, 1978 (Exhibit 29), in the name of the Director, he told Knoxville: "In view of the fact that Mr. Fensterwald's privacy waiver is restricted to Murkin related material," which it is not, "you should respond to Mr. Lesar that the Knoxville office does not possess any records concerning Mr. Fensterwald which pertain to his (sic) April 15 and December 23, 1975 FOIA request." (Other records reflect the further and unjustified restriction to electronic surveillances.)

79. Knoxville improved on the FBIHQ disinformation in writing Lesar on March 8. It convoluted my simple request even more, while dutifully switching my requests to "... does not possess any records concerning Mr. Fensterwald which pertain to his (emphasis added) April 15 and December 23, 1975 FOIA requests." This was not a simple typographic error. The record is captioned: "RE: FREEDOM OF INFORMATION REQUEST OF MR. BERNARD FENSTERWALD, JR." Fensterwald not having made the requests cited, the Knoxville office could safely deny having any responsive records. However, Knoxville does not deny having any Fensterwald records. It denies having records of MURKIN electronic surveillance only. In effect, it confirms having records within the actual requests but not within the FBIHQ revision of them.

80. When I tried to straighten Knoxville out, it refused to be corrected. On March 15 I informed it that the requests are mine, not Fensterwald's, and that there is no limitation in them to MURKIN. I asked that it respond to the actual requests, not the revision of them. Instead of responding to me, Knoxville wrote

FBIHQ on April 6, 1978 (Exhibit 30). It enclosed a copy of my letter, reported that what it wrote Lesar "was done according to instructions" from FBIHQ in the March 1 Harp letter. Knoxville professed to be "totally unaware of what WEISBERG is getting at in his letter of complaint." Neither Knoxville nor FBIHQ, which are required to do so under controlling regulations, ever asked for any clarification or explanation. Naturally not, because the FBI rewrote my request to create precisely this situation of noncompliance. Mr. Lesar and I had been in regular meetings with the FBI, I had raised noncompliance with the surveillance items on a number of occasions, and the FBI never represented that the items were unclear or ambiguous.

81. I did appeal. That appeal also remains ignored.

82. What records I did receive, and one appeal has 11 records attached to it, reflect the fact that the FBI knew the request was not limited to MURKIN. They do not include a single MURKIN record. But they do include proofs of surveillance involving Fensterwald. Fensterwald information was provided by third persons and informants, both included in the request. Claims to exemptions (7)(D) and (E) are made for withholdings, indicating use of confidential sources and electronic surveillance, for which (7)(E) is inappropriate.

83. My June 12, 1979, appeal captioned "Surveillance Items - Bernard Fensterwald" has attached an FBIHQ 0-9 form, sent to all offices. This was provided by Dallas. It does instruct all offices not to monitor Fensterwald and others. (Exhibit 31) This directive makes it clear that authorization for electronic surveillance is not required because if it were there would be no need for this warning. The directive refers to "all electronic surveillances now in operation." Because this was sent to all field offices, all should have provided copies of it and other pertinent records in this instant cause. They did not.

84. In a May 18, 1977, letter to the New York office (Exhibit 32) FBIHQ limited search to James Earl Ray in directing New York to "Review the pertinent log and/or transcripts of these surveillances to ascertain whether they relate to James Earl Ray" and to "search all pertinent indices to determine whether your files contain any additional logs and/or transcripts pertaining to the electronic surveillance of James Earl Ray." No such records are provided pertaining to any of the other persons listed in the requests.

85. How Harp earned his promotion to special agent and served his apprenticeship is reflected in his note ~~on~~ the file copy, on page 2: he identifies the Item of the request correctly; interprets part of it correctly ("any surveillance") incorrectly limits the request to MURKIN records rather than explaining that each person was included in the King investigation; and then is explicit in stating that noncompliance is intentional: "Of these persons, only pertinent information pertaining to four of these individuals will be processed" - Ray, the judge, Lesar and me.

86. New York's response (part of Exhibit 32) states that classification is unjustified. Therefore, FBIHQ did classify the record and withhold part of it. The two pages referred to were not provided. That they include references to Ray is indicated by "NYO Elsur indices do not include any additional references to RAY." For there to be additional references, there must be the initial references.

87. When FOIA Supervisor SA John Hartingh phoned the Baltimore office on November 18, 1977, to ask about pictures I had loaned the FBI, he did not mention searches for records of any surveillances of me. I live in the territory of the Baltimore office. Baltimore reported (Exhibit 33) under date of 11/8/77 (underscoring added) that its review was of the "Baltimore 44 file" only and that it does not "reveal any other reference to WEISBERG." (Two records said to be attached were not attached to the copy provided to me.)

88. For no reason consisted with compliance, Baltimore limited its search to its MURKIN file, "Baltimore 44 file." It thus did not report that in fact it does have records on and references to me in other files, as it does. I have copies of some. There also is monitoring of what I say publicly - and it was indexed.

89. From the foregoing, which cannot be a complete exposure, it is apparent that there was intent not to comply with the surveillance Item; that FBIHQ directed and contrived noncompliance; that no search was made to determine whether there is information pertaining to most of the 23 people listed in the request; that a "narrowly construed" or overly restrictive inquiry was made pertaining to five persons only, where any inquiry was made; and that despite this, FBIHQ was and is well aware that other pertinent records exist and are withheld.

THE STIPULATION AND THE CONSULTANCY

90. The Stipulation does not cover what Department counsel has been trying

to stretch it to cover and it never meant what Department counsel is trying to have it mean. Some pertinent discovery records are among those Ms. Barrett located. They are not complete because there was withholding. (See also Paragraph 30 above.) There is reference, for example, to a review in the documents that follow. No copy of it was ever provided. There are other references to records that are not provided, and there is withholding, without claim to exemption, on the records that were provided. On July 8, 1980, I asked my counsel to ask Department counsel to provide the withheld discovery records and the excised portions. I have not received anything since then.

91. These records also reflect violation of the Stipulation. For it to be effective, the FBI was required to abide by all its provisions, as the Stipulation itself states. One of these provisions required the FBI to respond to my written complaints. The August 9, 1977, Legal Counsel to Assistant Director, Records Management Division memo (Exhibit 34) states the limited purpose of the Stipulation, that I would "forego a Vaughn showing of those records ... in the MURKIN investigation," and no more. There is no basis for and there is no language in the Stipulation that permits reading into it any wider waiver on my part. This one waiver is dependent upon scrupulous adherence to all the provisions of the Stipulation, which was repeatedly violated and nullified. Clearly, also, there is no basis for including the records of any other component. The Stipulation is limited to the FBI.

92. The consultancy was conceived as soon as the FBI shipped the last of the records it intended to provide under the Stipulation. Blake was replaced by SA Charles Mathews. He wrote the December 14, 1977 memo from Legal Counsel to Civil Division in which he includes their joint representation of the consultancy. (Exhibit 35) This memo followed his conversation with Mrs. Lynne Zusman. He stated that I was "compiling" for their "review" what he termed "specific instances ... wherein he believes certain records should not be withheld." He limits this incorrectly to exemptions (7)(C) and (D). No contradictory or correcting memo from Mrs. Zusman was provided.

93. While this does not correctly state what I was to do and did do, it is a statement that they were to "review" my consultancy report. They did not.

94. This followed Mathews' November 16, 1977 memo in the name of Legal

Counsel to the Assistant Director, Records Management Division, on the November 11, 1977, meeting arranged by Civil Division. (Exhibit 36) On page 2, paragraph 3, he refers to the Stipulation, saying that under it "it was incumbent upon the plaintiff, subsequent to processing of all records, to specify with particularity what deletions he takes issue with. In order to facilitate Mr. Weisberg in his composing of his list of grievances and without prior consultation with representatives of the FBI, Mr. Schaeffer offered to hire Mr. Weisberg as a consultant to the Department of Justice."

95. Parenthetically, he says also that the FBI agreed "to reprocess approximately 2700 index cards and to supply Mr. Weisberg by 11/18/77, with a list of names taken therefrom." No list of the names withheld in the index was ever provided. In the reprocessing to disclose more, the FBI withheld what earlier had been disclosed.

96. It is clear that I was to report what I considered to be improper processing and that the FBI was to "review" what I wrote it. I did write it and it never once responded. It did not replace any of the many improperly processed records and it did not provide any of the many that were withheld. (These are reported and described in my prior affidavits.) It thus also is clear that the Stipulation was violated on this additional score and that the violation was knowing and deliberate.

97. The content of all of these letters is included in my consultancy report, which was and despite all remains ignored. A carbon copy of one of these letters is among the records Ms. Barrett located. It was attached to a series of records pertaining to the exposed former Birmingham symbolled informant, Morris Davis. It is my November 8, 1977, letter to the FBI. (Exhibit 37) The first five paragraphs go into problems with the processing and withholding of Stipulation records and the sixth reports violation of the Stipulation.

98. The gun and scope catalogues the Department only recently provided, while Department counsel persists in the misrepresentation that they are "magazines" in an effort to cover the frivolous claims of copyright to withhold a sales promotion giveaway, were required to have been provided before November 1, 1977, if the Stipulation were not to be violated on this count. They are Birmingham records. The documents referred to in Exhibit 37, my letter to the FBI, are Birmingham records.

99. My letter, Exhibit 37, correctly identifies names improperly withheld, including that of Davis. He was first exposed by the FBI - when it knew he was an active, current informant for the Drug Enforcement Administration. He then exposed himself when he met with the House assassins committee and later with Mark Lane. FBI files report his complaints about having been turned over to Lane. There was no privacy. There was no confidentiality. The FBI has not responded to this and many other letters. My appeals are still ignored. The improperly processed records remain improperly processed, and, of course, on this basis also the Stipulation is violated and nullified. Meanwhile, and despite its protestation of the urgent need to protect its informants and those of other agencies, the FBI voluntarily exposed its Birmingham informant Davis while he was an informant for the DEA.

100. Despite the claims of defendant, there is no real question of exposing unexposed informants. I have never asked this. I have also alerted defendant when unexposed informants were exposed, so protection still could be arranged.

Missing Attachments

101. Another provision of the Stipulation is that copies of any missing attachments filed in the field office records would be provided to me. In practice, this was another FBI deception for it not only made no search in those records for copies of missing attachments, it directed the field offices to ship records to FBIHQ in a manner that automatically precluded any search. One means was to instruct the field offices not to forward any records they believed had been sent^{to} or received from FBIHQ. Under this directive each and every missing attachment would have remained in the field offices.

102. There are hundreds of pages of "missing" attachments. No genuine search for them is attested to and the searches I stated need to be made to locate them have not been made. I provided the identifications of persons who removed attachments and of rooms in which they were removed based on notations added to the covering record. In some instances the OPR noted the removal of attachments. One such OPR page (Exhibit 38) lists two of the attachments which are included in an incomplete list of missing attachments. (Exhibit 39) In this instance the attachments were removed in the Long or Civil Rights unit. This also reflects the fact that ticklers are not composed only of duplicates. Many of the MURKIN records still withheld in this instant cause were removed in various FBI offices for

inclusion in the records of those divisions and are not retrievable from Central Records. They must be searched for in the Divisions where, steadfastly, the FBI refuses to search.

CONCLUSIONS

103. The plaintiff in an FOIA case faces insuperable odds when he confronts an agency with motive and/or determination not to comply. This inequality can be altered by a court determined to see to it that the agency abides by the law and controlling decisions. Unless stopped by a court the agencies, as my long, costly and painful experience establishes, will distort, misrepresent, stonewall, refuse to make good faith searches and will be untruthful. The Act, which has lofty and the most basically American purpose, is negated and the independence of the judiciary is subverted if a court tolerates misrepresentations and untruths.

104. More than five years ago, based on my not inconsiderable experience in such matters, especially with the FBI and its counsel, I informed this Court that defendant's counsel was misrepresenting to it and that defendant's sworn representations were untruthful. The ensuing five years leave no reasonable doubt that my 1976 statements were well founded. The record shows that defendant and defendant's counsel did not become more restrained after I correctly informed the Court of what they were up to. Rather were they encouraged to greater excesses by the failure of the Court to do more than express shock and dissatisfaction. They grew more daring in the brazenness of the wide assortment of unfaithful representations by which this case has been stretched into its sixth year - without compliance and without even the minimal, initial searches that are required. In this affidavit I address and expose only the newest of these endless infidelities that defendant has, with unhidden contempt, heaped upon the tolerate Court.

105. The defendant in this case - the many components of the Department of Justice in addition to the errant FBI - has much to fear from compliance with my actual requests. This is why - after more than five years - the initial searches have not been made and why it is necessary to stonewall and misrepresent.

106. Throughout the great length of this case and the extraordinary amount of undisputed information I have presented, I have avoided arguing the facts of the King assassination. I have offered to inform the Court in camera so that, if it desired, it could perceive motive for the abuses of which I complained,

abuses it tolerated. I have gone no further because the Court has not indicated any desire for me to do so. Save for a few generalized statements I am quite prepared to expand upon, I go no further now.

107. What can be especially embarrassing to the Department, not merely the FBI alone, is the fact that the FBI never investigated the assassination of Dr. King; and the Department, meaning most of all the Civil Rights Division (CRD), knowing this and suspecting that the FBI was holding out (see attached Exhibit 14 and paragraph 44 above), was content for the most important civil rights crime of all time not to be investigated. The FBI conducted only a "fugitive-type investigation," in its own words, based on the founding Director's instant vision/solution. To this end evidence was twisted and ignored so that the instant vision/solution not be jeopardized by hard fact. Constitutional rights meant nothing, witness paragraph 69 above, the FBI's accepting intercepted lawyer-client communications and doing nothing about this irremedial violation of the most basic rights. (Except to seek to protect itself from criticism if caught.) My previous affidavits present FBI records in which it stated that it wanted to violate the rights of the Ray family. It held that the cost, if caught, was worthwhile. The FBI's violation of basic American rights was justified - to the bankrupt and desperate FBI. Compliance with Items like the surveillance Items will expose other lawlessness and additional improprieties. I knew of such transgressions when I composed those Items. I had obtained copies of what the FBI still has not produced in this overly long case by other means.

108. Expediency is a cruel and demanding master. Expediency led the Department and the FBI into violations of law and treaty. There is no cause for pride in these servings of expediency and there is motive for withholding. CRD, for example, presented a knowingly false affidavit to procure Ray's extradition. His extradition for the political crime was precluded by the extradition treaty, so the Department pretended that the assassination of the black messiah was not a political crime. (It was not a crime of passion, not a robbery. It was a political crime, a terrible political crime.) It was illegal for the FBI to bring Ray back to the United States, as those below him informed Director Hoover. Nonetheless, the FBI brought him back, with his counsel prevented from accompanying him.

109. The FBI immediately corrupted the public mind and pressured the

court by controlling what could and would be known - by its extensive leaking, which it always denies, and by the planting of such biased and prejudicial articles as that of O'Leary in the widely distributed Readers Digest, illustrated in preceding paragraphs.

110. The FBI went to great cost to prepare the so-called prosecutorial index. This was not because the FBI required an index. It had and has a much more extensive one about which it succeeded in getting away with brazen lies to this Court. It required the index to the prosecutorial volumes so it could know immediately what it had deigned to permit the prosecution to have and what it had held back. For its own purposes it had its own, still withheld all-inclusive index. Control is the name of the FBI's game and if it cannot continue to get away with its extensive noncompliance in this instant cause, its control may be endangered.

111. The FBI, not CRD, filed a civil rights complaint in Birmingham. Not in Memphis, where the crime was committed, because, in the FBI's own words, it did not trust the United States Attorney in Memphis. This is an aspect of control. The Memphis USA was not under the FBI's thumb. He was capable of making independent decisions and asking questions. Questions would have been asked about the FBI's case against Ray as the assassin because it had no real case. What it had depended on a strong yearning to believe what could not be believed. Thus the propaganda with operations like that with O'Leary and thus those Items of my request. The FBI's case could not withstand competent examination. All the evidence said to be incriminating was easily moved and was not tied directly to the crime. The FBI could not even place Ray within the State of Tennessee beginning several hours before the crime. It is for reasons like these that the FBI pretends it cannot find the cab driver McCraw's manifest or the original interview report with the only claimed witness Stephens or even the log of the Memphis police and sheriff's radio broadcasts. McCraw's manifest substantiates several elements of evidence exculpatory of Ray. Stephens made a negative identification of the Ray photo that was shown him. Thereafter, CRD prepared an affidavit of identification which it got him to sign. (This is how Ray was extradited.) The broadcasts would reflect who first reported finding the package of such odd stuff, all pointing to Ray. Depositing it where it would be found promptly and point at Ray was so

convenient as long as one asked no question about why anyone would do it. In fact, it was found before Ray could have dropped it had he been the assassin lurking in the FBI's alleged sniper's nest. There is motive for withholding and there is withholding. For example, the FBI's taking of the McCraw manifest was established at the 1973 evidentiary hearing. It is an Item of the request. No search for it is attested to and it remains withheld.

112. It is the absence of a real case that inspired the desire for Ray to cop a plea. If he entered a guilty plea, there would be no trial and the ugly official nakedness would not be exposed. The King people and others had to be satisfied. There were negotiations with them, thus that Item of the request for which no search at all has been attested to. It is ludicrous for the Shea affidavit to represent that there are no pertinent Attorney General or Deputy records when the Attorney General was intimately involved in the plea bargaining, according to the Department's own press statements, which I republished a decade ago.

113. The fact of stonewalling, the fact of widespread noncompliance, the fact of failure and refusal to search for pertinent records and to provide located responsive records, the fact of the refusal to search for all the Items of the requests and the numberless unjustified withholdings²¹¹ are beyond dispute. As I have stated earlier, given these and many other similar situations which defendant has arranged and perpetuated for the five years this case has been before the Court, it simply is not possible to file a Motion for Summary Judgment in good faith and it was never done in good faith. In this affidavit I provide one of the records reflecting defendant's claim to summary judgment prior to the very first calendar call. Now defendant brags of having provided more than 50,000 pages since then. His boast is his self-characterization. He knew he had not complied when he first started announcing his summary judgment motions and he has not even tried to comply in the five years since then.

114. The long and tedious record of this case more than validates what I stated to the Court in 1976, that without some effort to end defendant's unfaithful representations this case would not end except with noncompliance. Nothing was done to deter the countless unfaithful representations so they spawned more of their kind, unendingly.

115. All of these maneuverings, which are costly to all parties, have cost much more than compliance would, yet the case is not ended. Incredibly, after more than five years, the initial searches are not made.

116. The Court has been stating its desire to get this case off its back for years, yet in all those years it has done nothing meaningful about defendant's misrepresentations and nothing meaningful to assure compliance. When it asked for Mr. Shea to be involved, it did not require that, for example, and the Department thumbed its nose at the Court, ignoring its desires and never reporting back.

117. There are only two ways this case can end. One is by compliance, which at even this late date is the most efficient and least costly. The other is by sending it to the Court of Appeals which, in time, will remand it for doing what should have been done and remains to be done. This will prolong the case even more, without reflecting any credit on the Court.

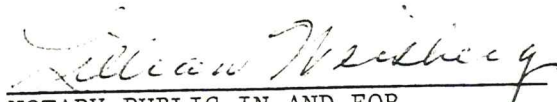


HAROLD WEISBERG

FREDERICK COUNTY, MARYLAND

Before me this 18th day of January 1981 Deponent Harold Weisberg has appeared and signed this affidavit, first having sworn that the statements made therein are true.

My commission expires July 1, 1982.



NOTARY PUBLIC IN AND FOR
FREDERICK COUNTY, MARYLAND



CA 75-1996
EXHIBIT 1



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

Mr. Harold Weisberg
7627 Old Receiver Road
Frederick, Maryland 21701

Dear Mr. Weisberg:

Reference is made to your letter dated November 15, 1980, from your Attorney, Mr. Lesar, to Mr. William G. Cole, Civil Division, Department of Justice, wherein you requested in part spectrographic plates concerning the murder of Dr. Martin Luther King, Jr., noting that these plates were previously promised to you by the Department of Justice, Office of Privacy and Information Appeals (OPIA).

Please be advised that an extensive search for these materials was conducted when we became aware of the offer by OPIA to you of the plates. This search turned up no plates relative to the King case. We shall keep your request on file should such plates be located in the near future.

Sincerely yours,

Thomas H. Bresson, Chief
Freedom of Information-
Privacy Acts Branch
Records Management Division

C 9 75-1996
EXHIBIT 2

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD W. LESBERG,

Plaintiff,

vs.

THE UNITED STATES DEPARTMENT
OF JUSTICE,

Defendant.

)
)
)
) Civil Action No.
)
)

) 75-1996
)
)
)

Deposition of JOHN HUSKEY

Washington, D.C.
October 12, 1979

Pages 1 thru 15

Hoover Reporting Co., Inc.
320 Massachusetts Avenue, N.E.
Washington, D.C. 20002
546-6666

1 sized pieces of paper that we gave to you were at that time
2 physically in the laboratory.

3 Q Did you search for any lab files in response to items
4 one through four?

5 A As I understand the laboratory file, we did not have
6 any laboratory files.

7 Q Well, let's not use the word "file" then. Let's just
8 say records.

9 Q Did you search for any King records responsive to
10 items one through four in the lab?

11 A There were things physically in the laboratory that
12 were in response to these items.

13 Q What were they?

14 A The data, the raw data on the neutron activation anal-
15 ysis.

16 Q Anything else?

17 A Not to do with the results. None of the results items
18 here were in the laboratory.

19 Q Did you make any search to determine whether they were
20 in the laboratory?

21 A There's no place in the laboratory to keep any re-
22 sults of any tests.

23 Q Why were the neutron activation worksheets in the

laboratory?

A They weren't in the laboratory. There are no neutron activation worksheets in the laboratory.

Q I thought you just said --

A I said there was raw data from the neutron activation analysis in the laboratory.

Q Why was there raw data in the laboratory?

A We were getting a start in the use of activation analysis as a method of analyzing lead at this time, in the late sixties and early seventies. What we did was, in order to build a data base of chemical compositions of lead, we kept the actual raw data in the laboratory so that we could search prior cases regarding similarities or differences in compositions of lead, on cases that obviously have no relation to them, but just to find out what kind of variations in compositions of lead we would find through the years.

We have stopped doing this now because we have enough data available to us, plus we have a way that we can enter data into the computer.

Q When did you start this?

A The activation analysis program in the FBI Laboratory started -- I came here in February, 1965, and we activated in our laboratory the first sample in 1965, in May.

Q Did you not also have an analysis from the Kennedy assassination?

A That was not done in the FBI laboratory.

Q Other than the neutron activation notes, were there any other materials in the laboratory relating to items one through four of the request?

A Materials?

Q Any records?

A I don't know of any records that were kept. I know of no records kept in the laboratory.

Q Let me just look through this again. (Examining.) My recollection is that I got everything out of the FBI file.

Q What about the printouts?

A That was the raw data, what I'm talking about, from the neutron -- Are you talking about the neutron activation analysis?

Q When did you provide us with that?

A I think we gave that in a meeting we had down in Tom Blake's office.

Q I think you're confusing perhaps two different cases. You are perhaps confusing the Kennedy assassination with --

A No.

Q I am advised we were given only the handwritten notes,

not my printouts.

A You might not have been. They're right with them. They were on the papers that I showed you people, what you wanted. You told me what you wanted and we sent them out with one of the clerks in that office, to get the long, legal-sized pieces of paper keroxed for you. You didn't want the Optikon printouts.

Q It is my recollection - I was present at these meetings with you, and it is my recollection and my client's recollection that you seem to have confused the meeting that we had in regard to similar requests for neutron activation analyses on the Kennedy assassination with the King assassination.

A No.

MR. COLLE: There is no question being asked. The witness has already answered the question. If you wish to ask another question, you certainly may do so, Mr. Lesar.

BY MR. LESAR:

Q We do not have the printouts. Is there any objection to giving them to us now?

A I don't have them.

Q I don't mean right this minute. But will the FBI make them available?

A I guess, if you make a request for them.

Q Well, it doesn't require a request. They are a part of the original request.

A I don't think that anyone --

MR. COLE: I object. Let's go off the record just a second.

MR. WEISBERG: I think that's a good idea.

[Discussion off the record.]

MR. LESAR: Back on the record.

BY MR. LESAR:

Q Do the computer printouts on the neutron activation analysis exist?

A There are no computer printouts.

Q Why not?

A There never has been.

Q There never has been?

A No. They are not computer printouts at all.

Q What are they?

A Pieces of Polarisoid film with a lot of numbers on them.

Q But do they exist?

A As far as I know, they do.

Q With respect to the spectrographic analysis, there would also be spectrographic plates, would there not?

A I don't know.

I thought when the test was done that spectrograph plates are created.

Yes.

You're saying you don't know whether they now exist?

That's right.

All right. We would ask that you check on that, because we were not provided those.

MR. COLE: Mr. Lesar, if you wish to have items that are in addition to those already provided, I would request that you write a letter to me requesting such items. We will see if they can be made available to you.

MR. LESAR: If you can't remember them, I'll write you a letter.

MR. COLE: It's not a matter of my remembering them. I am simply asking you write a letter to that effect and we respond.

MR. LESAR: I would agree to write you a letter specifying what we want, on the understanding it is not to be treated as a new request.

MR. SLICKS: May I ask something here, Jim?

MR. COLE: Off the record?

MR. SLICKS: It can be on the record.

Is it possible for the three of us to go out in

CA 75-1996
EXHIBIT 3

Mr. Thomas H. Bresson, Chief
FOIPA Branch
FBI
Washington, D.C. 20535

8/17/80

Dear Mr. Bresson,

The third paragraph of your letter of the 11th is provocative for what it does say as well as for what it does not say.

You do say that these records are, between them, MURKIN Serials 5914 and 5920. You also say that you have provided them "as they appear" in the FBI's reading room. But you do not say that as they appear in the reading room is identical with as they appear in FBI files.

In Civil Action 75-1996 it is the representation of the Department and the FBI that I would be provided with all non-exempt MURKIN records, not those that the FBI would place in its reading room. Obviously, there can be pages in unserialized records that were not placed in the reading room and there is no apparent means of determining this. You here have 3936 pages bearing only two numbers. If you have not provided copies of both serials in full I appeal the withholdings and with this case in court I would like to hear from you promptly about this.

Your letter does not identify these two serials as what the FBI calls them, bulkies. Your letter also does not state that these two bulkies are all the MURKIN bulkies, and they are not.

So, when I am to have received all Murkin bulkies your letter fails to state that I have, and if I have not, that also I appeal. Again, I would like to be informed promptly.

It is interesting to me that you throw in an irrelevancy in a manner that permits the suggestion that I have received all material referred to in "You have previously been provided with approximately 100 pages of laboratory documents that deal specifically with ballistics tests, neutron activation analysis, spectrographic analysis . . ." Anyone reading your letter, without detailed knowledge, as a judge might lack detailed knowledge, could easily assume that I have "specifically" received all such information. In fact I have not. This was established when SA John W. Kilty was deposed last year in this case.

He was then represented by the same William G. Cole, to whom you refer, accompanied by Legal Counsel Division SA Jack Slicks, both of whom therefore have personal knowledge.

For your information, the materials included within your language are within the specific items of my 4/15/75 request and SA Kilty provided an affidavit attesting to full and complete compliance, which I promptly disputed under oath. My affidavit identifies pertinent and withheld information. If my recollection is correct it also identified SA Kilty as a specialist in providing inaccurate and incomplete information under oath, a specialty in which he does not enjoy a monopoly.

Four or more years later SA Kilty disputed himself under oath. This is not unique, for I have known him to contradict himself under oath on another occasion, when he was in both contradictory versions disputed under oath by another (then retired) SA, who had personal knowledge.

The FBI did not dispute my affidavit. Instead it stonewalled and to this day continues to stonewall.

It is now about a year since SA Kilty acknowledged the existence of records that still are not provided and are included within your quoted language.

This includes the spectrographic plates. SA Beckwith agreed two years ago that they would be provided in this and the JFK case. They still have not been provided in either.

This includes most of the NAA records, as my affidavit identified them.

You should remember my knowledge of the nature and extent of NAA records from your personal participation in my C.A. 75-226. That suit, still in court, is the first filed under the amended Act. Earlier, as C.A. 2301-70, it had much to do with the amending of the Act, as I am certain you should recall. The new suit differs from the old suit in that it also includes all NAA records pertaining to the JFK assassination investigation. This was because no available record reflected the fact that the FBI did perform NAAs in the JFK case when C.A. 2301-70 was filed. But when compliance was alleged in C.A. 75-226 although I was not provided with any NAA information, you explained this by claiming I did not desire it. Your interpretation, that I amended the first suit to include what I did not want, contributes to its having been remanded by the appeals court twice. (This is not

a record. The first suit was there three times, as well as to the Supreme Court. If you had reviewed all pertinent records, including those you still have not provided, you would have noted that after the first of the five oral arguments before the appeals court but prior to its decision the Department recommended setting that case.)

Your 3/11 letter also includes "Ballistics tests." In the King case, C.A. 75-1996, which includes all such information, the FBI states that it did not test fire the so-called Ray rifle, which the FBI refers to as the death rifle. However, the published records of the House Select Committee on Assassinations state that the FBI did test fire that rifle, which, ordinarily, one would have assumed. The committee states that it obtained the test-fired specimens from SA Courtlandt Cunningham. Unless the committee is in error the FBI appears to have misled the Court in C.A. 75-1996.

My counsel reminded Mr. Cole that SA Kilty had testified to the existence of pertinent and withheld information a year ago, that it still had not been provided, and he again asked for it. (As I state above, SA Slicks also had personal knowledge.) As of the last mail there still has been no response. My first requests were in 1969. The same information was requested again on 4/15/75. The existence of pertinent and withheld information was confirmed by the FBI itself under oath in 1979. I therefore wonder about your selection of language that is, essentially, irrelevant on August 11, 1980.

For your additional information, your analyst on this case, Ms. Connie Pruitt, testified on cross examination only the day before yesterday that the FBI had never asked for clarification of this or any other of my information requests.

In my direct quotation of your language that I describe as essentially irrelevant I omitted "the examination of cigarette butts." My request included those found in Atlanta. In response SA Kilty attested that none were found there but some were found in New Orleans. I have since learned that in fact cigarette remains appear to have been found in Atlanta, in the Ray rooming house rather than in his car. In the interest of speeding this long-delayed case to a reasonable conclusion I ask for nothing further about cigarette remains.

Sincerely, Harold Weisberg

CA 75-1996
EXHIBIT 4



UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

AUG 11 1980

REGISTERED

Mr. Harold Weisberg
7627 Old Receiver Road
Frederick, Maryland 21701

Dear Mr. Weisberg:

Reference is made to a recent letter from Mr. William G. Cole, Civil Division, Department of Justice, to your attorney, Mr. Lesar, in which he states that FBI laboratory documents would be copied for release to you.

Accordingly, enclosed herewith are 3,936 pages of laboratory documents which are located in FBI Headquarters (FBIHQ) MURKIN file, 44-38861-section 83, serials 5914 and 5920.

You have previously been provided approximately 100 pages of laboratory documents that deal specifically with ballistics tests, neutron activation analysis, spectrographic analysis, and the examination of cigarette butts. However, at this time you are being furnished complete copies of serials 5914 and 5920 as they appear in the FBIHQ FOIPA Reading Room, which also includes the above-mentioned material.

Due to the bulk of these records, they have been divided into eleven volumes, each of which has been assigned letters A through K to insure that the material is kept in proper order in the FOIPA Reading Room and through handling and mailing procedures.

Excisions have been made in some of these documents pursuant to the following subsection of Title 5, United States Code, Section 552:

Mr. Harold Weisberg

(b)(7) investigatory records compiled for law enforcement purposes, the disclosure of which would:

(C) constitute an unwarranted invasion of the personal privacy of another person.

If you so desire, you may appeal to the Associate Attorney General from any denial contained herein. Appeals should be directed in writing to the Associate Attorney General (Attention: Office of Privacy and Information Appeals), United States Department of Justice, Washington, D. C. 20530, within thirty days from receipt of this letter. The envelope and the letter should be clearly marked "Freedom of Information Appeal" or "Information Appeal."

Sincerely yours,

Bresson / JNP

Thomas H. Bresson, Chief
Freedom of Information-
Privacy Acts Branch
Records Management Division

Enclosures (11)

CA 75-1496
EXHIBIT 5

UNITED STATES GOVERNMENT

Memorandum

Assoc. Dir.	_____
Dep. AD-1	_____
Dep. AD-2	_____
Asst. Dir.:	
Admin.	_____
Comp. Syst.	_____
Ext. Affs.	_____
Files & Com.	_____
Gen. Inv.	_____
Ident.	_____
Insp.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Eval.	_____
Spec. Inv.	_____
Training	_____
Telephone Rm.	_____
Director Sec'y	_____

TO : Mr. Cochran *JTC*

DATE: 3/2/76

FROM : J. J. McDermott *JTC*

SUBJECT: FREEDOM OF INFORMATION ACT (FOIA)
OF JAMES H. LESAR

Hand winding

Copies of letters of James H. Lesar dated 4/15/75, 12/29/75, 2/23/76, the Deputy Attorney General's (DAG) letter of 12/1/75, and SA J. W. Kilty's Laboratory addendum dated 11/14/75 are attached.

As indicated in the DAG's letter of 12/1/75, Lesar's request in his 4/15/75 letter numbered 1 and 6 were narrowly construed in the interest of saving his client undue expense. As Lesar indicates in his recent letters he desires to inspect the material within the scope of his requests 1 and 6 which has not been furnished him.

This request is currently in litigation and the Department of Justice has asked us to accommodate the 3/15/76 date for inspection, if reasonably possible.

RECOMMENDATION:

REC-59

196-769-7
25-735-51

That the Laboratory Division accumulate the photographs of the scene of the Murkin and any ballistics tests conducted in the Murkin and advise SA Wiseman, Freedom of Information-Privacy Acts Section, Files and Communications Division, when they are ready for the requester's review.

Enclosures (5)

ENCLOSURE

1 - Mr. Mintz
Attention: Mr. Blake

1 - Mr. Cochran
Attention: Mr. Kilty

JTC

H/023
8/1/76

FBI

TLW:mjs (5)

SEE ADDENDUM OF GENERAL INVESTIGATIVE DIVISION, PAGE 3.

(see LABORATORY ADDENDUM PAGE 2)



JUL 13 1976

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

JWK

LABORATORY ADDENDUM, JWK:fdb (5) March 5, 1976

With testimony and work commitments already made, it is not possible to conduct a complete search of the MURKIN file and gather the pertinent information by March 15, 1976. A realistic date is March 22, 1976, and SA John W. Kilty will keep SA Wiseman advised concerning his progress in the file search. The Laboratory Division will be responsible for Item 1 in the request. The General Investigation Division should gather and evaluate the photographs of the scene as described in Item 6 of the request.

JWK

H.S.C.]

~~JWK~~

A search of the pertinent FBI files where reports of firearms examinations would be expected to be, revealed serial 432, a report with worksheet and notes, and serial 4762, a report with worksheets and notes. No other firearms examinations were located.

Agent time spent on this search was eight hours.

W.F.

JWK

ADDENDUM GENERAL INVESTIGATIVE DIVISION HNH:bap 3/8/76

The FOI-PA Section should handle Item 6 of this "Freedom of Information Request" pertaining to all photographs from whatever source taken at the scene of the crime on 4/4 or 4/5/68.

Martin Luther King, Jr., was killed on 4/4/68 and a Civil Rights investigation was immediately instituted. Any photographs of the crime scene as requested would be located somewhere in our voluminous files either here at FBIHQ or in our Memphis Field Office, the office of origin, in the King civil rights case. The General Investigative Division has no intricate knowledge as to where these photographs are located in these voluminous files which were compiled nearly 8 years ago. The only way to retrieve these photographs would be for a complete file review. This file review is clearly a clerical function of the FOI-PA Section.

The General Investigative Division is referring this matter back to the FOI-PA Section. The FOI-PA Section will handle Item 6 of this request.

ejm ~~*[Signature]*~~ GIKVR

It appears that Items 1 through 4 of Lesar's letter April 15, 1975, and all four items in Leiser's letter of September 5, 1975, are Laboratory matters.

Two copies of each item are being enclosed with this addendum.

The items are as follows:

- (1) Laboratory report dated April 17, 1968, which sets out results of firearms examinations mentioned in Lesar's and Leiser's letters.
- (2) Laboratory worksheet containing notes concerning the firearms examinations.
- (3) Laboratory report, worksheet and notes containing the results of spectrographic and neutron activation examinations of bullets.
- (4) Worksheet and notes concerning the spectrograph analyses of areas of clothing.
- (5) Worksheet and notes concerning the firearms examinations conducted on clothing.
- (6) Laboratory report, airtel, worksheet and notes concerning the examination of a portion of windowsill.
- (7) Laboratory report dated April 19, 1968, which lists items recovered during search of 1966 white Mustang.
- (8) Eleven photographs and photomicrographs of the windowsill area, the muzzle of a weapon and mechanism markings.

None of these items has been released to the public

Item 4 in Lesar's letter asks for "the results of a scientific tests performed on the butts, ashes or other cigar remains found in the white Mustang..." Review of the pertinent worksheets and reports has determined that no cigarette butts were recovered during the search of the Mustang. The report dated April 19, 1968, sets out the items that were recovered.

Twenty hours of agent time were utilized in this matter. The cost of printing the photographs is approximately \$20.00, which is the cost of 46 photographs nine of which are being retained for future requests. The cost is \$0.40 per photograph. Also bills attached also - 464 photographs 3.00 per 100

EXHIBIT 6
75-1996

UNITED STATES GOVERNMENT

Memorandum

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Admin. _____
- Comp. Syst. _____
- Ext. Affairs _____
- Files & Com. _____
- Gen. Inv. _____
- Ident. _____
- Inspection _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Eval. _____
- Spec. Inv. _____
- Training _____
- Telephone Rm. _____
- Director Sec'y _____

TO : Mr. J. B. Adams

FROM : Legal Counsel *JAM*
gff

SUBJECT: HAROLD WEISBERG
v. U. S. DEPARTMENT OF JUSTICE
(U.S.D.C., D. C.)
CIVIL ACTION NO. 75-1996

DATE: 3/25/76

PURPOSE:

The purpose of this memorandum is to advise of the results of the 3/23/76 meeting between plaintiff and his attorney and SAs Thomas L. Wiseman, (FOI-PA Section), John W. Kilty, (Laboratory Division), and Parle Thomas Blake, (Legal Counsel).

SYNOPSIS:

At a 3/23/76 meeting between plaintiff and FBI representatives, plaintiff reviewed all documents located at FBIHQ pursuant to his FOIA request for Murkin material, and indicated a strong belief that the FBI possessed additional material responsive to his request which we had not furnished him. There is a possibility he is correct in this contention, in that the Memphis Division may have material of this nature which was not forwarded to FBIHQ.

- 1 - Mr. Cochran
Attn: Mr. Kilty
- 1 - Mr. Gallagher
Attn: Mr. Helterhoff
- 1 - Mr. McDermott
Attn: Mr. Wiseman
- 1 - Mr. Moore
Attn: Mr. Gunn
- 1 - Mr. Mintz
- 1 - FOIA Litigation Unit
(Blake)

EX-115 197-184-X57
REC-42 ~~11-21751~~ 57

20 APR 6 1976

APR 3 1976

[Handwritten signature]

PTB:rmc
(7)

(CONTINUED - OVER)



6 APR 21 1976 U.S. Savings Bonds Regularly on the Payroll Savings Plan

Memorandum to Mr. J. B. Adams
 Re: Harold Weisberg v. U. S. Department of Justice
 (U.S.D.C., D. C.), Civil Action No. 75-1996

RECOMMENDATIONS:

*SA [unclear] & [unclear]
 ME [unclear]
 SA [unclear]
 FOIPA [unclear]
 by [unclear]*

(1) That the FOI-PA Section, Records Management Division, expeditiously furnish Memphis with copies of pertinent correspondence concerning plaintiff's FOIA request, and request Memphis to immediately review its files to locate any information in its possession not previously furnished to FBIHQ which might be within the scope of plaintiff's request. (This would be an exception to the FOI-PA Section's position that FBIHQ searches alone constitute sufficient compliance with respect to FOIA requests; however, this position is not considered tenable, given the facts in this case, and to attempt to defend it in this litigation could very well result in a precedent-setting adverse decision on this point.)

B
JP *JK*

*AUSA John Dugan
 by SA [unclear]
 3/26/76
 FOIALU*

(2) That AUSA John Dugan, District of Columbia, be requested to advise plaintiff through his attorney that the FBI, in order to insure that we have completely complied with plaintiff's request, is searching the files of the Memphis Field Office (the only logical remaining repository of information responsive to plaintiff's request), within 30 days. It should be noted that there is a status call in this case Friday morning, 3/26/76 and it would be very beneficial if Dugan relayed this message prior to then.

B

APPROVED: _____	Comp Syst. _____	Laboratory _____
Assoc. Dir. _____	Ext. Affairs _____	Legal Coun. _____
Dep. AD Adm. _____	Gen. Inv. _____	Plan. & Eval. _____
Dep. AD Inv. _____	Ident. _____	Rec. Mgnt. _____
Asst. Dir.: _____	Inspection _____	Spec. Inv. _____
Admin. _____	Intell. _____	Training _____

** any material involved which
 releasable pursuant to FOIA
 will be made available...*

Memorandum to Mr. J. B. Adams
Re: Harold Weisberg v. U. S. Department of Justice
(U.S.D.C., D. C.), Civil Action No. 75-1996

DETAILS:

Plaintiff, through his attorney, James H. Lesar, (who is also an attorney for James Earl Ray), originally submitted an FOIA request to us for certain categories of material concerning our investigation of the King assassination, including "the results of any ballistics tests," and "all photographs from whatever source taken at the scene of the crime on April 4th or April 5th, 1968." After some delay, we denied this request, citing exemption (b) (7) (A) of the FOIA (investigatory records compiled for law enforcement purposes, the production of which would interfere with enforcement proceedings), inasmuch as James Earl Ray is currently appealing his conviction in the 6th Circuit. Plaintiff appealed this denial, and over the strenuous objections of the Department's Civil Rights Division and the FBI, Deputy Attorney General Tyler, in a letter to plaintiff's attorney dated 12/1/75 over-ruled our denial, and advised plaintiff's attorney that he was granting "access to every existing written document, photograph and sketch which I consider to be within the scope of Mr. Weisberg's request."

The Deputy Attorney General, in the same 12/1/75 letter, qualified the above grant of access by stating, "I have not included as matters for consideration the results of a great number of ballistics tests performed on rifles other than the one owned by Mr. Ray." He also stated, ". . . in addition, in an effort to save your client considerable expense, I have construed item number six (the request for 'all photographs' referred to above) so as not to encompass the several hundred photographs in Bureau files of Dr. King's clothes, the inside of the room rented by Mr. Ray, or various items of furniture and personal property." The Deputy Attorney General advised that if plaintiff did in fact desire this material, he should make a written request for same, agreeing to pay the reproduction and special search costs which would be involved.

Memorandum to Mr. J. B. Adams
Re: Harold Weisberg v. U. S. Department of Justice
(U.S.D.C., D. C.), Civil Action No. 75-1996

Plaintiff's attorney had been informally advised by a staff attorney in the Deputy Attorney General's office a week or so before this letter was sent as to what the general contents of the letter would be. At approximately the same time plaintiff instituted suit.

Plaintiff subsequently furnished the written assurance requested in Deputy Attorney General Tyler's letter that he did desire all ballistics tests and photographs, along with a promise to pay for the special search for this material, and, after the search was completed, this material was made available to plaintiff and his attorney for a review at FBIHQ on 3/23/76. Plaintiff and his attorney were met by SAs Wiseman and Blake and, after plaintiff tendered a check for \$141.00 covering the special search fees, the material was made available for their review.

During the course of reviewing this material, plaintiff strongly indicated his belief that he had not been furnished all the material in possession of the FBI falling within the scope of his request, and specifically indicated that he was positive that we would have more laboratory material and photographs than we had made available to him. He was politely but firmly advised that we had thoroughly reviewed the entire Murkin file at FBIHQ and made available to him all material located which could possibly be within the scope of his request and which could be released pursuant to the FOIA and Deputy Attorney General Tyler's 12/1/75 letter. When plaintiff continued to persist in his statements that the laboratory material was incomplete, SA Blake requested SA Kilty to join the meeting in an effort to convince plaintiff of the completeness of the laboratory material. SA Kilty was somewhat successful in this regard, although it is felt it would be impossible to ever convince plaintiff he has been furnished all material concerning this matter, in view of his previous and well-publicized statements that the government has engaged in a massive coverup in connection with both the King and J. F. Kennedy assassinations.

Memorandum to Mr. J. B. Adams
Re: Harold Weisberg v. U. S. Department of Justice
(U.S.D.C., D. C.), Civil Action No. 75-1996

Plaintiff also expressed concern that he had not been furnished all photographs pursuant to his request, and cited as an example the fact that "in the second most extensive investigation in the FBI's history" (plaintiff's words), we did not even possess photographs of the motel balcony on which King died, and the surrounding area. (It should be noted that plaintiff is correct in this contention, in that our search of FBIHQ files did not reveal any photographs of this nature.)

Plaintiff claimed at several points in the discussion to have information which would help us locate other material in our possession responsive to his request, and he was advised that we would very much appreciate his furnishing this information to us in written form to assist us in completely complying with his request. He offered to furnish this information orally, but we advised him that, inasmuch as the FBI is currently attempting to process thousands upon thousands of FOI-PA requests, it would be necessary for us to have this information in written form in order to insure that no errors would be made, and to assist our Reviewer-Analysts in processing his request. Although plaintiff did not specifically refuse to do so, he did not indicate that he planned to furnish this information in written form.

Plaintiff expressed his belief that, if this material which he "knew" we possessed was not located in FBIHQ files, then it most certainly would be located in appropriate field office files.

After indicating which of the documents made available to him he desired copies of, plaintiff concluded the meeting by stating that he was not interested in suing, harassing or embarrassing the FBI, but that he only wanted all information he had requested.

Memorandum to Mr. J. B. Adams
Re: Harold Weisberg v. U. S. Department of Justice
(U.S.D.C., D. C.), Civil Action No. 75-1996

On 3/24/76, SA Blake telephonically contacted SA Joseph Hester of the Memphis Division (who was case agent on Murkin and whose name is known to plaintiff), and Hester indicated that in all probability, Memphis could possess information responsive to plaintiff's request which was not furnished FBIHQ. Hester specifically mentioned newspaper photographs concerning the King assassination which he believed might be located in the Memphis file which presumably, would fall within the scope of plaintiff's request.

JP

CA 75-1996
EXHIBIT 7

UNITED STATES GOVERNMENT

Memorandum

TO : Assistant Director
Records Management Division

DATE: 11/18/76

FROM : Legal Counsel *JEM*

SUBJECT: HAROLD WEISBERG v. F.
U. S. DEPARTMENT OF JUSTICE
(U.S.D.C., D.C.)
CIVIL ACTION NO. 75-1996

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Serv. _____
- Ext. Affairs _____
- Fin. & Pers. _____
- Gen. Inv. _____
- Ident. _____
- Inspection _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Eval. _____
- Rec. Mgnt. _____
- Spec. Inv. _____
- Training _____
- Telephone Rm. _____
- Director Sec'y _____

P. Jones

PURPOSE:

To furnish copy of attached affidavit of Special Agent Donald L. Smith of the FOIPA Branch, Records Management Division.

SYNOPSIS:

Attached affidavit complies with the Court's desire to be advised of the FBI's response, if any, to plaintiff's prior DIA requests for information in possession of the defendant concerning the Martin Luther King assassination investigation. On 11/16/76, the original and three copies of this affidavit were furnished to Assistant United States Attorney (AUSA) John R. Dugan, with one copy being furnished Departmental Attorney Lynne Zusman.

RECOMMENDATION:

None. For information.

APPROVED:	Adm. Serv. _____	Legal Coun. <i>m/jf</i>
Director _____	Ext. Affairs _____	Plan. & Insp. _____
Asst. Dir. _____	Fin. & Pers. _____	Rec. Mgnt. _____
Dep. AD Adm. _____	Gen. Inv. _____	S. & T. Serv. _____
Dep. AD Inv. _____	Ident. _____	Spec. Inv. _____
	Intell. _____	Training _____

B. [Signature]
ENCLOSURE
Enclosure

- 1 - Mr. Cochran
Attn: Mr. Kilty
- 2 - Mr. Decker
(1 - Mr. Smith)
(1 - Mr. Schweickhardt)
- 1 - Mr. Mintz
- 1 - Mr. Blake

REC-14 100-11727-79
197-187
17 DEC 3 1976

EX-113

PTB:lso ASD
(6)

CONTINUED - OVER



Memorandum to Assistant Director
Records Management Division
Re: Harold Weisberg v.
U. S. Department of Justice
(U.S.D.C., D. C.)
Civil Action No. 75-1996

DETAILS:

By memorandum from Legal Counsel to Assistant Director, Records Management Division, dated 10/5/76 and captioned as above, it was set forth that the Court desired to see the FBI's responses to requests plaintiff had made as far back as 1969 for Laboratory material concerning the Martin Luther King assassination investigation, and that by Notice Of Filing Of Attached Exhibits, plaintiff furnished copies of five of these requests. Although only one of them was directed to the FBI, we did locate copies of two of the requests in our records, along with internal memoranda concerning these two requests which indicated that no response was made to plaintiff. The other three requests were made to the Department, and we were unable to locate copies of any of these three in our files.

Attached affidavit sets forth the above-mentioned information, but does not refer to the internal memoranda. It was prepared after conferences between Special Agents Donald L. Smith of the FOIPA Branch, Records Management Division, and Parle Thomas Blake of the Legal Counsel Division, AUSA John R. Dugan, and Departmental Attorney Lynne Zusman. On 11/16/76, the original and three copies of the affidavit were furnished Dugan, and one copy was furnished Zusman.

UNITED STATES GOVERNMENT

CA 75-1996
EXHIBIT 8

Memorandum

TO : Mr. Phillip Mogen, Chief
Litigation Unit, Freedom of Information
Federal Bureau of Investigation

FROM : Jeffrey Axelrad, Chief FEDERAL GOVERNMENT
Information and Privacy Unit

SUBJECT: Civil Division

DATE: December 5, 1975

REGreenspan:wr,
145-12-2521

Tel: 202-739-4263

Harold Weisberg v. U.S. Department of Justice
U.S.D.C. D. D.C., No. 75-1996

Enclosed is a copy of the complaint in the above-entitled matter filed pursuant to 5 U.S.C. §552.

Because the Freedom of Information Act provides that FOI cases take precedence on the docket, we would appreciate your providing us a litigation report in duplicate by December 19, 1975 if possible, which report should include the following:

1. A statement as to the manner, place, and time of plaintiff's request to your office to make the records involved available for his inspection, including four copies--one certified-- of any documents or other memoranda incorporating plaintiff's request.

2. Five copies--one certified--of any correspondence or memoranda of any communication, written or oral, between your office and the plaintiff concerning plaintiff's request for the records involved.

3. If the records have been identified and located a detailed description or summary of the records involved and a statement as to their current location. If it has not been possible to identify or locate the records, please include a statement to this effect.

4. Two copies of any correspondence or memoranda within your office showing the administrative processing of the plaintiff's request.

EX-111

REC-51

197-184-K

5 DEC 30 1975

ENCLOSURE

9 1975

5-1975

7-1976

*Rec'd by
Mr. [unclear]
12/10/75*

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

5. A statement of the reason or reasons why in the opinion of your office the record involved should not be made available. Such reasons should be related as directly as possible to the statute, as for example, that the record is available under subsection (a)(1) or (a)(2) of the Act, that the record is exempted from disclosure by some other statute or that the record is within one or more of the other exemptions of subsection (b) of the Act, or that the plaintiff did not comply with the applicable regulations in requesting the record. Where the record falls within one or more of the exemptions of subsection (b) of the Act, such exemption should be specifically identified and discussed.

We suggest that you include in the affidavit or affidavits a statement of facts demonstrating the manner in which production of the records requested would prejudice the operation of your office.

6. Executed original and five copies of an affidavit setting forth facts establishing any defenses you think pertinent. If there are any questions on the form of this affidavit, Richard E. Greenspan (187-4263) of our office will do his best to assist you.

7. The name and telephone number of the attorney in your office who will be familiar with this.

Enclosure

cc: United States Attorney
Washington, D.C. 20001

Assistant Attorney General
Civil Division
Attn: R. E. Greenspan

December 19, 1975

Director, FBI

- 1 - Mr. Cochran
Attn: Mr. Kilty
- 1 - Mr. Gallagher
Attn: Mr. Lawn
- 1 - Mr. McDermott
Attn: Mr. Wiseman
- 1 - Mr. Moore
Attn: Mr. Gunn
- 1 - Mr. Mintz
- 1 - Mr. Blake

HAROLD WEISBERG v.
U. S. DEPARTMENT OF JUSTICE
(U.S.D.C., D.C.)
CIVIL ACTION NO. 75-1996

Reference is made to your memorandum dated December 5, 1975, your reference REGreenspan/wr 145-12-2521, which enclosed a copy of the complaint filed in captioned matter and requested a litigation report.

Enclosed for your information and assistance are two copies each of the following, which with the exception of the exhibits attached to the above-mentioned complaint (which are not enclosed), comprise all correspondence in our possession concerning captioned matter:

(1) Memorandum from the Staff Assistant to the Deputy Attorney General to our Freedom of Information Act Unit dated April 18, 1975, referring plaintiff's Freedom of Information Act request to the Federal Bureau of Investigation (FBI);

(2) Letter from me to plaintiff's attorney dated June 27, 1975, denying plaintiff's request on the grounds that release of the material plaintiff sought could have a harmful effect on the government's position concerning James Earl Ray's pending judicial appeal;

(3) Letter from the Deputy Attorney General to plaintiff's attorney dated December 2, 1975, modifying my denial to the extent of granting access to all material within the scope of plaintiff's request;

(4) Letter from me to plaintiff's attorney dated December 2, 1975, enclosing copies of the records he had requested.

PTB:jd
(10)

ENCLOSURE

830/PLM

EX-III

REC-8

SEE NOTE LAST PAGE

3 DEC 30 1975

E.B. 116

MAIL ROOM

TELETYPE UNIT

DEC 22 1975

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Admin. _____
- Comp. Syst. _____
- Ext. Affairs _____
- Files & Com. _____
- Gen. Inv. _____
- Ident. _____
- Inspection _____
- Intell. _____
- Laboratory _____
- Plan. & Eval. _____
- Spec. Inv. _____
- Training _____
- Off. Coun. _____
- Telephone Rm. _____
- Director's Sec'y _____

197-184-11
46-35158-B-119

Assistant Attorney General
Civil Division

Listed below, and numbered to correspond to the allegations in the complaint, are our suggested answers to these allegations as they apply to the FBI:

(1) Conclusion of law and not an allegation of fact for which an answer is required, but insofar as an answer may be deemed required, deny.

(2) Defendant lacks information and knowledge sufficient to form a belief as to the truth or falsity of this allegation.

(3) Admit.

(4) Deny except to admit authenticity of plaintiff's Exhibit A, to which the court is respectfully referred for a full and complete statement of the contents thereof.

(5) Deny except to admit authenticity of plaintiff's Exhibit B, to which the court is respectfully referred for a full and complete statement of the contents thereof.

(6) Deny except to admit authenticity of plaintiff's Exhibit C, to which the court is respectfully referred for a full and complete statement of the contents thereof.

(7) Deny except to admit authenticity of plaintiff's Exhibit D, to which the court is respectfully referred for a full and complete statement of the contents thereof.

(8) Deny except to admit authenticity of plaintiff's Exhibit E, to which the court is respectfully referred for a full and complete statement of the contents thereof.

(9) Deny.

Since, pursuant to the Deputy Attorney General's letter of December 1, 1975, and by letter of December 2, 1975, plaintiff has been furnished all material which he

Assistant Attorney General
Civil Division

requested, his complaint now fails to state a claim of a justiciable issue over which the court has jurisdiction. You may wish to request the United States Attorney to ascertain if plaintiff's attorney is interested in a voluntary dismissal without prejudice, in order to avoid unnecessary litigation. If this course of action does not prove viable, a motion to dismiss, or in the alternative, for summary judgment, supported by an affidavit, would be appropriate.

Please keep us advised of all pertinent developments in this matter, and furnish us copies of all documents filed with the court. This case is being handled by Special Agent Parlo Thomas Blake of our Legal Counsel Division, and you may contact him at 175-4522 for any further information and/or assistance.

Enclosures (3)

1 - United States Attorney (Enclosures - 6)
District of Columbia

NOTE: By letter of 4/15/75, plaintiff's attorney, James H. Lesar, requested certain material (primarily photographs and results of laboratory tests) concerning the Martin Luther King, Jr., assassination. The request was denied pursuant to the b(7)(A) exemption of the FOIA (interference with enforcement proceedings) inasmuch as James Earl Ray has an appeal pending in U.S. Circuit Court. Despite the objections interposed by the Department's Civil Rights Division and the FBI, the Deputy Attorney General, upon Lesar's appeal, decided to overrule our denial and furnish him all information he had requested, thereby in effect rendering moot the present litigation. Of interest is the fact that a 3/25/75 newspaper article identified James Lesar of Washington, D.C. as one of the three attorneys who are handling Ray's appeal.

CA 75-1996
EXHIBIT 9

Honorable Rex E. Lee
Assistant Attorney General
Civil Division Attn: Richard Greenspan

January 15, 1976

EJS:JRD:dmc

Earl J. Silbert
United States Attorney
for the District of Columbia

Harold Weisberg v. U.S. Department of
Justice, Civil Action 75-1996

On January 10, 1976 we received plaintiff's first set of interrogatories in the above-entitled action. A copy is attached.

Apparently plaintiff's counsel does not feel this action is moot, as suggested in the memorandum of the Director of the FBI under date of December 19, 1975.

Judge Green has set a status call in the above-entitled action for February 3, 1976 at 10:00 a.m.

We should probably move for a protective order and file a motion on grounds of mootness, if appropriate.

Please advise.

Attachment

cc: Special Agent Parle Thomas Blake
Legal Counsel Division
Federal Bureau of Investigation
J. Edgar Hoover Building
Washington, D.C.

off budget of case memo to Mr J. L. Udome from legal counsel, PTB:lmk, 2/10/76

ENCLOSURE

11-102

197-184-X2

100-251938-53

Received by [unclear] 1/20/76

75-1996
EXHIBIT 10

Recorded 12/16/63
DAS

FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

Laboratory Work Sheet

LAB FILE

Re: ASSASSINATION OF
PRESIDENT JOHN F. KENNEDY,
11/22/63, DALLAS, TEXAS

File # 62-109060
Lab. # D-437982 BS

(Submitted in case entitled "LEE HARVEY OSWALD, aka,
IS - R - CUBA")

Examination requested by: Dallas (89-43) (100-10461) 12/13/63

Examination requested: Document - Fingerprint

Date received: 12/14/63

Result of Examination:

Examination by: English

L A T E N T

Specimens submitted for examination

- Q265 Brown paper envelope bearing handwritten address "Lee Oswald 601 West Nassau St Dallas Texas" postmarked "IRVING, TEX. 5 30 AM 1963 (date illegible)
- Q266 Accompanying portion of long, narrow paper bag and strip of brown corrugated paper

Returns Q 265 + 266 to Lab for retention

12/16/63
Examined in LFPS.
LFP report separate.
Lab will retain evidence
12-16-63

David Cabnet
D-60

7508

62-109060-4177 EBF

CA 75-1996

EXHIBIT 11

FBI

Date: 11/5/68

Transmit the following in _____

(Type in plaintext or code)

AIRTEL

AM

(Priority)

TO: DIRECTOR, FBI (44-38861)

FROM: SAC, MEMPHIS (44-1987) P

MURKIN

District Attorney General PHIL M. CANALE, Memphis, Tennessee, has advised that the following FBI Agents should be alerted to the fact that their testimony will be needed in instant case. It is anticipated at this moment that efforts to select a jury will begin on 11/12/68 and witnesses will be heard as soon thereafter as possible. Mr. CANALE has stated he will make every effort to avoid needless lost time on the part of these Agents and for this reason he desires them to be available for immediate response to a subpoena. These Agents are as follows:

SEAT OF GOVERNMENT:

[REDACTED] JAMES MORTIMER
[REDACTED] ROBERT FRAZIER
[REDACTED] GEORGE BINEBANK
[REDACTED] MORRIS SAMUEL CLARK

ATLANTA:

[REDACTED]

BIRMINGHAM:

[REDACTED]

LOS ANGELES:

[REDACTED]

TED AHEARN
REC-64

5329

- 3 BUREAU (AM)
- 1 ATLANTA (AM)
- 1 BIRMINGHAM (AM)
- 1 LOS ANGELES (AM)
- 1 MEMPHIS

JCH:BN

(7)

15 NOV 7 1968

Approved: RGJ Sent _____ M Per _____
Special Agent in Charge

Cunningham
5442

CA 75-1996
EXHIBIT 13

Assistant Director
Records Management Division

10/5/76

Legal Counsel

HAROLD WEISBERG v.
U.S. DEPARTMENT OF JUSTICE
(U.S.D.C., D. C.)
CIVIL ACTION NO. 75-1996

PURPOSE: To furnish copy of plaintiff's Notice of Filing of Attached Exhibits, and to advise of current status of captioned litigation.

SYNOPSIS: At a status call on 9/30/76, Judge Green indicated that the Government must produce the "three boxes of indices" referred to in the details, below, and on the same date plaintiff served attached Notice on Assistant United States Attorney (AUSA) John Dugan.

RECOMMENDATIONS: (1) That Special Agent Thomas L. Wiseman of the FOIPA Section, or the successor to Special Agent Wiseman's former position, ascertain if the three boxes of indices are in possession of the FBI, and if so, review them for the purpose of turning them over to plaintiff as soon as possible.

(2) That Special Agent John F. Cunningham of the FOIPA Section locate the FBI's copies of the correspondence attached to plaintiff's Notice, as well as all

Enclosure

- 1 - Mr. Cochran (Attn: Mr. Kilty)
2 - Mr. Decker (Attn: Mr. Cunningham)
(Attn: Mr. Wiseman)
1 - Mr. Mintz
1 - Mr. Blake

CONTINUED - OVER

PTB:rbm
(6)

Serial No.

Memorandum to Assistant Director
Records Management Division
Re: Harold Weisberg, v. U.S. Department of Justice,
(U.S.D.C., D. C.)
Civil Action No. 75-1996

FBI responses to this correspondence, so that the Court
may be advised of the status of requests plaintiff made
in 1969 and 1970.

DETAILS:

During recent Court testimony in
captioned litigation, Judge Green
expressed the opinion that the FBI policy of handling
FOIA requests on a "first in - first out" basis, which
the Court of Appeals has recognized is the exercise of
due diligence, may not be being strictly complied with.
In addition, she seemed to express the opinion that if
a requester had filed an FOIA request prior to the time
when the FBI was required to comply, then, following our
"first in - first out" policy, this requester should go
to the head of the list of the backlog of requests which
have built up since February of 1975, the date after
which the FOIA did require the FBI to comply with FOIA
requests. This of course is not the FBI's interpretation,
but, after plaintiff stated that he had made numerous
requests for the subject matter of this litigation
(laboratory material concerning the Martin Luther King
assassination investigation), as far back as 1969, Judge
Green stated that she wished to see copies of these requests
and the FBI's response thereto. Plaintiff indicated
that he would furnish copies of his requests and has
done so in the attached Notice of Filing. We must now
indicate what our responses to those requests were.

Judge Green also indicated at a status
call on 9/30/76 that the "three boxes of indices" should
be furnished to plaintiff. It is not clear whether this
material is actually in possession of the FBI, but AUSA

Not only this subject

Sample
MHS -
LWS
11/7

Memorandum to Assistant Director
Records Management Division
Re: Harold Weisberg, v. U.S. Department of Justice,
(U.S.D.C., D. C.)
Civil Action No. 75-1996

John Dugan, who is handling this litigation in Court, stated that both the local District Attorney's Office in Memphis, Tennessee and the Civil Rights Division of the Department advised him that the FBI would have copies of this material, which the Civil Rights Division claims was prepared by the FBI. This material is referred to in Exhibit W of plaintiff's Request for Production of Documents filed 5/4/76, furnished Special Agent Wiseman by Special Agent Parle Thomas Blake of the Legal Counsel Division on 5/11/76. It is also referred to in Attachment One of plaintiff's Second Affidavit, filed with plaintiff's Motion to Compel Production of Documents on 8/12/76, which was furnished Special Agents Wiseman and Kilty by Special Agent Blake on 8/18/76.

Special Agents Donald L. Smith, John F. Cunningham, and John E. Howard of the FOIPA Section have all testified recently in this case concerning the FBI's due diligence in handling FOIPA requests, and Judge Green was furnished a copy of the FBI Proposal to the House Civil and Constitutional Rights Subcommittee concerning the FOIPA, by Special Agent Howard.

It has been represented in Court that the FBI will reach plaintiff's second, more broad request, submitted in December of 1975, concerning the King assassination, in October of 1976, and at that time an affidavit will be furnished setting forth an estimate as to how long it will take to process plaintiff's December request. Special Agent Blake furnished AUSA Dugan two additional copies of the FBI's Proposal, one for his own information, and the second for possible furnishing to plaintiff, since the Proposal was filed as an Exhibit with the Court.

C O A 75-1996
EXHIBIT 12

Memorandum

TO : Mr. J. B. Adams

DATE: 3/24/75

FROM : Legal Counsel

SUBJECT: FREEDOM OF INFORMATION ACT (FOIA) REQUEST OF HAROLD WEISBERG

- Admin. _____
- Comp. Syst. _____
- Ext. Affairs _____
- Files & Com. _____
- Gen. Inv. _____
- Ident. _____
- Inspection _____
- Intell. _____
- Lab. _____
- Plan. & Eval. _____
- Spec. Inv. _____
- Training _____
- Legal Coun. _____
- Telephone Rm. _____
- Director Sec'y _____

[Handwritten signature]

dated March 13th

By memorandum from Legal Counsel to Mr. J. B. Adams under the above caption it was advised discussion with Mr. Weisberg concerning his request for laboratory data connected with the John F. Kennedy assassination investigation was planned for March 14th. This is to advise of the results.

Mr. Weisberg was accompanied by his attorney, James H. Lesar of Washington, D. C. Representing the FBI were SA Thomas H. Bresson of the FOIA Unit, Legal Counsel Division, SAs Robert A. Prazier and John W. Kilty of the Laboratory Division.

This discussion resolved what apparently was Mr. Weisberg's confusion as to what data, other than that which had been furnished to the National Archives, was in existence and in possession of the FBI. After the data was generally identified for him, and samples shown to him, he made specific requests for spectographic and neutron activation material which consists of tables and pages with results of readings, representing metal fragments from the body of President Kennedy and the body of Governor Connolly. Additionally requested were spectographic analyses data of the areas on the clothing of President Kennedy and Governor Connolly where the bullets may have passed. Weisberg also requested the available material relating to examination of the windshield of the President's automobile, and examination regarding metal fragments from the President's automobile. Additional request was made for laboratory examination data which may be available regarding testing done on a curbstone near the crime scene.

Enc.

2 ENCLOSURE
1 - Mr. Adams - Enc.
1 - Mr. White - Enc.
1 - Mr. Hintz

NOT RECORDED
APR 17 1975

APR 21 1975

CONTINUED - OVER

ORIGINAL FILED IN

Legal Counsel to Mr. Adams memo
Re: FOIA Request of Harold Weisberg

Both Mr. Weisberg and Mr. Lesar indicated this would be completely satisfactory to them and would cover the scope of the current FOIA request with regard to laboratory data in the Kennedy assassination case.

With regard to the above request, the documents proposed for release are not considered to be material that would be subject to withholding under the current FOIA. It is estimated it will contain approximately 20-30 copied pages, and a preliminary estimate of a full-work day to search and compile. We would be authorized to charge ten cents per copy for reproduction, and \$2 per quarter hour for search and production of the documents, this being the fee specified in regulations for a non-clerical type search.

Discussion thereafter continued with SA Bresson regarding FOIA matters generally and specifically the pending civil suit. Mr. Lesar stated that receipt of the requested documents would moot the civil litigation with regard to laboratory documents.

Mr. Weisberg then attempted to formulate some additional FOIA requests regarding the Kennedy assassination investigative file regarding events in Dallas and investigation of Lee Harvey Oswald. He also indicated he plans to pursue further the Martin Luther King assassination case, including laboratory findings, and some general data of historical interest to him that he claims he furnished the FBI many years ago. Mr. Weisberg was informed, and he understands, that any future FOIA request will have to be submitted in writing in accordance with the Departmental regulations.

Mr. Lesar made reference to a letter we sent to him dated 2/27 in response to his letter of 1/29 which he directed to the then Acting Attorney General Laurence Silberman. He felt the reply was not responsive to his question, and that it particularly did not address the issue as to whether information concerning Mr. Weisberg had ever been furnished to former Congressman Hale Boggs. He advised he would pursue this matter further indicating he did not feel a reply based mainly on the search of records was sufficient in this case.

Legal Counsel to Mr. Adams memo
Re: FOIA Request of Harold Weisberg

The correspondence to which Lesar refers, copy attached, contained in addition to the Boggs question, a request for reply to what was identified as previously unanswered inquiries as to whether Weisberg was subject to surveillance or other intrusions into his life by the FBI. The reply, copy attached, was based on review of the Weisberg file and references in indices to him, and advised generally that FBI records contained no information to substantiate this.

During this conference Mr. Weisberg specifically asked if "Director Hoover's confidential files" were searched and the reply was that as far as is known, the appropriate files that would reflect the type of requested information, if it existed, were checked and no information to substantiate the allegations was found. Mr. Lesar asked if any contact was made with the son of Halc Boggs to verify this, and he was answered that we did not.

The "OC" file was not checked initially, but on 3/14 it was determined there is no reference to Weisberg contained therein.

Results of this discussion, insofar as the pending civil litigation is concerned was furnished to Mr. Jeffrey Axelrad of the Civil Division of the Department on 3/14 and to Assistant United States Attorney Michael Ryan, who is handling the case. Mr. Axelrad was advised we still had not received a copy of this complaint, and he stated he would insure we would receive it promptly.

RECOMMENDATION:

The requested documents be processed by Laboratory Division and coordinated with FOIA Unit for determination of charges and release.

Rf. J. W. P. A. J. W. P.

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

CA 75-1996

EXHIBIT 14

Memorandum

TO : DIRECTOR
Federal Bureau of Investigation

DATE: June 18, 1968

FROM : ATTORNEY GENERAL

RC:SJP:DRO:jlk

DJ 144-72-662

41-157-147

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

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

In connection with your investigation of this matter, please continue to follow all leads to develop the facts with respect to the possible federal violation on an expedited basis.

Please report by telephone immediately all information you obtain pertinent to this investigation to Stephen J. Pollak, Assistant Attorney General, Civil Rights Division, and confirm such information as soon as possible by written memorandum or by copies of teletypes or other communications you receive. Please send copies to me, the Deputy Attorney General and Assistant Attorney General Vinson.

Handwritten signatures and initials:
C. H. ...
J. ...
J. ...

ST-103

44-38861-4671

REC 13

JUN 26 1968

JUN 19 1968
39
65 JUN 28 1968

Handwritten: 6. Equ

111-38861-

June 17, 1968

Chief Superintendent J. G. C. Dowsey
RMP "C" Division
Royal Canadian Mounted Police
Toronto, Ontario, Canada

My dear Chief Superintendent:

I should like to express my appreciation, on behalf of my associates, for the invaluable assistance given by the Royal Canadian Mounted Police in the investigation involving James Earl Ray. The efforts of the members of your Command played a most important part in bringing this investigation to a successful conclusion.

I trust that you convey our sentiments to all those who performed so superbly in this matter.

Sincerely yours,

J. Edgar Hoover

- 1 - Ottawa (44-4)
- 1 - Buffalo (44-374) - Reurlet 6-11-68.
- 1 - Foreign Liaison Unit

NOTE: Letter as above recommended by SAC Buffalo, 6-11-68, and concurred in by addendum of the General Investigative Division, 6-12-68.

JBT:ls (7)

70 JUN 25 1968

MAIL ROOM TELETYPE UNIT

RECEIVED BY MAIL ROOM 68-1117-2482

J.H.

V

DJ
TCB/a

J

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

CA 45-1996
EXHIBIT 16

dip

Date 11 /68

To: Director FILE 62-109060

Att.: Legat, Bonn Title ASSASSINATION OF PRESIDENT JOHN FITZGERALD KENNEDY 11/22/63, DALLAS, MISC. - INFORMATION CONCERNING

SAC _____
 ASAC _____
 Supv. _____
 Agent _____
 SE _____
 IC _____
 CC _____
 Steno _____
 Clerk _____

RE: Bureau routing slip 4/16/64 re JOACHIM JOESTEN.

Rotor #: _____

ACTION DESIRED

- Acknowledge
- Assign _____ Reassign _____
- Bring file
- Call me
- Correct
- Deadline _____
- Deadline passed
- Delinquent
- Discontinue
- Expedite
- File
- For information
- Handle
- Initial & return
- Leads need attention
- Return with explanation or notation as to action taken.
- Open Case
- Prepare lead cards
- Prepare tickler
- Return assignment card
- Return file
- Search and return
- See me
- Serial # _____
- Post Recharge Return
- Send to _____
- Submit new charge out
- Submit report by _____
- Type

Handwritten initials and scribbles

Attached for Bureau and Bonn is a copy of "Truth Letter" received from Special Branch, New Scotland Yard. For information.

Enclosure

SAC J. T. Minnich
Office Legat, London

See reverse side

REC-64 62-109060-6605

EX-105

NOT RECORDED
25 NOV 14 1968

51 NOV 25 1968

62-109060-Sub 163-(45179)

CA 75-1996

EXHIBIT 17

Supervisor in Charge, MTT
Dallas, Texas

January 22, 1960

Special Investigator [REDACTED]

SAR 51-543 (NRA) (FFA) Minutemen

On January 15, 1960, Vincent DePalma a Minutemen member [REDACTED] called the MTT Office in Denver to state that he had "defected" from the Minutemen and wished to furnish information to the Alcohol and Tobacco Tax.

On [REDACTED] was interviewed at the MTT Office [REDACTED] The following are statements made by DePalma without prompting:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

There do exist 19 "strike teams" throughout the U. S. with from 5 to 10 members each. These are the persons who would be primarily responsible for carrying out the assassination assignments.

[REDACTED]

Minutemen plan to start Black power riots in Summer of 1968 if they do not start on their own.

Minutemen will attempt to provoke Federal Officers into taking more action against Minutemen members and private citizens in an attempt to make people more resentful of the U. S. Government.

Minutemen are planning to blow up the FBI Office in New Haven, Connecticut. This is intended to be a night time attempt not intended to hurt anyone but to embarrass the FBI.

The Minutemen are planning to commit some bank robberys as a source of revenue. That the possibility exists that armored car robbery in Chicago recently may have been committed by Minutemen.

It is planned that the next time a Minutemen member testifies for the Government, an effort will be made to blow up the courtroom.

It is planned that all gun caches belonging to Minutemen will be booby trapped.

That Minutemen in Detroit are heavily armed and that [REDACTED] is concerned that they may do something "rash" before he [REDACTED] is ready.

Minutemen planned to send warning letters to persons considered subversive and may be planning to send "bombs" through mail.

[REDACTED]

[REDACTED]

None of the foregoing information has been checked at this time.

This memorandum is furnished for information purposes only.

Earl E. Terlau

fugitive and recommended a search of appropriate files. Since the thumb print taken from an Atlanta map found at Galt's vacated room in Atlanta had a unique "ulner loop" and was a very clear print, this was used in the search of the fugitive files. The first 100 jackets of the file contained Ray's identity, and the other fingerprints obtained during the investigation matched the Ray file.

Regarding the directives from Headquarters, Long advised that they were standard procedure in a major case. He stressed that because of the importance of the case shorter deadlines were enforced. Again, Long added this was a massive investigation without restrictions. Long believes this was a complete, highly responsible and successful investigation by the FBI. Until Ray was apprehended, there was 24 hour supervision at FBI Headquarters.

Long stated that he was not really aware of the investigation by the Domestic Intelligence Division on Dr. King. He could not recall any contact with Division 5 and did not know that there were two agents from the Domestic Intelligence Division reading incoming teletypes. Although it is a possibility that this was being done if it was done it was without his knowledge.

Long stressed that the FBI was very concerned with Ray's source of funds, and believes that Ray committed some type of crime to finance himself. Long believes that Ray was a strong racist and used the example of Ray not attending a softball game at the Missouri state Penitentiary if blacks were even in attendance. Long explained that the Ray family was interviewed numerous times, but stated the Bureau was uncertain as to the veracity of any family members.

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Gebhardt *REG*
FROM : J. S. Peelman
SUBJECT: MURKIN

DATE: June 26, 1975

- 1 - Mr. Gebhardt
- 1 - Mr. Peelman
- 1 - Mr. McDonough
- 1 - Mr. Moore

CA 75-1996
EXHIBIT 19

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Admin. _____
- Comp. Syst. _____
- Ext. Affairs _____
- Files & Com. _____
- Gen. Inv. _____
- Ident. _____
- Inspection _____
- Intell. _____
- Laboratory _____
- Plan. & Eval. _____
- Spec. Inv. _____
- Training _____
- Legal Coun. _____
- Telephone Rm. _____
- Director Sec'y _____

BACKGROUND: This is the case involving the murder of Martin Luther King in Memphis, Tennessee, in April, 1968. James Earl Ray had pleaded guilty in State Court, Tennessee, and is presently serving a 99-year sentence.

Ray had appealed his conviction on grounds that he was not properly represented or counseled by his attorney at the time he entered his guilty plea in 1969. However, in February, 1975, a Writ of Habeas Corpus was denied Ray in U. S. District Court, Western District of Tennessee.

On June 21, 1975, the Wire Services carried information revealed by Atlanta, Georgia, Public Safety Commissioner Reginald Eaves, to the effect that Eaves was in possession of "... strong information on the conspiracy" in the death of Martin Luther King. Eaves indicated that he had received this information from a second party, which information "warrants our serious consideration." A copy of this information was furnished by Eaves to our Atlanta Office.

A review of this information by the Atlanta Division revealed that the source, Robert Byron Watson, previously had been interviewed by Special Agents of the Atlanta Division on 4/7/71. At that time, Watson admitted that his information pertaining to the murder of Martin Luther King was completely fabricated. Subsequent investigation also failed to substantiate any of the information as revealed by Watson. The results of that interview and of the subsequent investigation were furnished to the Civil Rights Division, U. S. Department of Justice, in April, 1971.

The information furnished by Mr. Eaves to the Atlanta Office is identical to that previously furnished to the Atlanta Office in 1971.

44-38861
Enclosure

EJM:bap (5)

8 JUL 21 1975

REC-5

JUL 7 1975

CONTINUED OVER

6 - Peelman
H
6 - [unclear]
5813
[Signature]
6 - [unclear]

Peelman to Gebhardt memorandum
RE: MURKIN

ACTION: If approved, to preclude any further misguided releases on the part of Mr. Eaves, he will be advised of the previous receipt and resolution of the information from Watson. Attached is an airtel along these lines.

The Civil Rights Division is being furnished a copy of the information received from Mr. Eaves and its attention will be directed to the results of the previous investigation conducted thereon.

sqm
3

JK

JK

REC/JP

[Handwritten signature]

JB+
P.7

July 20, 1975
GENERAL INVESTIGATIVE DIVISION

This is the case involving the murder of Martin Luther King, Jr., by James Earl Ray in Memphis, Tennessee, in April, 1968.

Attached Atlanta teletype advised that Public Safety Commissioner Reginald Eaves has been quoted in Atlanta daily newspaper as stating that FBI has failed to cooperate with Atlanta Police Department in their recent investigation of this killing.

(Recent investigation by Atlanta Police Department is based on information received by Eaves recently pertaining to an individual, Robert Byron Watson, who has furnished statements pertaining to his knowledge of a conspiracy. Watson had furnished this same information to Secret Service and to FBI in 1971, and at that time, during FBI interview, admitted information was fabricated. Statement of Watson and results of interview were furnished to Department in 1971 and again in 1975 when received by Atlanta FBI from Eaves. Eaves has been advised of this information pertaining to Watson.)

Representatives of Atlanta Police Department visited Atlanta FBI on 7/18/75, and requested to review FBI file pertaining to Murkin investigation with specific interest in investigation surrounding Mustang vehicle driven by James Earl Ray and abandoned in Atlanta after shooting of King, and in information pertaining to Robert Byron Watson.

Atlanta Police Department representatives were advised of background information pertaining to Watson and told that in the event they desired any information pertaining to FBI investigation, they should contact Civil Rights Division, Department of Justice.

Civil Rights Division has been advised.

1 - Mr. Moore

JCL:cjl

Handwritten notes and signatures:
JRM
K
JRM
7/20/75
JRM
PM

5985

AIRTEL

8/13/75

To: SAC, Atlanta (44-2386)

From: Director, FBI (44-38861)

1 - Mr. Lawn

MURKIN

ReATAirtel 8/1/75.

On 8/13/75, the Civil Rights Division advised that by letter to the Attorney General, dated July 30, 1975, A. Reginald Eaves, Public Safety Commissioner, Atlanta, volunteered to furnish a copy of the recent investigation by the Atlanta Bureau of Public Services to the Department.

Accordingly, Atlanta should obtain a copy of this report which will be disseminated to the Civil Rights Division.

JCL:bap (4)

NOTE: Departmental Attorney Steven Horn, Civil Rights Division, telephonically requested that copy of report be obtained as noted above.

REC 27 44-2386-5990

EX 104

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Admin. _____
- Comp. Syst. _____
- Ext. Affairs _____
- Files & Com. _____
- Gen. Inv. _____
- Ident. _____
- Inspection _____
- Intell. _____
- Laboratory _____
- Plan. & Eval. _____
- Spec. Inv. _____
- Training _____
- Legal Coun. _____
- Telephone Rm. _____
- Director Sec'y _____

MAILED 5
AUG 13 1975
FBI

AUG 14 1975

JSP/...
1975

MAIL ROOM TELETYPE UNIT

44-2386



FED. BU. OF INV.

AUG 4 9 27 AM '75

DEPT. OF JUSTICE
MAIL ROOM
FROM

CITY OF ATLANTA

A. REGINALD EAVES
PUBLIC SAFETY COMMISSIONER

YHE

July 30, 1975

The Honorable Edward H. Levi
The Attorney General
United States Department of Justice
Washington, D. C. 20515

Dear Sir:

A recent investigation by the Atlanta Bureau of Police Services into the circumstances surrounding the death of Dr. Martin Luther King, Jr. leads me to strongly recommend further investigative efforts by the Department of Justice.

It is my opinion that this is not a matter to be taken casually. I, therefore, request that you give this matter your serious consideration and reply to this communique as soon as possible.

44-1987-5991

The results of the Bureau's investigation will, of course, be placed at your disposal upon request.

14 AUG 6 1975

Sincerely,

A. Reginald Eaves
A. Reginald Eaves
Commissioner

MURKIN

44-38861

ARE:vcp

51 SEP 6

On 8/5/75 original letter hand delivered to Deptal Attorney, Steven Horn who will handle

SIX

CA 75-1996
EXHIBIT 20

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

5010-106

UNITED STATES GOVERNMENT

Memorandum

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

DATE: 5/3/68

TO : Mr. Bishop

FROM : M. A. Jones

SUBJECT: JERRY O'LEARY AND
"THE READER'S DIGEST"
MARTIN LUTHER KING INVESTIGATION

(O'Leary)

M. A. Jones

Jerry O'Leary, [redacted] with "The Evening Star," has advised that he has been contacted by "The Reader's Digest" on the possibility of writing a story regarding the Martin Luther King case for the July, 1968, issue of "The Reader's Digest." O'Leary has been the author of two outstanding articles on the Director.

O'Leary said that the officials of "The Reader's Digest" still remember very vividly that it was an article in the November, 1960, issue of their magazine which led to the apprehension of Joseph Corbett, Jr. --the kidnap-murderer of Adolph Coors III. We, of course, cooperated with "The Reader's Digest" in the preparation of that article; and "The Reader's Digest" has told O'Leary that they are hopeful a similarly effective article concerning the fugitive in the King case can be published.

According to O'Leary, "The Reader's Digest" feels that the search for James Earl Ray contains many of the same elements as did the search for Joseph Corbett, Jr. --in that both cases involve a "loner" who used fictitious names and backgrounds to conceal true identity. With a multimillion circulation in the United States, Canada, Mexico and other countries, "The Reader's Digest" feels it may be able to stage a repeat of the success which followed its 1960 article on the Coors case.

If James Ray is still at large when the July, 1968, issue of "The Reader's Digest" goes to press, the magazine would like to publish an article setting forth brief facts of the King case and extensive data regarding Ray's background and character which might prove helpful in turning him up. If Ray is apprehended prior to mid-June, 1968, when the July issue of "The Reader's Digest" is printed, the magazine would, of course, change its approach to the article.

54-MAY 17 1968
1 - Mr. Bishop

1 - Mr. Rosen
1 - C. L. [redacted]
NOT RECORDED - OVER
MAY 10 1968
MAY 9 1968

[redacted] :cs/nls (8)

after Serial 3524

ORIGINAL FILED IN

CHIEF INVESTIGATOR

50

Jones to Bishop memo
Re: Jerry O'Leary and "The Reader's Digest"

RECOMMENDATION:

That we cooperate with Jerry O'Leary and "The Reader's Digest" on this article to the extent of making available previously published information regarding the King investigation and factual information regarding James Earl Ray's character and background. In view of the many unfactual and speculating-type articles which have been published regarding this case by others, it is felt that such guidance is necessary in order to assure that "The Reader's Digest" article will be accurate and, thereby, of maximum benefit.

9/17/68

[Handwritten signature]

[Handwritten signature]

[Handwritten initials]

I think not
5-6

↑
I concur.
[Handwritten signature]

Jones' Commission
coverage of King
Reader's Digest
advised by Jones to look
5/6/68 that no
copy column can be
furnished
T-2

Jerry O'Leary
advised by Jones
to look 5/6/68
that no copy column
can be furnished
T-2

CA 75-1996
EXHIBIT 21

OPTIONAL FORM NO 10
MAY 1962 EDITION
GSA GEN REG NO 27

5010-106

UNITED STATES GOVERNMENT

Memorandum

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

TO Mr. DeLoach *DL*

DATE: 5/9/68

FROM T. E. Bishop

SUBJECT MURKIN

At 9:10 a.m. this morning, Jerry O'Leary from the Washington Evening Star telephonically advised me that the Evening Star, in its issue of May 9, 1968, will carry a story on page 1 concerning James Earl Ray, the subject of the above-captioned case. The story will include a photograph of Ray. He advised that the story will reflect that the FBI has been maintaining tight secrecy in the case and that the only information released by the FBI has been limited to 3 press releases and the release of a number of photographs of Ray. The story will then continue by reciting additional information, over and above that in the press releases, which connects Ray to the murder of Dr. Martin Luther King. O'Leary advised that he has gathered this additional information from an assiduous study of newspaper and other news media accounts from all over the country.

As the Director is aware, we have furnished no information to O'Leary concerning this case other than that contained in our press releases.

RECOMMENDATION:

None. For information. ✓

- 1 - Mr. DeLoach
- 1 - Mr. Rosen
- 1 - Mr. M. A. Jones

TEB:jo
(5)

EX-110 REC-19

44-38861-3266

25 MAY 10 1968

79 MAY 15 1968

CA 75-1996

EXHIBIT 22

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

5010-106

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Bishop *FB*

DATE: 6-11-68

FROM : M. A. Jones

Tolson	<input checked="" type="checkbox"/>
DeLoach	<input checked="" type="checkbox"/>
Mohr	<input checked="" type="checkbox"/>
Bishop	<input checked="" type="checkbox"/>
Casper	<input type="checkbox"/>
Callahan	<input type="checkbox"/>
Conrad	<input type="checkbox"/>
Felt	<input type="checkbox"/>
Gale	<input type="checkbox"/>
Rosen	<input type="checkbox"/>
Sullivan	<input type="checkbox"/>
Tavel	<input type="checkbox"/>
Trotter	<input type="checkbox"/>
Tele. Room	<input type="checkbox"/>
Holmes	<input type="checkbox"/>
Gandy	<input type="checkbox"/>

SUBJECT: MURKIN.
ARTICLE BY JERRY O'LEARY
FOR "THE READER'S DIGEST"

Article by Jerry O'Leary

1/11 - 32461-45
Spmb

By memorandum dated May 21, 1968, I advised you of the desire of Jerry O'Leary (very reliable contact at "The Evening Star") and "The Reader's Digest" to publish an article regarding the investigation to identify and apprehend James Earl Ray. My memorandum noted that a similar article concerning Joseph Corbett, Jr. (the kidnap-killer of Adolph Coors III) which appeared in "The Reader's Digest" in the Fall of 1960 produced leads which resulted in the apprehension of Corbett in Canada. I also noted that in view of his strong background in the Ray investigation, O'Leary could write an article on his own concerning Ray-- and that if such an article is to be published, it would greatly be to our advantage to have the benefit of reading it and offering any changes we feel necessary, prior to publication.

CURRENT DEVELOPMENTS

O'Leary completed his fugitive-type article regarding James Earl Ray last week in time for it to be scheduled for publication in the August, 1968, issue of "The Reader's Digest." Immediately after he submitted the manuscript to the Bureau for review and any changes we desired made, Ray was apprehended in London.

Since the Ray article had already been scheduled for the August, 1968, issue, "The Reader's Digest" asked O'Leary to revise it so as to reflect Ray's apprehension in order that it could still appear in the August issue of the magazine. And in this connection, "The Reader's Digest" immediately contacted its representatives in Canada and England to have them obtain details in those countries of the facts underlying the international aspects of the case.

Enclosure

- 1 - Mr. DeLoach - Enclosure
- 1 - Mr. Bishop - Enclosure
- 1 - Mr. Rosen - Enclosure
- 1 - Mr. C. L. McGowan - Enclosure

15 JUN 18 1968

CONTINUED - OVER

JUN 19 1968

UNRECORDED COPY FILED IN

M. A. Jones to Bishop Memo
RE: MURKIN

Attached is the manuscript of O'Leary's revised article. It consists primarily of material which previously has been published, together with information furnished by the Canadian and British representatives of "The Reader's Digest." The article is not attributed to the FBI.

O'Leary has advised that "The Reader's Digest" assembled copies of all articles written about the case in New York, Washington and the cities (such as Los Angeles, Atlanta, Birmingham, Memphis, and St. Louis) where important developments occurred. To add action and interest, the article uses the technique of quoting conversations which might have, but did not actually occur.

The article has been reviewed by the Legal Department of "The Reader's Digest" with a view to deleting material which might be construed as prejudicial to Ray's trial. Such deletions by the magazine's Legal Department have been noted on the attached manuscript.

In addition, several other changes have been incorporated on the attached manuscript in the interest of accuracy or to circumvent matters which might be construed as over-dramatization.

The article reflects very high credit upon the FBI for the determined and meticulous investigation which resulted in the identification of Ray and his apprehension in London.

RECOMMENDATION:

That the attached revised manuscript of O'Leary's article be returned to the Crime Records Division so that it can be turned over to the Washington Office of "The Reader's Digest" which has scheduled the article for its August, 1968, issue. As previously noted, the article was prepared by O'Leary on the basis of his reading, interviewing and "reportorial digging" in many locations; and it has been reviewed and approved by the Legal Department of the magazine. The article is not attributed to the FBI.

John Barron
of "The Reader's Digest" 6/13/68
GMS

2.11.68
chr
OK
H

I have some questions about
this coming out in the
magazine. I think it
is OK 6/13 TCB
4

D-118

FBI Says It Had an Opportunity To Edit Article on Hunt for Ray

Part 112578
United Press International

The FBI says it was given an opportunity to edit and approve an article on the search for and capture of James Earl Ray before it was published by Reader's Digest.

A memo in the FBI files on the assassination of the Rev. Martin Luther King Jr. said the article was submitted to the bureau for editing by the author, Jeremiah O'Leary.

O'Leary was described as "a very reliable contact at the (Washington) Evening Star."

The memo said that before publication, the FBI believed that "it would be greatly to our advantage to have the benefit of reading it and offering any changes we feel necessary."

"Immediately after he (O'Leary) submitted the manuscript to the bureau for review and any changes we desired made, Ray was apprehended in London," the memo said.

The memo did not make clear whether the FBI actually edited the material, but it concluded with a recommendation that "the attached revised manuscript of O'Leary's article be returned to the crime records division so that it can be turned over to the Washington office of the Reader's Digest...."

The reference to revisions may have indicated changes made by the magazine.

The article was revised by O'Leary to add material on Ray's arrest.

The article was published in the August, 1968, issue of Reader's Digest as an account of the FBI role in "the greatest manhunt in law enforcement history."

O'Leary told United Press International he could not recall having made an arrangement that the FBI have pre-publication editing privileges, "but, I don't deny it."

"I probably would have agreed to submit it to them if I had had to," he said. "I would not have objected. They gave me most of the information."

He said the magazine might have submitted the manuscript to the FBI.

Asked if he saw anything improper about making such an editing arrangement with the FBI, O'Leary said, "No, and I don't now. I'd prefer not to, but I don't see anything evil in it."

He said writers sometimes "get painted into that kind of a corner" where sources of information demand pre-publication privileges in exchange for the information.

CA 75-1996

EXHIBIT 24

LOOK

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

Public Relations
and Information Services

Mr. T
✓
R/S

November 7, 1968

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

Dear Sir:

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

Sincerely,



34-NOV-8-1968
RECORDED
INDEXED

ENCLOSURE ATTACHED
LR/ct
Enc.

REC-15

5367

NOV 8 1968

Memorandum

CA 75-1996

EXHIBIT 25

TO : SAC, MEMPHIS (157-1067)

DATE: 6/6/68

FROM : SA WILLIAM H. LAWRENCE

SUBJECT: BLACK ORGANIZING PROJECT (BOP),
aka.
RM

On 5/23/68, Lt. E. H. ARKIN, Intelligence Bureau, Memphis, Tenn., PD, advised he had just talked to his informant, [redacted] who has furnished reliable information in the past. [redacted] has gotten in with the Invaders and the BOP, the parent group of the Invaders, and is spending considerable time with the key leaders thereof, including JOHN BURRELL SMITH, CHARLES L. CABBAGE, and OREE MC KENZIE. [redacted] reported that at 12:45 p.m., 5/22/68, he met CHARLES L. CABBAGE at the apartment of JOHN BURRELL SMITH, 1644 Hanauer, Apt. 2, and they went to the vicinity of Fourth and Beale Street where CABBAGE met a male Negro, 24 years of age, about 6' tall, 185 pounds, known as DON (apparently DON NEELY). DON was looking for marijuana and DON and CABBAGE went south on Fourth Street from Beale to the first cafe on the east side of Fourth Street and later came back to [redacted] car and CABBAGE was smoking a marijuana cigarette.

At about 1:30 p.m., they returned to the apartment of JOHN B. SMITH where CABBAGE told CHARLES HARRINGTON, a member of BOP and a student at Owen Junior College, to take the 1966 blue Mustang owned by ANN GOLAR, his girl friend, back to the apartment where she was staying as she was preparing to return to her home in Atlanta, Georgia. [redacted] did not know the apartment number. At the apartment, in addition to HARRINGTON, were OREE MC KENZIE, the organizer for Invaders, and BOP member VERDELL BROOKS, Owen College student, and four or five other unknown male Negroes. Shortly thereafter CABBAGE, DON NEELY, and [redacted] left in [redacted] automobile to go to Memphis

- 1 - 157-1067
- 1 - 157-1000 [redacted]
- 1 - 157-1187 [redacted]
- 1 - 157-957 [redacted]
- 1 - 157-1114 [redacted]
- 1 - 157- [redacted]
- 1 - 157-556 (POSSIBLE RACIAL VIOLENCE, MAJOR URBAN AREAS) [redacted]
- 1 - 157- [redacted]
- 1 - 157- [redacted]
- 1 - 157- [redacted]

WHL:cjs
(10)

[Handwritten initials]

(12)

JUN 6 1968
FBI - MEMPHIS

157-1067-145

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan



ME 157-1067

State University but en route went to an apartment allegedly occupied by DON NEELY's older sister, which is near College and McLemore, possibly 929 East McLemore, located just east of College Street, on the north side of McLemore.

DON NEELY stated he wanted to go by there and get some Robitussin, a cough medicine with a high alcohol content, and on which the BOP folks thrive. They get "high" on Robitussin and continually are seeking it. NEELY was unable to locate his sister and could not get any Robitussin. Thereafter, they went to LeMoyné College and saw BOP member, JAMES PHILLIPS. PHILLIPS claimed he is trying to get a job through a Mrs. FRED DREIFUS, wife of owner of Dreifus Jewelry Company, as she is sponsoring a summer camp program for delinquent and indigent children.

They then went to the Minimum Salary Office of AME Church, 276 Hernando, Memphis, to look for JESSE EPPS, organizer of American Federation of State, County, and Municipal Employees, which is currently attempting to organize hospital workers and other blue collar workers in the city of Memphis. They were unable to locate him. CABBAGE went to the office of Tennessee Council on Human Relations, also located in the Minimum Salary Office, in an effort to borrow \$20 from its executive secretary, BAXTON BRYANT, but was unable to find BRYANT. At the Minimum Salary Office, a male Negro driving a 1967 Oldsmobile Toronado, light brown with black vinyl top, stopped and gave DON NEELY a pint bottle of Robitussin AC, which had about one inch of some liquid in it. This car bore a Tennessee license but he was not able to obtain the license number. CABBAGE drank this liquid after NEELY gave it to him. CABBAGE and DON stated they had been able to get Robitussin from the Medical Center, ostensibly in the vicinity of John Gaston Hospital, for \$15 a pint. They drove east on Vance toward Memphis State and stopped at Owen College and picked up DON NEELY's sister, a female Negro, age 28 - 30, light complexion, medium length hair, about 5'3" tall, and took her to Third and Monroe where they let her out to pay some bills. Thereafter, they drove to Memphis State University - DON NEELY, CABBAGE, and LEE PREWITT (who according to LEE PREWITT as recently as 5/22/68, was living at 363 Driver, Apt. H. He is a student at Memphis State University, has long afro hair style,

ME 157-1067

wears steel rimmed glasses, has a small moustache and goatee, and is a black power advocate).

(On 4/18/68, [REDACTED] of BOP told SA's HOWELL S. LOWE and WILLIAM H. LAWRENCE that HERMAN LEE PREWITT was with BALLARD, JOHN B. SMITH, CHARLES HARRINGTON, and EDWINA HARRELL at the Lorraine Motel on 4/4/68 just prior to the murder of MARTIN LUTHER KING, JR.)

Also at Memphis State they picked up a male Negro, RICHARD (LNU), about 5'8", 150 pounds, with an afro hair cut. He was clean shaven and had four upper, front teeth missing. All five of these individuals went to the Burger Chef Restaurant on South Highland and there met another Memphis State student and member of BOP, EDWINA JEANETTA HARRELL. At this location, CABBAGE talked alone with EDWINA and EDWINA gave RICHARD a bottle with a prescription label which was half full of some liquid. He drank it and got extremely "high".

Thereafter, they all drove to the vicinity of Berclair and Summer, to the Berclair Drugstore, where EDWINA apparently had originally had the prescription filled on 5/22/68. They all were worried as to whether or not the druggist would re-fill the prescription so soon and CABBAGE went into the store and got the prescription bottle refilled, being accompanied by EDWINA. [REDACTED] was unable to learn what the prescription consisted of but thereafter the group went to Chelsea and Thomas looking for a male Negro who could get them some Robitussin.

They parked their car at the rear of the Harlem House on Chelsea and someone spotted the unknown Negro or unknown subject's car whereupon HERMAN and RICHARD got out of the car and went to see the unknown subject. CABBAGE, NEELY, EDWINA [REDACTED] waited while the unknown subject allegedly drove off to the Memphis Medical Center in an effort to get some Robitussin and came back saying they were unable to get it as the druggist there told them he was out but would have some more on 5/23/68.

Thereafter, they went to Little Bob's Cafe, 2002 Chelsea, and the unknown subject, male Negro, took them to Chelsea where they turned south on Warford and went

ME 157-1067

into the first duplex south of Chelsea on the east side of Warford in an effort to get some Robitussin but no one was at home. Thereafter [REDACTED] dropped DON NEELY, HERMAN PREWITT, and RICHARD (JMU) off in the downtown Memphis area and took CABBAGE back to the apartment of JOHN B. SMITH.

Lt. ARKIN pointed out that this office, through [REDACTED] has been repeatedly told of the BOF group getting "high" on Robitussin and apparently using it as a crutch. He pointed out that preliminary checks have revealed that if one does not sign his correct name in obtaining Robitussin he can technically be prosecuted by the Bureau of Narcotics and the PD is going to start checking up on the purchase by some of these individuals of alleged prescription drugs, as well as Robitussin, in an effort to make a prosecutable case against some of them.

C A 75-1996
EXHIBIT 25

FBI

Date: 11-19-68

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

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

Via AIRTEL AM
(Priority)

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

Sheriff WILLIAM N. MORRIS

Shelby County, Memphis, Tennessee, advised on 11-19-68 he was in receipt of information that might be of interest to the FBI. This information is as follows:

JAMES EARL RAY has advised WILLIAM BRADFORD HUIE that he thought because of recent developments there might be a different approach to his trial, but that the final decision would be left up to PERCY FOREMAN, the new attorney. RAY also requested that any payments that might be due him for attorneys fees not be sent to anyone, including RAY's brother JERRY. RAY also reportedly told Mr. HUIE that he had read an article indicating that HANES is supposedly negotiating with "Life" magazine to sell the defense file which he was going to present at RAY's trial. RAY said that if this were so it would affect to a considerable degree the story being written by Mr. HUIE. RAY suggested to HUIE that in the event he wanted to correspond with RAY again he should do so through Mr. FOREMAN.

The foregoing information is furnished for the Bureau's information. Any other information received will also be furnished the Bureau.

REC 55

5386

3 BUREAU (AM)
1 MEMPHIS
RGJ:BN
(4)

Approved: *R. Jensen*
Special Agent in Charge

Sent _____ M Per _____

NOVEMBER 21, 1968

GENERAL INVESTIGATIVE DIVISION

This is the case involving the murder of Martin Luther King, Jr.

The attached relates to information orally furnished to our Memphis Office by [REDACTED] Memphis, Tennessee.

The Sheriff of Shelby County

William Bradford Huie has written two articles for "Look" magazine concerning Ray and Huie has allegedly been commissioned by Ray to write Ray's life story.

The attached implies that if the information from Hanes' (former attorney for Ray) defense file is published in "Life" magazine, it may differ from the articles as written by Huie which appeared in the last two issues of "Look" magazine.

You will be kept advised of pertinent developments.

REL:jms

5386
[Handwritten initials and scribbles]

JAMES H. LESAR
ATTORNEY AT LAW
1231 FOURTH STREET, S. W.
WASHINGTON, D. C. 20024
TELEPHONE (202) 464-6023

2AB
CA 75-1996
EXHIBIT 27

January 29, 1975

Mr. Laurence Silberman
Acting Attorney General
U.S. Department of Justice
Washington, D. C. 20530

Dear Mr. Silberman:

As you know from my January 15th letter, which you have not yet answered, I represent Mr. Harold Weisberg.

Beginning in 1969, when he wrote then-Attorney General John Mitchell, Mr. Weisberg has several times inquired whether there has been surveillance on him or other intrusions into his life by the Federal Bureau of Investigation. Mr. Weisberg specifically stated that reports had been made to him that the FBI was defaming him. Mr. Mitchell never denied this. Mr. Hoover never responded.

The Washington Post recently stated that the FBI had conducted surveillance on some Warren Commission critics. The Post also stated that the FBI had given some of its information and materials on Warren Commission critics to former Congressman Hale Boggs.

Mr. Weisberg is perhaps the best known Warren Commission critic. On his behalf, I request that you disclose whether the FBI's surveillance of Warren Commission critics included him. I also ask that you specifically state whether or not the FBI provided Congressman Boggs or any other person with materials or information on or about Mr. Weisberg.

Because there may be some overlap here, I further request that you respond fully and completely to the specific inquiries which Mr. Weisberg directed for former Attorney General John Mitchell.

I would appreciate your prompt reply to these requests.

Sincerely yours,

Jim Lesar
Jim Lesar

ENCLOSURE

ENCLOSURE

February 27, 1975

James H. Lear, Esq.
1831 Fourth Street, S.W.
Washington, D.C. 20024

1 - Mr. Mintz
1 - Mr. McCright
1 - Mr. Eresson

Dear Mr. Lear:

This is in reply to your letter of January 29th, addressed to Mr. Laurence Silberman of the Department of Justice, and thereafter referred to me and received on February 19th.

I wish to state in response to your inquiry that FBI records contain no information to indicate your client, Mr. Weisberg, has been the subject of FBI surveillance. These records further do not disclose any reference to dissemination by us of information concerning him or his criticism of the Warren Commission along the lines you indicated in your letter.

With regard to your request for response to letters directed by Mr. Weisberg to former Attorney General Mitchell, case records reveal a copy of a letter dated March 12, 1969, had been referred to us, it having been re-mailed by the then Assistant Attorney General William Wilson under date of March 13, 1969. The charges contained in the letter were general in nature and made no specific allegations, and there is no record of further action being taken.

In a second letter, located in files of the Department of Justice under date of March 12, 1971, Mr. Weisberg alleged in more specific terms that he had complaints of being "tailed" in Manhattan, New York. This records contain no reference to this letter.

1 - The Deputy Attorney General - Enclosure

1 - Public Comment (CONFIDENTIAL)

TJH:md
(6)

See Note Page 2

ENCLOSURE
107 - 107
ENCLOSURE

James H. Lear, Esq.

These are the only two instances of inquiries by Mr. Weisberg directed to former Attorney General Mitchell regarding alleged "links from 1961 to 1962" that we have been able to locate. As stated by me above, our files contain absolutely no information to substantiate these allegations.

I trust the above will be of assistance to you and Mr. Weisberg.

Sincerely yours,

Clarence M. Kelley
Director

NOTE: Weisberg has recently reinstated his FOIA request for information regarding the Kennedy assassination related Laboratory work, and the matter is currently in a pending status. Attorney Lear has been representing him in this regard in the past.

Review of Weisberg's main files and all references since 1965 disclosed no evidence of him being subject of a surveillance nor indication of any dissemination being made along lines he makes reference to.

SAC, Memphis
Director, FBI

January 20, 1978

FREEDOM OF INFORMATION ACT (FOIA)
REQUEST OF HAROLD WEISBERG FOR
MURKIN MATERIAL
FOIPA MATTER

NR 8/17/78

Enclosed for each recipient office is a copy of the following documents: James H. Lesar's letter dated December 19, 1977, with attached privacy waiver of Mr. Bernard Fensterwald; Mr. Harold Weisberg's FOIA request letter dated December 23, 1975; and Mr. Harold Weisberg's FOIA request letter dated April 15, 1975.

For your information, James H. Lesar is the attorney representing Mr. Weisberg in the two FOIA requests referred to above. The subject of both these requests is the Murkin case. Pursuant to these requests, the Bureau has processed Murkin and related files at Headquarters and in eight field offices, culminating in the release of approximately 48,000 pages of material to Mr. Weisberg.

This is to advise the recipient offices of the Bureau response to Mr. Lesar's letter dated December 19, 1977. Mr. Lesar requested information from FBI Headquarters, 18 field offices, and one legat concerning Mr. Bernard Fensterwald and his relation to the Murkin case. The FOIPA Branch will handle this request as it pertains to material at FBIHQ, however, Mr. Lesar has been advised that he should contact the individual field offices set forth in his letter for a direct response from those offices on the material in their possession. Each office is being provided the enclosed documents in anticipation of

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir. _____
- Adm. Serv. _____
- Comp. Serv. _____
- Ext. Aff. _____
- Files & Com. _____
- Gen. Inv. _____
- Ident. _____
- Insp. _____
- Intell. _____
- Lab. _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgmt. _____
- Spec. Inv. _____
- Tech. Serv. _____
- Training _____
- Public Aff. _____
- Telephone Rm. _____
- Director's Sec'y _____

- 1 - Alexandria (Enc 3)
- 1 - Atlanta (Enc 3)
- 1 - Baltimore (Enc 3)
- 1 - Birmingham (Enc 3)
- 1 - Boston (Enc 3)
- 1 - Chicago (Enc 3)
- 1 - Dallas (Enc 3)
- 1 - Houston (Enc 3)
- 1 - Kansas City (Enc 3)

EX-122
MAILED
JAN 19 1978

- 1 - Los Angeles (Enc 3)
- 1 - Miami (Enc 3)
- 1 - Milwaukee (Enc 3)
- 1 - Nashville (Enc 3)
- 1 - New Orleans (Enc 3)
- 1 - Pittsburg (Enc 3)
- 1 - Portland (Enc 3)
- 1 - WFO (Enc 3)
- 1 - Legat: Mexico City (Enc 3)

xph:das (22)
6
1 1978 ROOM TELETYPE UNIT

REC-33/9 D - 709-67
JAN 23 1978

Letter to Memphis

Re: FOIA Request of Harold Weisberg for Murkin material

Mr. Lesar's request. It is noted that Mr. Fensterwald's privacy waiver is restricted to that information which only falls within the purview of the subject matter of Mr. Weisberg's Murkin request letters dated April 15, 1975, and December 23, 1975. ✓

Should this request be received by any of the recipient offices, any questions regarding handling of this request may be directed to Ralph Harp, FOIPA Branch, FBIHQ, extension 5566.

Enclosures (3)

NOTE: Mr. Lesar has submitted a privacy waiver invoked by Mr. Bernard Fensterwald allowing Mr. Weisberg access to information concerning Mr. Fensterwald which relates to the Murkin case only. As this request was also addressed to 18 field offices and 1 legat, Mr. Lesar has been advised to contact these offices directly. This letter is to inform recipient offices of the possible receipt of this request, and to provide them basic information necessary to the proper handling of this request if it should be received.

CA 7571996
EXHIBIT 29

March 1, 1978

SAC, Knoxville

Director, FBI

4
FREEDOM OF INFORMATION ACT (FOIA)
REQUEST OF HEROLD LESAR FOR
MURKIN MATERIAL
FOIA MATTER

Enclosed is a copy of a January 20, 1978 letter from the Bureau to SAC, Memphis. This letter was directed to all offices for which Mr. Lesar indicated his interest in regard to the captioned subject.

As your office is now in receipt of the referenced request, this information is being furnished to assist you in responding directly to Mr. Lesar.

In view of the fact that Mr. Fensterwald's privacy waiver is restricted to Murkin related material, you should respond to Mr. Lesar that the Knoxville office does not possess any records concerning Mr. Fensterwald which pertain to his April 15, and December 23, 1975 FOIA request. R

Enclosure

RPH
rph:das (5)

das

EX-105

REC-56

196-769-73

MAR 7 1978

- Asst. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Serv. _____
- Crim. Inv. _____
- Ident. _____
- Insp. _____
- Intell. _____
- Lab. _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgmt. _____
- Tech. Serv. _____
- Training _____
- Off. of Cong. & Public Affairs _____

MAILED 3
FEB 28 1978
FBI

[Handwritten signature]
MAR 4 1978
MAIL ROOM TELETYPE UNIT

[Handwritten signature in circle]

4-7-77

FBI

CA 75-1996
EXHIBIT 30

SMIT VIA:
teletype
telex
radio

PRECEDENCE:
 Immediate
 Priority
 Routine

CLASSIFICATION:
 TOP SECRET
 SECRET
 CONFIDENTIAL
 E F T O
 CLEAR

Date 4/6/78

TO: DIRECTOR, FBI
FROM: SAC, KNOXVILLE (190-2)
FREEDOM OF INFORMATION REQUEST
OF MR. BERNARD FENSTERWALD, JR.

Re Bureau letter to Knoxville 3/1/78 and Knoxville letter to Mr. JAMES LESAR 3/9/78 (copy of which was furnished to Bureau).

Enclosed for the Bureau is a copy of a letter and envelope dated 3/15/78 received from Mr. HAROLD WEISBERG by the Knoxville FBI Office on 3/21/78.

The Bureau should note that the above referenced letter furnished to Mr. LESAR was done according to instructions set forth in referenced Bureau letter of 3/1/78.

The Knoxville Office is totally unaware of what WEISBERG is getting at in his letter of complaint. Inasmuch as the previous response to Mr. LESAR was pursuant to Bureau instructions, the letter from Mr. WEISBERG is being furnished to the Bureau, and no response is being furnished to him by the Knoxville Office.

2 - Bureau (Encs. 2)
2 - Knoxville

ENCLOSURE

RLJ/kmw
(4)

22 APR 10 1978
RLJ

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

4-7-77 0-25-13

FBI

Transmit in _____ Via airtel _____ (Priority)

To: SAC, Albany
From: Acting Director, FBI
RICHARD LEE BAST
REDEX CORPORATION
ELECTRONIC SURVEILLANCE

Date 7-20-72

The Department has advised that captioned subjects have been indicted in the District of Columbia on Federal interception of communications charges.

Accordingly, the Department has instructed that procedures should be instituted to preclude the monitoring of subjects, their attorneys, or any defense strategy conversations until such time as prosecution has been completed and the Department issues notice that the restrictions may be removed.

In complying with this request from the Department, all offices should be guided by the instructions set forth in SAC Letter 69-43, dated 8/13/69, and apply them to all electronic surveillances now in operation as well as those installed while the above restrictions are in effect.

The Department has identified subjects' attorneys as: Philip J. Hirschkop, 503 D Street, Northwest, Washington, D. C., 20001, and Bernard Fensterwald, Jr., 905 16th Street, Northwest, Washington, D. C., 20006.

Bast resides in McLean, Virginia, and is employed by captioned corporation at 1404 New York Avenue, Northwest, Washington, D. C.

2 - All Offices



(Do not type below this line.)

1 copy filed in 66-1313-598
my

75-1996-21
SEARCHED _____ INDEXED _____
SERIALIZED _____ FILED _____
JUL 23 1972
FBI - DALLAS

(This line for LEFT MARGIN.)

airtel

CA 75-1996
EXHIBIT 32

5/18/77

To: ADIC, New York
From: Director, FBI

1 - Mr. Mintz
Attn: Mr. Matthews

FREEDOM OF INFORMATION-PRIVACY ACTS (FOIPA)
REQUEST OF HAROLD WEISBERG CONCERNING THE
ASSASSINATION OF MARTIN LUTHER KING, JR.

Enclosed for your information is one copy of
captioned FOIPA request. Your attention is specifically
directed to page 3, item 11 of this request, concerning
electronic surveillance of James Earl Ray. U

[Redacted block] tc

Review the pertinent logs and/or transcripts
of these surveillances to ascertain whether they relate
to James Earl Ray, a subject of the Martin Luther King
Assassination investigation. Copies of the logs and/or
transcripts identifiable with Ray should be forwarded
to FBIHQ, Attention: FOIPA Branch, for processing. Addi-
tionally, you are requested to search all pertinent indices
to determine whether your files contain any additional
logs and/or transcripts pertaining to the electronic
surveillance of James Earl Ray. U

All documents which are classifiable must be
properly classified prior to submission to FBIHQ, each
bearing appropriate classification markings on a paragraph
by paragraph basis. U

100-1-1000
100-1-1000

- Dir. _____
- AD Adm. _____
- AD Inv. _____
- Dir. _____
- Asst. Dir.:
- Adm. Serv. _____
- Crim. Affairs _____
- Ident. & Pers. _____
- Intell. _____
- Lab. _____
- Legal Coun. _____
- Off. of Cong. & Public Affairs _____
- Rec. Mgmt. _____
- Tech. Serv. _____
- Training _____
- Off. of Liaison & Int. Affs. _____
- Off. of the Inspector General _____

RPK
rph:vll
(6)

See NOTE page 2

CLASS. & EXT.
REASON - FCIM
DATE OF REVIEW

AJD
10PB

8/3/79

~~AP/CP/lea~~
16/96
Return to RPK

Rm 6982

MAIL ROOM

TELETYPE UNIT

GPO 443-10 5120-1

~~APPROPRIATE AGENCIES
AND FIELD OFFICES
ADVISED BY ROUTING
SLIP (S)~~
Date 8/17/79

~~X~~

Airtel to ADIC, New York

RE: FREEDOM OF INFORMATION-PRIVACY ACTS (FOIPA)
REQUEST OF HAROLD WEISBERG CONCERNING THE
ASSASSINATION OF MARTIN LUTHER KING, JR.

For your assistance, the following descriptive data on James Earl Ray is set forth: white male; DOB: March 10, 1928; POB: Alton or Quincy, Illinois; FBI #405-942-G. You should note that James Earl Ray was arrested June 8, 1968, and has been incarcerated from that date to the present time. //

Enclosure

NOTE: Under item 11 on page 3 of his request, Harold Weisberg lists the names of 23 persons regarding whom he requests any record of or reflecting any surveillance of these persons in connection with the Murkin investigation. Of these persons, only pertinent information pertaining to four of these individuals will be processed. They are Weisberg himself, James Earl Ray, who has submitted a privacy waiver, James Lesar, who is attorney for both Weisberg and Ray and Judge Preston Battle, who is deceased. A search of FBIHQ ELSUR indices disclosed records which may be identical with James Earl Ray who is a subject of this request and further to search pertinent indices to determine if there are any additional surveillance records in that office which pertains to James Earl Ray. ✓

FBI

TRANSMIT VIA:
Teletype
Facsimile
Airtel

PRECEDENCE:
 Immediate
 Priority
 Routine

CLASSIFICATION:
 TOP SECRET
 SECRET
 CONFIDENTIAL
 E F T O
 CLEAR

Date 6/3/77

TO: DIRECTOR, FBI
(ATTN: FOIPA BRANCH)

FROM: ADIC, NEW YORK (190-1 SUB D)

JUNE

SUBJECT FREEDOM OF INFORMATION -
PRIVACY ACTS (FOIPA)
REQUEST OF HAROLD WEISBERG
CONCERNING THE ASSASSINATION
OF MARTIN LUTHER KING, JR.

APPROPRIATE AGENCIES
AND FIELD OFFICES
ADVISED BY ROUTING
SLIP(S) OF classification
DATE 8/3/79

ReBuairtel to NY, 5/18/77, requesting New York
to review Elsur indices re JAMES EARL RAY.



The NYO has decided that these two pages should
not be classified as the Bureau, in protecting the privacy
of other individuals mentioned in these pages, can exempt
a great deal of the information and thus make a FOIA (b)
(1) exemption unnecessary. Also, the NYO does not believe
these pages are classifiable in accordance with existing
Attorney General Guidelines in foreign counter-intelligence
investigations.

NYO Elsur indices do not contain any additional
references to RAY.

ENCLOSURE

- 2 Bureau (Encls. (RM))
- (1-FOIPA Branch)
- 1-New York (100-111180) (SUB 10-ADMIN) (C)
- 1-New York

JUN 6 1977

JOC:km
(E)

CLASS. & EXTENSION - FOIA
8-1-96

FOIA

8/3/79

Approved: _____ Transmitted _____ (Number) _____ (Time) Per _____ SPEC. MAIL RM.

FBI

CA 73-1996
EXHIBIT 33

TRANSMIT VIA:

- Teletype
- Facsimile
- Airtel

PRECEDENCE:

- Immediate
- Priority
- Routine

CLASSIFICATION:

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

Date 11/8/77

TO: DIRECTOR, FBI
(ATTN: JOHN HARTINGH, ROOM 6982)

FROM: SAC, BALTIMORE (190-1-78)

SUBJECT: HAROLD WEISBERG
FREEDOM OF INFORMATION AND
PRIVACY ACTS

RE: Bureau telephone call from JOHN HARTINGH to
Baltimore, 11/18/77.

Enclosed for the Bureau are two copies each of serials
in Baltimore file regarding photographs furnished by HAROLD
WEISBERG and two copies of Dallas letter to Baltimore in response
to Baltimore inquiry set forth in Baltimore airtel, 5/3/68.

Review of Baltimore 44 file concerning MURKIN fails to
reveal any other reference to WEISBERG.

~~CONFIDENTIAL~~

24 NOV 21 1977

ENCLOSURE

- 2 - Bureau (Encl.-8)
- 2 - Baltimore (1- 190-1) (1- 44-669)

GCS:srd

(3)

COPIES
1977

Approved: _____



Transmitted _____

(Number)

(Time)

Per _____

UNITED STATES GOVERNMENT

Memorandum

CA 75-1996
EXHIBIT 34

Asst. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir. _____
Adm. Serv. _____
Crim. Inv. _____
Fin. & Pers. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgmt. _____
Tech. Serv. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

TO : Assistant Director *AP/B*
Records Management Division

DATE: 8/9/77

FROM : Legal Counsel *AP/B* FEDERAL GOVERNMENT

SUBJECT: HAROLD WEISBERG
V. UNITED STATES DEPARTMENT OF JUSTICE
(U.S.D.C., D.C.)
CIVIL ACTION NUMBER 75-1996

PURPOSE: To advise of stipulation entered into between the Department of Justice and plaintiff in captioned litigation.

DETAILS: Pursuant to consultation with Section Chief - Operations, Thomas Bresson, SAs Horace Beckwith and John Hartingh of the Records Management Division and SA Charles Mathews of the Legal Counsel Division, Departmental Attorney Lynne Zusman entered into a stipulation with plaintiff in captioned litigation. The stipulation, a copy of which is attached hereto, was filed with the Court on 8/5/77. The plaintiff has agreed to forego a Vaughn showing of those records processed for release pursuant to the FOIA in the MURKIN investigation in exchange for the processing and release by 10/1/77, of FBI records pertaining to the MURKIN investigation and several other matters at the Memphis Field Office. Furthermore, the Bureau will provide for release by 11/1/77, MURKIN and other documents from seven other specified Field Offices. Plaintiff's agreement to forego a Vaughn showing includes not only those documents previously processed at FBIHQ, but also those documents to be released pursuant to the stipulation.

RECOMMENDATION: None, for information.

Enclosure
3 - Mr. Decker
Attn: Mr. Bresson
Attn: Mr. Beckwith
Attn: Mr. Hartingh
1 - Mr. Mintz
1 - Mr. Mathews

APPROVED:	Adm. Serv. _____	Legal Coun. _____
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Assoc. Dir. _____	Fin. & Pers. _____	Rec. Mgmt. _____
Dep. AD Adm. _____	Ident. _____	Spec. Inv. _____
Dep. AD Inv. _____	Intell. _____	Tech. Serv. _____
	Laboratory _____	Training _____
		Public Affs. Off. _____

EX-131 REC-29

197-184-x

4 AUG 21 1977

CM:dir (6)



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

55 AUG 25 1977

CA 75-1996
EXHIBIT 35

FEDERAL GOVERNMENT

- 1 - Mr. Decker
Attn: Mr. Hartingh
- 1 - Mr. Mintz
December 14, 1977
- 1 - Mr. Mathews

Assistant Attorney General
Civil Division
Attention: Ms. Lynne K. Zusman
Assistant Director - Legal Counsel
Federal Bureau of Investigation

D *- FNCIL*
HAROLD WEISBERG v.
UNITED STATES DEPARTMENT OF JUSTICE
(U.S.D.C., D.C.)
CIVIL ACTION NUMBER 75-1996

Reference is made to the conversation between Special Agent (SA) Charles Mathews III of this Bureau's Legal Counsel Division and Departmental Attorney Lynne K. Zusman, Chief of your Information and Privacy Section, on December 12, 1977. Pursuant to that conversation, enclosed is one copy of a letter dated November 28, 1977, from James Earl Ray to the Federal Bureau of Investigation (FBI), Washington, D.C., and one copy of a document entitled "Waiver," executed by James Earl Ray on November 18, 1976. Furthermore, for your information, there is enclosed a copy of a letter dated December 3, 1977, from Mr. Harold Weisberg to Mr. Allen H. McCreight, FBI, Washington, D.C.

This memorandum will confirm the referenced conversation, at which time Ms. Zusman was informed of the contents of the enclosed November 28, 1977, letter of Mr. Ray. As you are aware, this Bureau has completed the processing of over 44,000 pages of records pertaining to the Martin Luther King assassination and has released these documents to Mr. Harold Weisberg, while making copies thereof available to the general public in our reading room. Certain documents containing information of an extremely personal nature pertaining to Mr. Ray were released to Mr. Weisberg pursuant to Mr. Ray's "waiver," a copy of which is enclosed herein; however, these documents have not been made available to the general public. Although the processing of the documents pertaining to Dr. King's assassination has been completed, in efforts to facilitate a stipulated dismissal in this matter, Mr. Weisberg is compiling a list of specific instances for our review, wherein he believes certain records should not be withheld pursuant to Title 5, United States Code, Section 552 (b) (7) (C) and (D).

- Assoc. Dir.
- Dep. AD Adm.
- Dep. AD Inv.
- Asst. Dir.:
- Adm. Serv.
- Comp. Syst.
- Ext. Aff.
- Files & Com.
- Ident.
- Intell.
- Lab.
- Legal Coun.
- Plan. & Insp.
- Rec. Mgmt.
- Spec. Inv.
- Tech. Serv.
- Training
- Public Affs. Off.
- Telephone Rm.
- Director's Sec'y

MAILED 7
DEC 16 1977
FBI

FD

ENCLOSURE
JAN 3 1978
J 56

EX-130
REC-46
23 JAN 4 1978
B

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3040 ar

MAIL ROOM TELETYPE UNIT

Assistant Attorney General
Civil Division

Pursuant to SA Mathews' conversation with Ms. Zusman and in view of Mr. Ray's revocation of his Waiver of privacy rights, no further records will be released to Mr. Weisberg which contain information which would be a clearly unwarranted invasion of the personal privacy of Mr. Ray pursuant to Title 5, United States Code, Section 552 (b) (6) without instructions to the contrary from your office.

In the event you require further assistance or information in this matter, please contact SA Mathews at (202) 324-4522. Please keep this office advised of any developments in this matter and supply us with copies of all papers filed with the Court.

Enclosures (3)

1 - United States Attorney (Enclosures 3)
District of Columbia
Attention: Mr. John Dugan
Assistant United States Attorney

NOTE:

Instant memorandum conveys a copy of a letter from James Earl Ray to this Bureau dated November 28, 1977, by which Mr. Ray revokes his authorization to release documents pertaining to him to plaintiff in instant litigation. Pursuant to this letter, no further releases of information which could be considered a clearly unwarranted invasion of the personal privacy of Mr. Ray will be made until instructions to the contrary are received from the Department of Justice. It is noted that with certain minor exceptions, the processing and release of all requested material has been made; therefore, it is not expected that any information will be withheld from plaintiff as a result of Mr. Ray's letter.

JCF

APPROVED:	Adm. Serv. _____	Legal Coun. _____
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Assoc. Dir. _____	Fin. & Pers. _____	Rec. Mgmt. _____
Dep. AD Adm. _____	Ident. _____	Spec. Inv. _____
Dep. AD Inv. _____	Intell. _____	Tech. Servs. _____
	Laboratory _____	Training _____
		Public Affs. Off. _____

UNITED STATES GOVERNMENT

Memorandum

TO : Assistant Director
Records Management Division

DATE: 11/16/77

FROM : Legal Counsel *JFK*

SUBJECT: HAROLD WEISBERG
v. UNITED STATES DEPARTMENT OF JUSTICE, et al.
(U.S.D.C., D.C.)
CIVIL ACTION NUMBER 75-1996

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Serv. _____
- Comp. Syst. _____
- Ext. Affairs _____
- Files & Com. _____
- Gen. Inv. _____
- Ident. _____
- Insp. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgmt. _____
- Spec. Inv. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

PURPOSE:

To record results of a conference held at the office of the Deputy Assistant Attorney General, William Schaeffer on 11/11/77, concerning captioned litigation.

SYNOPSIS:

Conference held 11/11/77, with plaintiff and various representatives of the Department of Justice including Legal Counsel Division, Federal Bureau of Investigation (FBI), in an effort to reach settlement agreement in captioned litigation. During this conference in an effort to facilitate recognition of issues remaining to be resolved Deputy Assistant Attorney General Schaeffer proposed to hire plaintiff as a consultant to the Department of Justice and supply him with office space and clerical assistance. The FBI has agreed to reprocess certain documents in this matter to be provided plaintiff at the meeting scheduled for 11/18/77.

RECOMMENDATION:

Note. For information.

JFK

APPROVED:	Adm. Serv. _____	Legal Coun. _____
Director _____	Ext. Affs. _____	Files & Com. _____
Assoc. Dir. _____	Fin. & Pers. _____	Gen. Inv. _____
Dep. AD Adm. _____	Ident. _____	Spec. Inv. _____
Dep. AD Inv. _____	Intell. _____	Tech. Servs. _____
	Laboratory _____	Training _____
		Public Affs. Off. _____

JFK
ASD/RS

DETAILS:

At 10:00 a.m. on 11/11/77, a conference was held at the office of the Deputy Assistant Attorney General William Schaeffer concerning captioned litigation. The following individuals were present: Harold Weisberg, plaintiff; James

- 1 - Mr. Decker
Attn: Mr. Hartingh
- 1 - Mr. Mintz
- 1 - Mr. Mathews

EX-133
REC 12

196-709-61
197-184-1X1
NOV 21 1977

CM: *JFK* (4) *am*

JFK
FBI/DOJ

Memo to Assistant Director
Records Management Division
HAROLD WEISBERG v. USDOJ, et al.

Leser, plaintiff's attorney; William Schaeffer, Deputy Assistant Attorney General; Lynne Zusman, Chief, Privacy and Information Section, Department of Justice; Douglas Mitchell, Office of Privacy and Information Appeals, Department of Justice; John Dugan, Assistant United States Attorney, District of Columbia; Special Agent Charles Mathews, III, Legal Counsel Division; Document Analyst Ralph Harp, Freedom of Information and Privacy Acts Section, FBI; Salliane Dougherty, Civil Rights Division, Department of Justice; Joe Gross, Office of Professional Responsibility, Department of Justice.

In way of background, instant litigation pertains to a Freedom of Information Act (FOIA) request by Weisberg to the FBI and other departmental components for records concerning the Martin Luther King assassination. The Bureau has previously entered into a stipulation with Weisberg, and pursuant to this has completed processing all "Murkin" files at FBIHQ and selected field divisions which consisted of over 44,000 pages.

The 11/11/77, meeting was held to narrow what issues remained in order to reach a settlement between plaintiff and the Department of Justice. Pursuant to the stipulation previously entered into in this matter it was incumbent upon the plaintiff, subsequent to processing of all records, to specify with particularity what deletions he takes issue with. In order to facilitate Mr. Weisberg in his composing of his list of grievances and without prior consultation with representatives of the FBI, Mr. Schaeffer offered to hire Mr. Weisberg as a consultant to the Department of Justice. With this action Mr. Schaeffer advised Mr. Weisberg he could supply him with an office, secretarial and/or paralegal assistants, supplies, and transportation to and from his residence. Mr. Weisberg neither accepted nor rejected this offer.

To further narrow the issues in this matter, the Bureau agreed at this conference to reprocess approximately 2700 index cards and to supply Mr. Weisberg by 11/18/77, with a list of names taken therefrom.

Another meeting has been scheduled with the above-named individuals to further discuss settlement in this matter at 10:00 a.m. on 11/18/77.

11/8/77

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

Dear John,

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

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

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

One of the results is to introduce much confusion in these records when there need be none. An example is in Birmingham 44-1740, in part beginning about Serial 229 2229 and going on for a while and at other points you should have no trouble locating. The obliterations add to the confusion, especially those I believe to be neither necessary nor justified. If you'll examine what you have done to Serial 2240 I think you'll find an illustration.

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

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

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

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

Sincerely,

Harold Weisberg

CA 75-1996
EXHIBIT 38

In Section 27 of #44-38861 the following serials reflect that enclosures came in with the numbered communication but notations on the communication show the enclosed material has been detached and kept in C.R.:

2636
2654
2655

CA 75-1996

EXHIBIT 39

MISSING ATTACHMENTS

- Serial 253 - Artist concept of suspect
- Serial 254 - Artist concept of suspect
- Serial 818 - Photo of Jay Wallis Vernon
- Serial 984 - Photo of alleged suspect
- ✓ Serial 1290 - Crime scene sketch, maps, of coroner's information
- Serial 1314 - James Earl Ray letter and psychiatric report
- ✓ Serial 1582 - UFAP complaint against Ray
- Serial 1694 - Illinois State Prison records on Ray
- Serial 2199 - Missouri State Prison Money Orders
- Serial 2268 - Pre-sentence report on Ray
- ✓ Serial 2362 - Martin Luther King, Jr. death certificate
- ✓ Serial 2636 - Psychiatric report on Ray
- Serial 2654 - Missouri State Prison bank records
- Serial 2661 - Pay phone toll records at El Paso
- Serial 2739 - Photo of Galt
- Serial 2823 - Pay phone toll calls at Houston
- Serial 2950 - Psychiatric report on alleged suspect
- Serial 3242 - Illinois State Prison record on Jack Gawson
- Serial 3328 - Missouri State Prison records
- Serial 3423 - Photos of laundry marks
- Serial 3441 - Ontario letter
- Serial 3645 - Photo of James Owens

Serial 3739 - Bureau airtel

Serial 3851 - Missouri State Prison medical records

Serial 4340 - Photo of Ray's dentures

Serial 4432 - York affidavit

? Serial 4935 - Photos

Serial 4506 - BOAC Manifest

Serial 4555 - Stephens affidavit

Serial 4556 - National Japan Police letter