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

Date: November 22, 1976

To: United States Attorney
District of Columbia

Attention: Assistant United States Attorney
John R. Dugan

From: Assistant Director - Legal Counsel
Federal Bureau of Investigation

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

Pursuant to the November 19, 1976, telephone conversation of Assistant United States Attorney (AUSA) John R. Dugan and Special Agent (SA) Parle Thomas Blake of our Legal Counsel Division, enclosed herewith are two sets of copies of documents, one of which is to be furnished by Mr. Dugan to plaintiff in compliance with plaintiff's request for the "three boxes of indices" referred to in an October 22, 1969, letter from the District Attorney General, Shelby County, Tennessee, to the Deputy Assistant Attorney General of the United States Department of Justice Civil Rights Division (plaintiff's Exhibit W).

Two boxes of abstracts marked, respectively, "Index to James Earl Ray File, Patsy Gesell, 1 of 2" and "2 of 2," were recently located by a representative of the FBI, after an extensive search in response to plaintiff's request, in possession of the United States Department of Justice Civil Rights Division. These abstracts contain brief descriptions of items of evidence and/or the contents of original documents dealing with the FBI investigation into the assassination of Dr. Martin Luther King, Jr. (abbreviated "MURKIN" in FBI documents). Each abstract is headed by the name of an individual or the description of an item of evidence and, since there is an alphabetical and geographical breakdown - as well as a numerical breakdown regarding the "evidence" abstracts - there is

SEE NOTE, PAGES FOUR AND FIVE

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considerable duplication. However, every one of the approximately 4500 abstracts, no matter how many times it appears in the boxes, is being furnished herewith, with the exception of two or three which, after deletions (further explained below) were made, would be absolutely meaningless.

Although these abstracts were apparently prepared eight years ago by FBI clerical personnel for the assistance of the Department of Justice, Tennessee State Prosecutors and the FBI in having immediate access to a summarization of the basic investigation conducted, we cannot attest to their accuracy or completeness since the abstracts have not been in the sole possession of the FBI throughout their existence.

Necessary excisions from these abstracts were made pursuant to exemptions (b)(7)(C) and (b)(7)(D) of the Freedom of Information Act (FOIA). In many cases, it is not possible to tell from the very limited information contained in the abstract whether the release of a name would be an unwarranted invasion of personal privacy or would identify a confidential source. In these instances a conservative approach had to be utilized in excising the names and identifiable information. A fuller release can be expected when the documents from which the abstracts were drawn are processed. Only from the original documents which contain, for example, the complete interview of the potential witness can it be determined whether the information falls within the (b)(7)(C) or (b)(7)(D) exemptions. In many cases it can then be ascertained that the material is already public knowledge or is not of such a personal nature that it cannot be released. All individuals' names and information furnished by these individuals were left in the abstracts where it is known to be public knowledge.

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In further explanation as to how these abstracts were processed and to explain what is meant by a conservative approach which can lead to a more complete release upon examination of the original documents, the following example is furnished:

In the typical abstract which hypothetically states, "John Smith furnished information concerning Jane Doe," the abstract received by plaintiff after we processed it would read, "_____ furnished information concerning _____."

If at this time, plaintiff received the names John Smith and Jane Doe, upon subsequent examination of the original document from which the abstract was drawn, any personal information concerning either Smith or Doe would have to be withheld pursuant to exemption (b)(7)(C). By withholding Smith and Doe's identity initially, upon review of the original document a more complete release can be made, as the personal information, no matter how sensitive, about these individuals could be released as long as their identity is not known. If the information contained in the original document is not of a highly personal nature, both the identities of the individuals and the information about them can be released.

The same example applies for confidential sources. If John Smith's name is initially released in the abstracts and upon review of the original document it is determined he is a confidential source, then any information he furnished would have to be withheld pursuant to exemption (b)(7)(D). However, by withholding Smith's name initially, when the original document is processed all information which would not tend to identify Smith can be released.

Plaintiff's FOIA request of April 15, 1975, concerning which the Court has ruled the attached

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abstracts are relevant and thus subject to discovery directed toward the adequacy of the FBI's response to the request, asked only for certain limited aspects of the MURKIN investigation, primarily results of laboratory examinations and photographs. The abstracts attached hereto, however, cover all facets of the MURKIN investigation; in the interest of full disclosure and to bring this litigation to its logical conclusion, all abstracts are being furnished regardless of whether or not they relate to plaintiff's April 15 request. For the same reasons, the FBI is waiving all applicable search and reproduction fees for those abstracts which do not relate to the subject matter of plaintiff's FOIA requests.

As also discussed by Mr. Dugan and SA Blake, we will prepare an affidavit justifying in greater detail the deletions made from these abstracts if this becomes necessary in the future course of this litigation.

Enclosures (2)

1 - Assistant Attorney General (Enc.)
Civil Division
Attn: Lynne Zusman