

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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JAMES H. LESAR,

Plaintiff,

v.

U. S. DEPARTMENT OF JUSTICE,

Defendant
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: Civil Action No. 77-0692
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AFFIDAVIT OF HAROLD WEISBERG

My name is Harold Weisberg. I reside at Route 12, Frederick, Maryland.

1. My prior experiences include those of investigative reporter, Senate investigator and intelligence analyst.

2. From the time of the assassination of President Kennedy, I have been engaged in researching, investigating, writing about and publishing books relating to the assassinations of President Kennedy and Dr. Martin Luther King, Jr. My work is not, as is most of the work in the field, of the genre of detective-story fiction. It is an in-depth study of the functioning and nonfunctioning of the basic institutions of our society. I regard the assassination of a president as the most subversive of crimes in a representative society. I have come to believe that in these times of great stress our basic institutions failed and that these failures, in turn, present a great threat to free and representative society.

3. The pursuit of my endeavors had led to much personal experience with the Freedom of Information Act, with efforts by various government agencies to subvert and circumvent it and to an understanding of the various devices by which these ends are sought and sometimes accomplished, devices now almost stereotyped.

4. Mr. James H. Lesar, the plaintiff in this instant cause, is my friend, associate and counsel in FOIA cases. He represents me in C.A. 75-1996, a case in which I seek from all the various components of the Department of Justice, including the FBI, information relating to the assassination of Dr. King.

5. I have personal knowledge of this instant cause because it is an outgrowth of my C.A. 75-1996. I believed that my request included all official reinvestigations of the FBI's King investigations. When that court held otherwise, I was not well. I was more limited in what I could do than I had been. Mr. Lesar therefore filed

C.A. 77-0692 in his own name, to relieve the burden on me. However, he provides me with the originals of all the records he receives. I provide him with copies and I am depositing the originals in the archive that has been established for my records at the University of Wisconsin-Stevens Point. Other sources of my personal knowledge include as defense investigator in the case of Ray v. Rose in federal district court in Memphis, Tennessee. I conducted the investigations that led to the success of the habeas corpus effort and the investigation on which the two weeks of evidentiary hearing in October 1974 were based. I participated in all discovery in that case jointly with Mr. Lesar.

6. The length and detail of this affidavit reflect my concern over what I regard as continuing and deliberate efforts in certain FOIA matters by the Justice Department and by the FBI that endanger the Constitutional independence and integrity of the judiciary.

7. In the subject matter that is before this Court, I have what the Department describes as "unique" expertise. I have had personal experiences and have performed work that I believe are duplicated by no other person. Explication of this follows throughout this affidavit. While I am aware that lengthy documents are not preferred and that they do require time for reading and comprehending, it is not my intention to take the time of this Court needlessly. I am a subject expert, not a lawyer. I draw on considerable personal FOIA experience. My purpose is to inform the Court to the best of my ability. As best a nonlawyer can, I seek to restrict myself to what is germane and what I believe I should provide the Court for its understanding and for its protection.

8. I have read the Department of Justice's Motion for Summary Judgment (Motion), its Reply Memorandum in Support of Its Motion for Summary Judgment (Memorandum) and the attachments to both. The Motion, the Memorandum and their attachments are entirely consistent with my long experience with the Department and the FBI in FOIA requests and litigation.

9. The FBI is the tail that wags the Department dog. Government lawyers represent to courts what the FBI wants represented, regardless of truth or falsehood.

10. Government lawyers regularly accept and file nonfirst-person affidavits knowing well that those of first-person knowledge are available. This enables the filing of misleading, often untruthful, affidavits. (A common form is illustrated in this instant cause by SA Horace P. Beckwith. He attests that "I caused a search to be made," in substitution for the affidavit of the FBI SA who could affirm, "I

personally conducted the search.")

11. Within my personal experience government counsel have made deliberate misrepresentations to courts to accomplish the withholding of information the FBI wants to withhold.

12. In one case (C.A. 2301-70) government counsel stated to that court that the Attorney General had made a finding that what I sought was against the "public interest." This excuse for withholding public information was specifically prohibited in the legislative history of the Freedom of Information Act. Besides, the Attorney General had done no such thing.

13. That same year (in C.A. 718-70) a Civil Division lawyer filed an affidavit in which he swore that he personally had provided a record that, in fact, he personally had refused to provide. That record was mailed days later, with a covering letter.

14. In C.A. 75-1996, which is for records relating to the King assassination, I recently prepared an affidavit addressing such practices in it. By "such practices" I mean what I believe exceeds proper bounds of vigorous advocacy.

15. In C.A. 75-1996 the Department was faced with the consequences of two and a half years of its own and FBI stonewalling and unjustifiable withholdings from many thousands of pages and with noncompliance coming from several Departmental substitutions for my actual request. The Civil Division then contrived a situation in which I am forced to be its consultant - in my case against the Department. The Civil Division represented what is not true, that it required my expertise and "unique" subject matter knowledge to stop the "games" the FBI was playing. In the six months that followed, the Civil Division did not respond to a single communication from me, did not compel the FBI or any other component to produce a single withheld record and did not replace a single one of the thousands of pages of records from which there were unjustifiable withholdings. In fact, for these six months I was unable to learn anything about this consultancy, even how much or when I would be paid. I also have not had the repayment of the nominal expenses I incurred at the outset. While I was providing the Civil Division with regular progress reports, it was representing to that court that it was unaware of whether or not I was proceeding with the consultancy.

16. Two Civil Division lawyers testified before the Senate Subcommittee on Administrative Procedures and Practices on October 6, 1977. Faced with questions about noncompliance with some 25 of my requests, some about a decade old, these lawyers

testified to the Senate that they were doing something about that matter. On January 16 of this year, in C.A. 77-2155, the Civil Division assured this Court that, although as of then I still had not been provided with the information sought in any one of those requests, they were then accomplishing compliance with the second of the FBI's releases of records relating to the assassination of President Kennedy. That was a false representation. It was not possible to comply with those requests by giving me the second of these releases.

17. As printed by the Senate, this October 6 testimony states that the Division's Deputy Chief had met with me to work matters out. In fact, we did not meet for another month after this testimony, not until November 11. Those matters still have not been worked out. I am still unsuccessful in obtaining public information requested a decade ago. I still do not have copies of records that were provided to later requesters. United States Senators interested in the Act will be deceived and misled by this testimony which clearly was edited to make it misleading after it was given.

18. Within my experience government counsel have gone to my counsel's home the night before a court appearance, handed him several hundred pages of uncollated technical data that I had not requested, and then represented to that court that I was ungrateful because I had been provided so many pages and I still was not satisfied. It is as a result of such practices that this case (C.A. 75-226, formerly C.A. 2301-70) is now eight years old and is before the appeals court for the fourth time.

19. I was before this Court in C.A. 2569-70. On the government's assurance that it would take certain photographs of President Kennedy's clothing for me, this Court dismissed that case. The government gave this Court false assurances. It had not informed this Court that it had destroyed some of the evidence I sought in C.A. 2569-70 and thus could not photograph it. In addition, it changed controlling National Archives regulations after representing falsely to this Court what was required by the then existing regulations. The ex post facto change made the regulations consistent with the false representations to this Court.

20. These are not all-inclusive illustrations. There are numerous other such illustrations.

21. I believe I am unique in the knowledge I have acquired in these cases and in the expertise credited to me by the Department of Justice.

22. In C.A. 75-226, which is the first case filed under the Amended Act,

I seek the evidence I sought in C.A. 2301-70, which is the case cited by the Senate as requiring the amending of the investigatory files exemption of the Act.

23. In C.A. 75-226 government counsel misrepresented to that court with consistency. The Department also filed a series of false affidavits. In one instance, an FBI agent swore that certain tests the results of which I seek had been performed and that they had not been performed. Another then retired FBI SA testified to still a third version.

24. When I provided affidavits to that court establishing the infidelity of the FBI's affirmations, the government made this response:

In a sense plaintiff could make such claims ad infinitum since he is perhaps more familiar with events surrounding the investigation of President Kennedy's assassination than anyone now employed by the FBI.

25. The Civil Division has bestowed similar credentials upon me in my C.A. 75-1996, as stated above in Paragraph 15. It represented to that court that I am essential to compliance because I am possessed of unique knowledge and could perform services the Civil Division could not obtain from the FBI. As a result I have been the Department's consultant since November 21, 1977.

26. In this affidavit I draw upon the personal knowledge of fact relating to the crimes, the official investigations of these crimes and records of these investigations and upon a decade of personal FOIA experiences.

27. Records relating to political assassinations appear to be special FOIA cases to the government. In all my many cases there is not one in which there has not been false official representation. It is commonplace for the agencies involved in the investigations to deny the existence of records I seek. The two recent examples of this came to my attention on May 25 and 26. One, before this Court, is the case in which Michael Levy is the plaintiff. My knowledge of the Levy case is limited to what was reported of what transpired in court on May 24.

28. My prior requests for the records Mr. Levy seeks are without compliance by the Secret Service, the FBI and the CIA. These requests go back more than a half-dozen years.

29. I was assured by the Secret Service that it would provide me all the information it had relating to the assassination of President Kennedy by deposit in the National Archives. Based on this assurance, I filed no FOIA suit against the Secret Service.

30. My requests of the CIA include every record of any form or source

relating to the assassination of President Kennedy. There has been little compliance. I have not received the records Mr. Levy seeks. (In all cases, going back to early 1971, the CIA has failed to comply.)

31. In C.A. 75-2155 this Court was assured by the Civil Division that providing me with FBI records that were to be released two days later would comply with some 25 requests I had made of the FBI. It is not possible to comply with my requests from those records. For example, since January I have received only five photographs of President Kennedy's clothing - photographs I stated I did not want substituted for photographs I stated I do want. There has been no other FBI "compliance" except as will be detailed below relating to "compliance" with regard to Yuri Nosenko.

32. It is my experience that there is no compliance until suit is filed. It is my experience that once suit is filed the government still seeks to avoid compliance, particularly with subject experts like Mr. Lesar and me.

33. The second example referred to in Paragraph 27 is for records that were provided to another requester, records I asked for in C.A. 75-1996. When these records were provided to Morton Halperin and the Center for National Security Studies, they received extensive attention. Of all the records included in that request, these alone received any press attention of which I know. These are records from former Director Hoover's files. I made repeated requests of the FBI for the searching of files it refused to search, including those of Director Hoover. Even after the FBI searched Director Hoover's files and provided copies to Mr. Halperin, it did not provide me with copies.

34. These and other similar records remain withheld from me even after their 1975 use by the Senate Select Committee on Intelligence agencies (Church committee). It is I who informed the Washington Post that the only records of those released to Mr. Halperin about which it asked me and about which it reported were in the record of the Church committee. (Story attached as Exhibit 1.)

35. For more than a decade these discriminatory practices have been hurtful to me and the work I seek to do. They also limit the services I can render the press.

36. In this Halperin case I believe that the practice results in "news management" and in the killing of major-media interest in other important records within those released. Repetition of what had already appeared in the press did not result in any new exposure of FBI misdeeds. I believe that this accounts for withholdings from experts like Mr. Lesar and me.

37. Another means by which the Department circumvents or frustrates the Act and seeks to misuse the courts to deny public information is to file false or misleading affidavits and then for government counsel to extend what these affidavits can be interpreted as meaning. Examples in the instant cause relate to the (b)(1) and (b)(7) exemptions.

38. In not one of the Department's affidavits in the instant cause is there an unequivocal affirmation that the withheld information is not public domain. In not one of the affidavits is there an unequivocal affirmation that the affiant even knows what is public domain. In fact, the public domain is withheld.

39. Instead of such an unequivocal statement, that what is withheld is not in the public domain, there is the evasion of the affidavit of James P. Turner. It states no more than that the information "is not known to be within the public domain." Mr. Turner does not state this of his own knowledge. He does not state whose knowledge he believes it is or upon which he draws. That the Office of Professional Responsibility (OPR) Task force personnel did have such knowledge is withheld from the Court. One proof of this knowledge, its bibliography, is attached as Exhibit 2.

40. This bibliography discloses the use of public sources. It also discloses the avoidance of important public sources. One is the record and report of the Church committee. Another is my book, FRAME-UP, the only substantive work not in accord with the official explanation and "solution" of the King assassination. Another and an important one is the transcripts of the two weeks of evidentiary hearing in Ray v. Rose in federal district court in Memphis during October 1974. (If the Department did not have these transcripts, they are with the clerk of the court. I have copies and would have provided them, as I did to the House Select Committee on Assassinations even though I oppose it.)

41. Other OPR knowledge of the public domain that is circumvented in this instant cause is reflected on pages 12 and 13 of the OPR report, attached as Exhibit 3. Sources cited in Exhibit 3 did make public what the Department withholds in this instant cause.

42. Another means by which the Department seeks to mislead and misinform this Court by affidavits is by providing affidavits executed by those who do not have first-person knowledge instead of providing affidavits by those who do have first-person knowledge. This is standard Departmental practice in my FOIA cases. An example in this instant cause is the affidavit of FBI SA Horace P. Beckwith. It is not a first-person affidavit. That it is false, misleading and factually incorrect

is addressed below.

43. A variation on the practices reported in the immediately preceding paragraphs is represented by the affidavit of Shelby County (Memphis) District Attorney General Hugh M. Stanton, Jr. In Mr. Stanton's affidavit he and the Department withhold any account of his unusual personal involvements in the King assassination case and his personal knowledge that some of the information withheld is in the public domain. In later paragraphs of this affidavit I state personal knowledge of these involvements, in addition to what I state in Paragraph 31 of my affidavit of May 22, 1978.

44. Affidavits not based on personal knowledge are used to justify the withholding of the public domain. This withholding of the public domain extends into the uses of exemptions (b)(1) and (b)(7). As best I can determine because of the nature and extent of the withholdings I believe the most extensive withholding of the public domain is by use of the privacy claim. The Department states its withholding under the privacy exemption is necessary "because [its] disclosure could cause serious damage to valued reputations or at the very least could lead to embarrassment or other personal discomfort." Nothing could be more opposed to my extensive FOIA/PA experience with the Department and the FBI, including in C.A. 75-1996, for records related to the King assassination.

45. Departmental and FBI uses of the privacy exemption are consistently inconsistent when not downright ludicrous, or, with the FBI, the playing of dirty political games. The right to privacy is a proper concern - if there is privacy to protect. The record of the FBI is of not protecting the privacy of those it does not like, not even from its own fabrications. It uses privacy claims to make work, to harass, to inflate statistics relating to the costs of FOIA requests and to withhold what is not within the exemptions. With regard to the King assassination investigation and the records generated by its own campaign against Dr. King, the withholding of what is well known to be within the public domain is commonplace. It exists in this instant cause. So determined is the FBI to misuse this exemption that in C.A. 75-1996 it refused a consolidated index of the books on the assassination of Dr. King to be able to continue to withhold the public domain. At no point in the processing of something like 50,000 pages did it stop withholding public knowledge.

46. With regard to King assassination records the FBI withholds from me under claim of privacy what is public in all the books on the subject. Virtually

there was extensive FBI investigation to label this white minister as "red." His name is not withheld.

I. Because a black Memphis minister was a community leader in support of the sanitation strike and of efforts to improve the entire Memphis community by creating new employment and educational opportunities, he became the subject of extensive FBI investigation. When he was reported to be planning to attend a religious peace meeting in Prague, he was labeled "red." There was widespread distribution of these and other similar records.

51. The extent of the FBI's domestic intelligence activities in Memphis is incredible, as is its disclosure of personal information and misinformation about countless private matters, including personal and political associations and beliefs. Where these people held views or engaged in activities not approved by the FBI, there was no privacy concern, no withholding of names, often with addresses, and there was widespread distribution.

52. The FBI's concern for the privacy rights of those it does not like is so great that when I sought to obtain all its records relating to me (and the request was more than two years old) in order to be able to file a correcting statement, the FBI refused to respond to my letters. Mr. Lesar also received no response. The FBI then released false and defamatory records, with some overt fabrications by the FBIHQ.

53. One such illustration is the total fabrication that my wife and I celebrated the Russian Revolution every year. As best my wife and I can figure out what was corrupted into the deliberate defamation, it was a religious outing after the Jewish high holidays. (These do not coincide with the time of the Russian Revolution.) Rather than "reds" our guests were Washington area Jewish military service personnel and their families. When my first book critical of the official investigation of the assassination of President Kennedy was attracting attention and the White House became interested, this is included in the defamations the FBI gave President Johnson.

54. Another illustration is a deliberate FBIHQ fabrication of nine years ago, clearly designed to hide from the Justice Department what subsequently became known of the violence the FBI precipitated as part of its "Cointelpro" activities.

55. J. B. Stoner, who prides himself on being a racist and an anti-Semite, told me of the disclosure to him of the fact that several men identified as FBI operatives had sought to entice him into acts of racial violence. Nine years ago this might well not have been believed in the Department. Since then, including from Congressional investigations and from information requests, these FBI practices have become well known. The FBI lied/and defamed me to continue to hide from the ^{about}

the Department its inspiration of violence and other criminal acts. In fact, when the Internal Security Division reported what I had told it to the FBI, the FBI top brass then created false records in which it is represented that I, a Jew, was conspiring to defame the FBI with a man whose belief is that the only thing wrong with niggers is Jews.

56. Other FBI records relating to me range from careful distortions to outright falsehood.

57. The FBI also does not like Bernard Fensterwald. Mr. Fensterwald and I had been part of the pro bono Ray defense. Mr. Fensterwald also had been chief counsel for the Senate committee that investigated FBI wiretapping activities when its chairman was the late Senator Edward Long of Missouri. Mr. Fensterwald organized a group called the Committee to Investigate Assassinations (CTIA). When Mr. Fensterwald became chief counsel to James Earl Ray and the Memphis prosecution asked the FBI for information about him, the FBI made a "name check" and provided nasty records as it also did with me.

58. Political slurs on the wealthy Fensterwald family, including his mother and sister, are included in FBI records. The FBI characterizations of Mr. Fensterwald as "untrustworthy and unscrupulous" are not withheld. (Exhibit 4)

59. A critic of the FBI and of the Warren Commission who also criticized the FBI's work on the King assassination was photographed in sexual activity. The FBI has made extensive use of these photographs. The public press reported several years ago that the son of former Warren Commissioner Hale Boggs still has copies of those photographs given to his father by the FBI. They have been described to me by newspaper reporters and by others, including an assistant district attorney. Copies were given to the Clay Shaw defense when he was under indictment in Louisiana.

60. The FBI did not like Marina Oswald. When her husband was killed, she at first refused to see the FBI. After the Secret Service, to which she spoke freely, persuaded her to be interviewed by the FBI, she was critical of the FBI before the Warren Commission. She accused the FBI of pressuring her. The former Mrs. Oswald is remarried. She has three children. Her two girls are teenagers. What Mr. Metcalfe describes as the FBI's great concern for privacy and for not releasing what can cause harm or embarrassment is illustrated in the FBI's recent release of FBI surveillance records on Mrs. Oswald for the period just after she was widowed. It includes details of her nocturnal sexual fantasies, her confession of sleeping with her business agent

(who had been provided by the Secret Service), her explanation that she thought he had been sterilized and even her inquiry about drugs that might quench her longings and still her fantasies. This information was regarded as so urgent by the Dallas FBI it was rushed to Washington by teletype. Airmail was not fast enough. (Teletype attached as Exhibit 5) Earlier the FBI released page after page of details of Mrs. Oswald's second pregnancy. (The name of the married business agent is not withheld.)

61. This exemplification of the FBI's refusal to release records that "could lead to personal embarrassment or other personal discomfort," its genuine anxiety to avoid "serious damage" to reputations, is its practice in the King assassination as it was with regard to its surveillances on Dr. King. The assassination investigation was a Ray investigation, the FBI having decided without investigation that James Earl Ray was the lone assassin. The FBI believed that because one brother, John Larry Ray, was not saying what the FBI wanted to hear, he was not being truthful and helpful. The FBI also did not hear what it wanted from a barmaid employed in his bar by John Ray. The FBI's investigation of the killing of Dr. King extended to John Ray's bed and the sharing of it by his named barmaid. (Exhibit 6)

62. The other Ray brother, Gerald William (Jerry), was talkative and an unimaginative liar. Instead of seeking to pressure him, as it did John Ray, the FBI kept Jerry Ray under closer surveillance. It knew from his intercepted mail when Jerry was making a trip to Camden, New Jersey, to visit a woman. The FBI then made an informant of her and reported in records released to me that Jerry Ray had stayed in her room with her. It disclosed her name in some records and withheld it in other records along with the always withheld name of another woman. In this instance, the FBI disclosed the name of an informant while violating her privacy in sexual matters. It disclosed even her receipt of money from Jerry Ray - \$40.00.

63. Jerry Ray had a brief marriage. He also had another brief relationship from which there issued an illegitimate son. Details of both are released and available in the FBI's reading room. The name of the former wife, the identification of her family and personal details of a private nature relating to her are not withheld under the privacy claim. From the released records it would not be difficult to locate the illegitimate son, his mother and his grandparents.

64. The FBI's concern for the privacy of Dr. King's family is well known. In 1971 I published a collection of what was in the public domain in a context I hoped would bring these leaks to an end. Ever diligent to prevent "serious harm," as is now well known, the FBI pieced together assorted tapes and mailed them to

Mrs. King. This was part of an FBI effort to induce Dr. King to kill himself. Among the records released to me are details of an urgent investigation ordered by FBIHQ. This "national security" inquest followed Mr. Hoover's receipt of a letter from Walter Winchell together with a letter Mr. Winchell received from one of his "fans," a cabdriver. The cabbie had driven Dr. King and several of his associates to the New York airport. A white woman who accompanied them kissed Dr. King as he left the cab. The cabbie did not regard this as a "goodbye" kiss. Therefore, Director Hoover didn't, either. He ordered an immediate "national security" investigation to learn the woman's name. The name and address of the cabdriver were not withheld.

65. The Department argues that Mr. Lesar's "reliance" on the Attorney General's Memorandum on FOIA is "misplaced: because "the particular portion quoted ... applies only to those situations in which an agency harbors 'substantial uncertainty' as to whether the privacy invasion is warranted." In this instant cause reflection of "substantial uncertainty" is manifest in records relating to the spurious basis for the FBI's contrived "national security" investigation of Dr. King. First the FBI invented a "communist" influence on him and his Southern Christian Leadership Conference (SCLC) through Stanley Levison and Hunter Pitts O'Dell. (The second name appears in other formulations.) Long after the most diligent investigation, complete with extensive electronic surveillances, failed to yield any confirmation of the contrivance improvised for the indulgence of the Director's paranoidal views, this spurious pretense was clung to. The only visible "substantial uncertainty" appears to relate to the release of the Levison and O'Dell names. In some records they are released, in others they remain withheld. Some of this withholding - of the public domain - is attributed to a (b)(1) claim. There is no recent biography of Dr. King of which I knew in which these names do not appear. Stanley Levison was so prominent a personality in the NBC-TV "docudrama" titled "King" it led to considerable public protest from some of Dr. King's former associates and other prominent blacks.

66. The FBI's continuing anxiety not to risk "serious damage" to Mrs. King and its intent not to intrude into her privacy are reflected in the release to Mr. Lesar in abbreviated form of what was released to me in full, a high-level internal FBI record accusing her and Dr. Ralph Abernathy of keeping "conspiracy" rumors alive in order to commercialize the assassination of her husband. This record (attached as Exhibit 7) is defamatory. It is at best an interpretation of what was

overheard on prohibited electronic surveillance. The record of the Church committee discloses that a year before this wiretapping of Mrs. King, Dr. Abernathy or both, the Attorney General denied tapping permission. This tap, in fact, was a year after Dr. King was assassinated.

67. This FBI interpretation of a "rank trick to keep the money coming in to Mrs. King" represents a different kind of privacy concern, privacy for the FBI. The scheme to publicize the intrusion into Mrs. King's privacy concludes, "We can do this without any attribution to the FBI and without anyone knowing that the information came from a wire tap."

68. Often enough there is the ludicrous in privacy claims. One example is the withholding of the name of the public-relations director of Look magazine. (Exhibit 8) Public relations is, of course, a public function, a role requiring contact with the press. In this case the name is that of Leonard Rubin, who when I last heard could be found at Playboy.

69. Other records not withheld include allegations of homosexuality, impotence, various kinds of medical records, records of emotional illness and hospitalization for it, even of the contracting of venereal disease, all without removal of names. After the assassination there was particular FBI interest in the reported psychiatric record of one of Dr. King's closer associates. The FBI investigated his mental health after that preacher espoused other than the FBI's explanation of the crime. His name is not withheld.

70. What may be the reductio ad absurdum in this instant cause is on consecutive pages of the OPR's notes on the FBIHQ MURKIN files, pages 98-101. (Attached as Exhibit 9) Names withheld on one page are not withheld on other pages.

Even if
71. ~~were it~~ not for what the foregoing paragraphs represent about FBI, OPR and other Departmental uses of the privacy exemption, any inference that in seeking disclosure of some of what is withheld either Mr. Lesar or I intends to violate the privacy of Dr. King's survivors is baseless. There is precious little privacy that has survived the FBI. FBI and OPR practice with respect to privacy issues is at best whimsical and inconsistent and is always without consideration of what is in the public domain. The record is one of misuse of the exemption, of not meeting its requirements with regard to those whom the FBI does not like and claiming the exemption to withhold what is not subject to withholding. In my experience proper considerations of privacy get lost in the actualities of Departmental practice.

72. There sometimes is a perfectly proper and necessary need for secrecy

with regard to the actual identification of informants and of sources who are not full-fledged informants. Actual practice is not as represented by the Department. The apparent purpose of misrepresentation is to extend the exemption in an effort to hide transgressions in this instant cause and, if there is precedent, in other cases. To accomplish this, Department counsel state what is not fact and what is not supported with regard to disclosure of actual identification of informants. There is no question of identification of informants in this case and there is no danger of its happening. What is or can be involved in disclosure of symbol identification also is misrepresented. Symbol identification is a filing designation and in some instances a means of hiding actual identification when that is necessary. The symbols also indicate the nature of the informant's activity, as in criminal, security or racial matters. The field office is included, as is a number.

73. It simply is not true that the FBI never discloses the actual name of an informant. It also is not true that disclosure of the symbol makes correlation with the name possible, the Department's representation in this instant cause.

74. In particular it is untrue to allege that any use by any requester of the symbol without a name is "hypothetical." I do not recall any such allegation by any FBI agent. I am certain that all FBI agents know better than to state what Mr. Metcalfe states in this regard.

75. I illustrate with the case of an agent informant whose name and symbol both were disclosed to me and to others by the FBI. There is no value to me in the name and I have no special interest in the name, which is Morris Davis. His symbol is BH 1079-PCI. I can read any one report of information attributed to BH 1079-PCI relating to the King assassination and know immediately not to trust anything BH 1079-PCI told the FBI. Having read more than one report, I can state unequivocally that I can pinpoint the public domain and bad street information sources of all the baloney he sliced for the FBI. Birmingham FBI agents initially might have no way of knowing this but FBIHQ and a subject expert would have no doubt at all. BH 1079-PCI's "Liberto" story, for example, comes from the work of the late Bill Sartor, whose name the FBI persists in withholding on the claim to the privacy exemption. Bill Sartor, some of whose original notes and manuscripts I have, was a "stringer" for Time magazine in Memphis on the King assassination. I quoted one of his relevant articles in my book FRAME-UP. BH 1079-PCI's "Prosch" story is embellished from news stories. By the time BH 1079-PCI started giving the FBI bad information, anyone familiar with the subject would know what he took straight from others and

what he embellished. This is not "hypothetical." It does illustrate the importance of the symbols to subject experts as a means of evaluating the original information and the use, if any, made by the Department and the FBI.

76. This is especially relevant with the OPR and its report because the report draws heavily on the most undependable FBI sources.

77. Attached as Exhibit 10 are some of the FBI records relating to Morris Davis. These files reflect ulterior, political purposes in turning Morris Davis or BH 1079-PCI over to the House Select Committee on Assassinations. The FBI did it knowing that Davis's information on the King assassination was totally undependable and wrong. These documents do not reflect it but everything Davis said had been investigated and disproved earlier by the FBI. This is how FBIHQ knew it was passing bad information and a conspicuously bad source over to the House committee.

78. In turning BH 1079-PCI over to this committee the FBI was well aware of what to expect: utter irresponsibility by the committee; and, if there is truth to the claim that harm befalls exposed informants, the certainty that Morris Davis would be subject to harm. In fact, Davis complained to the FBI about a number of matters, ranging from the conspicuously unprofessional public conduct of the House investigator, which could have endangered Davis, to being turned over to Mark Lane by the committee. At that particular moment Lane was engaged in extensive public appearances to promote a dubious book. Lane holds the FBI responsible for the King assassination in a plot that extended to Director Hoover - wild and false but merchantable allegations.

79. There can be little doubt to those professional investigators, the FBI, that this committee is engaged in dredging the most stagnant swamps of assassination mythology. In turning the Davis and other records of that kind over to the committee, the FBI was misdirecting the committee. This serves to turn the committee away from investigating the FBI. (Under its present chief counsel there appears to be a high probability that the exploring of fictional reports of which those by Davis are characteristic will be the committee's substitute for a real investigation. Having proven what was not worth a second thought is baseless, the committee will then be able to declare, in the J. Edgar Hoover tradition, that it "left no stone unturned.")

80. One of this series of records turned over to the House committee relates to J. B. Stoner (see Paragraph 55 above). The two different copies of the one teletype were both provided to me by the FBI.

81. Under date of November 8, 1977, I wrote the FBI specifying what was in the public domain that it was withholding in this series of files. I have not had

acknowledgment and of course no replacement copies.

82. In Paragraph 76 I state that the OPR made use of some of the FBI's most irresponsible sources. The OPR also assumed James Earl Ray's guilt. OPR was hard pressed to find a credible motive so it drew upon pathological liars like Raymond Curtis. From such materials the OPR theorized Ray motives of racism and expected financial reward from southern business interests. None of this information was sound. When the FBI checked out a report of a \$100,000 bounty on Dr. King, the untruth had more substance than existed in most such reports. This one came from a misunderstanding. (Exhibit 11 is a relevant page from FBIHQ file 44-38861-5154.) In virtually all other instances the fabrication was total. But these allegations are presented seriously in the OPR report. It gives Ray the dual motive of racism and financial reward. It gives no names for any sources, however, not even those that are in the public domain, like that of Raymond Curtis.

83. Curtis is a publicly known FBI source, although it continues to withhold his name in some records. Davis is a publicly known informant. Despite this the FBI refuses to replace copies of records from which his name, too, is withheld. There is importance in not withholding what it is not necessary to withhold. Unnecessary withholdings can lead to harm to the innocent from misunderstandings. In a case the Attorney General has designated as historic, all possible information should be available. Accuracy of the available information is important, as is independent means of making evaluations of official statements and conclusions.

84. The Davis case shows it is not true that the FBI never discloses the identity of an informant. However, disclosing the name is not the present issue. Disclosure of the name, which is an identification whereas the symbol is not, shows that any representation of the certainty of harm to an informant from disclosure is not true. Most informants are not Valachis.

85. No harm has come from disclosure of the Davis symbol with his name. The disclosure of symbols, not names, is the issue. They are symbols, not "codes," as the Department represents, using "codes" in the sense that codes can be broken. Nothing like that is possible because the symbols are arbitrary, not coded. Despite this, the Department states that "public disclosure and analysis" of these symbols "could ultimately lead to their complete ineffectiveness" and "significantly harm specific governmental interests."

86. I have prior experience with this argument. It was made in my C.A. 2301-70 in an affidavit by since-retired FBI SA Marion Williams. In that case my

request was for final reports of certain nonsecret laboratory testing of materials in the investigation of the assassination of President Kennedy. SA Williams stated that my request for final reports was a request for "raw materials." He then stated if this laboratory information were given to me that, too, would lead to the destruction of the FBI's informant system. That affidavit was the basis on which the Department prevailed in C.A. 2301-70. That case was instrumental in the 1974 amending of the investigatory file exemption. When I refiled that suit as C.A. 75-226, the FBI immediately and voluntarily provided me with the identical "raw material" the disclosure of which it had alleged would lead to the destruction of its informant system. Its informant system has survived these three years. Now disclosure of a filing designation that is not "coded" to any name is held forth as the newest hazard to this informant system.

87. The Davis case is not a unique case of FBI disclosure of informant identification. On an even larger scale it has disclosed the identification of sources.

88. The FBI voluntarily disclosed that one Carlos Quiroga of New Orleans was an informer and that his associate, Carlos Bringuier, was a source, whether or not an informer. These two men are anti-Castro Cubans whose involvement with Lee Harvey Oswald resulted in Oswald's receiving much attention as pro-Castro and "red." The FBI also disclosed Mr. Bringuier's source - known to me to have been an informant for the local police at that time. (The CIA has also disclosed that Mr. Bringuier provided it with information.)

89. On the other hand, in the King case the FBI withholds the fact that the deceased William Somerset was its informant by withholding his name from records it has released to me in C.A. 75-1996. When I informed the FBI that Somerset was known as an FBI informer and was also dead, the FBI nonetheless refused to replace the copies of records from which there was this unjustifiable withholding. With Mr. Somerset, who had been cut loose by the FBI because his information was so undependable, there was no possibility of harm befalling him after he was dead. To the best of my knowledge, Mr. Davis, Mr. Quiroga and Mr. Bringuier are alive. Yet I have not heard that any harm has befallen any one of them because the FBI has made public their associations with the FBI.

90. The FBI has also disclosed to me the name of one of its sources who gave it information about me. No harm befell this person, unless he was harmed by my sending him copies of what had been provided to me and telling him how I obtained it.

91. I have copies of many thousands of pages of FBI records that have always been readily available at the National Archives. I have not seen a single one of these records that was made available on the orders of Director Hoover that eliminated the name of a single source or any one that withheld the symbol of an informant. It was not until after the enactment of FOIA, much more after the 1974 amendments became effective, that I began to receive FBI records with these kinds of withholdings.

92. Until after the Act was amended I do not recall the withholding of a single FBI name. Then it became general practice. I also do not know of a single report of any harm befalling any of the many hundreds of FBI agents whose names were not withheld.

93. Another form of source withholding in this instant cause is misrepresented by the Department in affidavits and by counsel. What is sought is the withholding of what can provide independent assessment of the OPR report and the disclosure of evidence that can tend to undermine, if not in fact disprove, the official explanation of the King assassination. This particular source is police reports, from Atlanta . and from Memphis. In neither case is there any Departmental evidence showing that the content of the reports is not public domain. In fact, some of the content of what is withheld together with some of the actual pages of what is withheld was disclosed to me by the FBI in C.A. 75-1996. There is little likelihood that any substantial information in the Memphis police reports is not public knowledge, largely because it was made public by Memphis authorities.

94. From extensive prior experience with FBI avoidance of first-person affidavits and from prior personal experience with SA Horace P. Beckwith in FOIA matters, my attention was immediately attracted to his providing of an affidavit attesting to a search in this instant cause that he did not make. In the past it has been my consistent experience with the FBI that one of its means of withholding what might otherwise not be withheld is by the tactic of having an agent without personal knowledge execute the affidavit attesting to the search. My prior experience in all cases is that careful checking of nonfirst-person affidavits shows they represent what would be false swearing if executed by one of firsthand knowledge.

95. My attention to SA Beckwith's affidavit was further attracted by typical FBI semantics commonly used to provide a cover for secondhand and dubious statements to justify withholding under (b)(7)(D). In SA Beckwith's affidavit one formulation is, "I specifically requested a review of the material furnished the

FBI by the Atlanta, Georgia, Police Department. I was informed that 29 pages were received ... These documents are included in the FBI file on the assassination of Dr. King and are specifically located in Atlanta file number 44-2336, Serial 1215." (Paragraph 2, emphasis added) Mr. Beckwith does not state that he knows what "material" was "furnished" by the Atlanta police department. If he was "informed that 29 pages were received," he does not state that no more than 29 pages were furnished.

97. My attention was further attracted to these formulations because, as SA Beckwith should have known, these records should also be "specifically located" in my own files as a result of C.A. 75-1996 and under stipulations sought by the FBI in that case. These stipulations required that I be provided with copies of all nonexempt FBI Atlanta field office MURKIN records not already provided from FBIHQ files. SA Beckwith provided a nonfirst-person affidavit regarding compliance with these stipulations.

98. Still without claim to first-person knowledge, SA Beckwith states, "I was informed" that "the police department transmitted these documents to the FBI in confidence for investigative assistance during the investigation of Dr. King's assassination." (Paragraph 2)

99. The language of footnote 17 (Memorandum, page 12, citing footnote 21 of the Motion, page 17), together with the avoidance of any description of the content of these 29 pages, led me to make the careful check that was possible in this case. While I do not have most of the records withheld from Mr. Lesar in this instant cause, what SA Beckwith refers to clearly is required to have been provided to me in C.A. 75-1996.

100. My first discovery is that "the" King assassination file in Atlanta is not 44-2336. It is 44-2386. While this might be attributed to human error, SA Beckwith's other misstatements are not easily explained as human error.

101. Serial 1215 is in Volume 9 of the Atlanta FBI records. The FOIA processing worksheets for Serial 1215 and a check of the Serial itself, both provided to me in C.A. 75-1996, do not reflect that this Serial is of the 29 pages, although it is. These worksheets also represent that no part of Serial 1215 was withheld from me.

102. It also is apparent to me from checking my own files that SA Beckwith could have provided a different and a first-person affidavit relating to the Atlanta police department records from his own personal knowledge of FOIA procedures of the

FBI and from his personal involvement in C.A. 75-1996. All field office records provided to me in C.A. 75-1996 were sent to FBIHQ where they were processed. FBIHQ has copies of what it processed for me. The records I cite in the immediately following paragraphs are all records that exist within SA Beckwith's FOIA unit. They are not only as he and the Motion and the Memorandum represent, in the Atlanta Field Office.

103. "Not Recorded" Atlanta Serial of which two copies were sent to FBIHQ is particularly relevant. The copy attached as Exhibit 12 was provided to me under the stipulations in C.A. 75-1996. This August 4, 1976, "Airtel" from the SAC, Atlanta, to FBIHQ reports the providing of copies of all volumes of its MURKIN file only, "namely Atlanta 44-2386," to members of the OPR task force. It enclosed "five copies of an LHM plus one xerox of 29 pages of material" from the Atlanta police. "During this review," the Atlanta SAC reported, "Task Force Member James Walker ... requested a Xerox copy of two serials in this file, namely 44-2386-1214 and 1215, which consisted of 29 pages of material ... relative to people who in the past had threatened the life of MARTIN LUTHER KING. A Xerox copy of this material was furnished to Mr. WALKER." (Other records relevant to the King assassination are not included in MURKIN.)

104. The Letterhead Memorandum attached to this "Airtel" reflects only a limited Task Force inquiry in Atlanta. It does not reflect a serious effort by the Task Force to meet the obligations seemingly imposed upon it by the Attorney General. This can provide motive for some of the withholdings in this instant cause. Atlanta was one of the areas of most active investigation in the King assassination because of the presence of James Earl Ray in that city and because he abandoned an automobile there. Atlanta also is the city in which Dr. King lived and where his office and church were located.

105. The 29 pages are of two Serials, not the single Serial represented by SA Beckwith.

106. The worksheets are a list of the records provided together with all claims to any exemptions. The relevant worksheet page is attached as Exhibit 13. It shows that each of these Serials, as provided to me, is of but a single page and that each of the Serials was provided to me without any withholding. The obliterated entry under "Exemptions used" after Serial 1215 may indicate that at one point a claim to exemption had been made. This is borne out by markings I see on Serial 1215. These markings indicate that prior to review all the names, together with all the

information following them, were obliterated. Serial 1215, as provided to me rather than as described by SA Beckwith, is attached as Exhibit 14. Serial 1214 as provided to me and as described in the worksheet is attached as Exhibit 15. Serial 1212 (attached as Exhibit 16) establishes the origin of Serial 1215 and provides identification of the person who signed it. (The worksheets do not account for Serial 1213. It was not provided to me.)

107. Whatever explains the factual inaccuracy in SA Beckwith's affidavit it is beyond question that:

29 pages of Atlanta police records are involved; the OPR had copies of these records as well as of any notes Mr. Walker may have made; after searches in both Atlanta and FBIHQ, although several sets of duplicate copies of these 29 pages are in the FBI's files at both places, not 29 but 2 pages only were provided to me; and the FBI, despite the stipulations and its assurances to the court in C.A. 75-1996, withheld 27 of these 29 pages and then provided a worksheet falsely representing that between them Serials 1214 and 1215 total only two pages rather than 29.

108. These facts raise substantial questions of FBI honesty and of FBI intentions relating to compliance and noncompliance.

109. Serials 1214 and 1215 as provided to me are information furnished by the Atlanta police. Serial 1212 establishes the identification of the police sergeant who signed Serial 1215. This is precisely the information represented in the Memorandum and the attached affidavits as requiring withholding from Mr. Lesar, yet it was not withheld from me. Mr. Metcalfe's representations (at page 14) are:

"... release of this information would seriously inhibit the FBI's relationship with its confidential sources and with other law enforcement personnel."
(Emphasis in original)

"Accordingly, defendant respectfully urges that the Court should allow defendant to preserve the confidentiality of these local law enforcement records."¹⁷ (Emphasis added)

110. If Mr. Metcalfe was led into these representations to this Court by his trust in what he was told by the FBI, they nonetheless are representations the falsity of which was known to the FBI when it misled Mr. Metcalfe, if it misled him.

111. The plain and simple truth is that this is not the only case in which the FBI has provided me with information from local police. It knows better than its representations on this matter. The Department also knows better because the Department was involved in the release of other such records from other local police. These other local police records relate to the King assassination, to the assassination of President Kennedy and to ancillary investigations in both cases. The FBI reading room, the National Archives and the Library of Congress all make publicly available records provided by local police.

112. Specifically with regard to Serial 1215 and generally with regard to

similar records of local police, the "confidentiality" alleged by the Department does not exist. SA Beckwith's representation (at page 2), "provided in confidence with the clear understanding that the FBI would insure their confidentiality," is not a truthful representation. Both quotations represent what within my FOIA experience is a new effort to withhold what under the 1974 amendments to the Act should not be withheld. This is not to state that there never is any such confidentiality. It is to state that in this particular instance and many others like it there is not and there never was the confidentiality represented to this Court.

113. Mr. Metcalfe and SA Beckwith both were involved in my C.A. 75-1996, together with a number of other FBI agents and Civil Division lawyers. In C.A. 75-1996 I was provided with hundreds of pages of local police reports. I was also provided with many pages of records from other local authorities, like prisons, departments of corrections and sheriffs. The FBI's stipulations in C.A. 75-1996 provided for giving me hundreds of pages of Memphis Police Department records.

114. Examination of Serial 1215 as provided to me also bears heavily on the fidelity of representations made to this Court in this instant cause on privacy. All those whose names are provided are alleged to have threatened Dr. King. This is also true of many other pages of FBI records provided to me.

115. The May 10, 1978, affidavit of James F. Walker makes no reference to these Atlanta Police Department records. Exhibit 12 identifies Mr. Walker as the member of the OPR staff who obtained copies of those records from the FBI Atlanta Field Office.

116. Although my suit for King assassination records was filed before the OPR reinvestigation was established and prior to the August 4, 1976, "airtel" by the Atlanta SAC (Exhibit 12), neither the Walker affidavit nor the "airtel" forwarding these 29 pages to FBIHQ alleges any restrictions on them or any confidentiality attaching to them.

117. Mr. Walker does repeat the self-serving statements of the affidavit of Mr. Stanton with regard to the Memphis police department records.

118. Mr. Walker's representation of the OPR's mission (in Paragraph 1) is "... review of Department of Justice and Federal Bureau of Investigation files relative to Dr. King." A "review" of "files relative to Dr. King" is not the announced purpose of the OPR's review. This phrasing omits half of the OPR's task and understates the other half to avoid the inherent and explicit criticisms of the

FBI. The announced purposes were to examine into the FBI's work in the King assassination investigation and into the FBI's campaign against Dr. King. That Mr. Walker should know better than this representation and fails to state the certainty that the OPR report would be critical of the FBI is disclosed in Exhibit 17, two FBIHQ records provided to me in C.A. 75-1996. An FBI note added to the second states that "... Robert Murphy ... has stated his summary will also take cognizance of the FBI's actions to discredit Dr. King." This also is reflected in the Department's press release on the OPR report. (Attached as Exhibit 18)

119. This press release establishes that the second possible claim of applicability of FOIA exemptions does not exist because there was no basis for the "security investigation" after 1963 - if there ever was. In earlier paragraphs I state I recall no claim to any law enforcement purpose in any of the Department's affidavits.)

120. Bearing on the dependability, informativeness and forthrightness of Mr. Walker's affidavit and I believe on Departmental intent to withhold and cover up is this language under "SYNOPSIS" of the second document in Exhibit 17: "... Robert Murphy ... [I]ndicated he had recently reviewed the Senate Intelligence Committee draft report ..." On the second page the FBI concludes that "it appears knowledge of the Senate Intelligence Committee's report dictated additional review pertaining to our actions to discredit and neutralize King." The OPR report is pretty much limited to what it knew the Senate report states.

121. In Paragraph 2 of Mr. Walker's affidavit there is reference to "copies of the relevant Memphis Police Department (MPD) records." There is no further description. Ambiguity is added by language indicating but not specifically stating that the MPD records in the prosecutor's office are only copies. In addition, what is "relevant" in the MPD records is limited to "files relative to Dr. King."

122. The same ambiguous language is used in Paragraph 3, "relevant documents" and no more. Paragraph 4 adds no further description. Slightly more is in the fifth and final paragraph which refers to a subpoena for "MPD records relevant to Dr. King's assassination." The subpoena is Attachment A.

123. Examination of the subpoena discloses no mention of the King assassination. Rather does it request "documents relating to the James Earl Ray case." This reflects a predetermination of guilt rather than the investigation supposedly ordered by the Attorney General. There is more to King assassination investigation than "the James Earl Ray case." Moreover, the subpoena holds no

reference to the other part of the OPR's mandate relating to the FBI's "Cointelpro"-type acts against Dr. King. I have copies of MPD records that are relevant to the OPR's mandate and are not included in the subpoena. I have personal knowledge of other of Mr. Stanton's files that are relevant to the OPR's mandate. Mr. Walker does not include these and still other relevant Shelby County records in his subpoena.

124. The subpoena is so vague and so general that some of it is without meaning to even a subject expert. There is not a single date in it. Some items, however, indicate that the MPD is not the exclusive source, as Mr. Walker's affidavit states it is. An example is the undated item "3. James Earl Ray Supplements, Attorney General's copy, pages 1586 to 1772." (emphasis added. If this relates to the State Attorney General, the absence of date makes it impossible to determine whether pages 1586 to 1772 relate to the evidentiary hearing of October 1974. If this is the case, then other issues entirely are raised. From personal knowledge I state that the evidentiary hearing produced the most serious and entirely undisputed evidence relating to the FBI's investigation of the King assassination as well as of "the James Earl Ray case." I have read the OPR report and found no such references in it.)

125. I have read the list of records in the subpoena. It is an inaccurate and incomplete itemization. It lists information that is not secret and is within the public domain.

126. With regard to witnesses' statements, as best it can be determined from the vagueness of the descriptions, at least some are public domain. Item 1 is "statements - State v. James Earl Ray pages 1400 to 1523." Information of this general description, as obtained from the Memphis police and as duplicated by the FBI's interviews, was provided to me in C.A. 75-1996. Information of this general description, often attributed to statements provided by the police, received extensive publicity shortly after Dr. King was killed. There was so much publicity of this nature that the judge issued gag orders and charged a number of persons with contempt. Also extensively public knowledge are Items 5.a., 5.b., 5.d., 6.a., 6.c., 7.b. and 7.c.

127. Three items relate to a fake citizens' band radio transmission. The FBI has given me copies of Memphis police department records of this investigation.

128. Item 5.d. is in error in representing there was but a single "detail with Dr. Martin Luther King, Jr., April 3, 1968." From the records provided by the

FBI in C.A. 75-1996 there were not fewer than three details with Dr. King, two for protection and one for spying on him and those in contact with him. Each of the protective details was headed by a named inspector of the MPD. The third, the spying detail, was composed of two black members of the MPD intelligence unit. Relevant MPD records were provided to me by the FBI in C.A. 75-1996. (All three details plus an FBI detail were present in the church the night of April 3, when Dr. King made his famous "Mountaintop" speech.) The subpoena does not appear to include MPD records relating to the spying detail but information on it is included in the OPR report, apparently in answer to the false charges against the FBI made by Mark Lane. He charged the FBI with complicity in the assassination over the withdrawal of one of the black intelligence unit detectives against whose life a number of threats of which I know had been made. I believe it would be unusual under these circumstances if the OPR did not seek copies of the MPD's reports, particularly because the text of the OPR report indicates it did not draw on the relevant FBI files made available to me in C.A. 75-1996.

129. With regard to Item 7.c., "return of mustang [sic] to Memphis," there never was any secrecy or any need for secrecy. But if there had been, aside from what was disclosed to me in C.A. 75-1996, Mr. Stanton's office assured there would be no secrecy. Mr. Stanton's office ridiculed the House Select Committee on Assassinations when it sent two investigators to inquire into green stamps reportedly left in the Mustang. This was a ludicrous exploit. The committee should have known of the FBI's thorough search of the car after it was located in Atlanta. The green stamps in question were public property because they were given when gasoline was purchased by the MPD officers who drove the car to Memphis from Atlanta.

130. With regard to the other items, the subpoena's descriptions make it impossible to state whether or not the information is public. Based on my knowledge of this case, the investigation and the disclosures of information, including at the guilty-plea hearing and at the evidentiary hearing, I believe it is not likely that any information was not made public with the possible exception of what contradicted the official position on the assassination.

131. All Departmental representations relating to withholding of MPD records are undermined by this language on page 18 of the Motion, "The confidentiality, of course, centered around the contents of the documents ..." (Emphasis in Motion) There is no FBI or OPR affidavit attesting that any of the contents is confidential. On the "content" basis I believe nothing is confidential. On the "content" basis,

I believe this information is included in the many thousands of pages provided to me by the FBI in C.A. 75-1996, in the many court proceedings and as a result of Memphis and FBIHQ leaking to the press.

132. Mr. Stanton's affidavit, like that of Mr. Walker, has similar defects. Mr. Stanton also does not state that any of the documents or their contents are not in the public domain. He implies this in a number of ways but does not state it. That it is not true is indicated in my affidavit of May 22, 1978, beginning with Paragraph 31 and in this affidavit beginning with Paragraph 125.

133. Never once having made reference to the content of the documents, the content being what is most important, according to the Department, Mr. Stanton states, "Had there been no concern over the confidentiality of these documents I would not have requested a court subpoena." Other explanation of the demand for a subpoena is available. The fact is that prior to the subpoena Mr. Stanton did give access to those files to the OPR task force, as the Walker affidavit states.

134. Mr. Stanton's prior involvement in the Ray case, of which he makes no mention, is another possible motive for Mr. Stanton's demand for a subpoena. In addition to what I state about this in my prior affidavit, I state that when Mr. Stanton was his father's assistant as public defender, they negotiated a "compromise" of 99 years. That was the maximum sentence then possible because there had been no executions for years. The trial judge himself stated this at the end of the guilty-plea hearing. (The trial judge also described it as a good deal for Memphis because Ray could have been acquitted and instead he received the maximum possible sentence.) Negotiations for a deal were begun by the public defender within a half-hour of being made co-counsel. Prior counsel and Ray both had rejected an earlier offer of a 20-year sentence. Because of the nature and terms of this deal when Mr. Stanton was Ray's counsel, now that Mr. Stanton is District Attorney General and can attempt to control access to the records, he has motive for not wanting copies to be available to those who do not agree with him on the crime and on this "compromise."

135. Mr. Stanton errs in stating that the files in question "were made available" at the 1974 evidentiary hearing. He personally refused to comply with the court's order. When on an informal basis rather than by a citation for contempt the judge persuaded Mr. Stanton to make a few gestures, a few records were produced later. I then examined all of those records. I recall nothing at all like the description of these police reports, certainly nothing of their volume.

136. In making copies available to the House Select Committee on Assassination:

for it to use selectively, to leak or interpret or misinterpret, Mr. Stanton did not, from his affidavit, provide any restrictions. He does not state, for example, that any member of the staff of that committee is prohibited from making copies and using them at a later date.

137. Mr. Stanton's claim that his predecessor maintained these files in confidence is not mere self-service - it is ridiculous. The content of those files was made available to those expected to write as Mr. Stanton's predecessor desired. Some was in the newspapers.

138. Mr. Stanton states, "I note in these documents that names of private citizens appear within these documents. I feel it would be betraying their trust and confidence ... if I did not object to their names being made public ..." Several hundred of those citizens were subpoenaed by Mr. Stanton's present office. That did make their names public. This led to those same citizens being publicized extensively all around the world.

139. Substantially if not all the MPD information was given to the FBI, which has provided me with copies of the FBI's versions and some copies of MPD records. Copies are also on deposit in the FBI reading room. Beginning the night of the assassination the Memphis Field Office began a series of daily teletyped reports, later considerably amplified, including information provided by the Memphis police.

140. It is not possible that Mr. Stanton does not know that at least some of the information in those files is public, as I state above beginning with Paragraph 125.

141. It also is not possible that Mr. Stanton does not know that limited and late as it was the investigation by the public defender's office cast substantial doubt on the case in the MPD files against Mr. Ray. I have read the reports of the public defender's office. Mr. Lesar and I obtained them under court order in 1974.

142. I have read both of the affidavits by FBI SA Lewis L. Small. He states he is an expert on classification. He does not claim to be a subject expert, even to have read a single news account on this subject. He does not state that any of the information he believes is classified properly under Executive Order 11652 is not in fact part of the public domain.

143. In none of the affidavits is there the claim that the relevant records were classified when they were generated. SA Small's affidavits do not address this directly but they leave without question that none of the records he reviewed was classified prior to January 17, 1977.

144. January 17, 1977, is six days after the first leak of the OPR report on Capitol Hill. Classification of January 17, 1977, was limited to Appendix A materials. All other classifications, by far the majority of them, were subsequent to Mr. Lesar's request. These classifications continued into 1978. Most of the classifications also were subsequent to the public release of the OPR report.

145. Apparently in seeking to explain away failure to classify these records as they were generated the Memorandum represents (page 6) that

"It should be noted that the classification resources of the FBI were not as readily at hand when these second-generation documents were generated."

While I do not recall any such provision of Executive Order 11652, I do recall that in C.A. 75-1996 I received records stating that the OPR review of the FBI's records was in special accommodations inside the FBI building, not inside the Justice Department building. The OPR records thus were more "readily at hand" for the "classification resources of the FBI" - if the Department was without any classification resources.

146. I have had extensive experience with claims to "national security" as recently as last month.

147. Over the years I have obtained hundreds of pages that had been withheld under "national security" classification. In no single instance have I found a single word that was properly subject to classification although "Top Secret" classification was common. It is not uncommon for "Top Secret" stamps to be used for unsanctioned purposes, even by those who lack classification authority. All the published transcripts of Warren Commission testimony were classified "Top Secret" until the Government Printing Office refused to set type on classified material. Court reporters use "Top Secret" stamps to prevent chaos in their offices. Just last month the FBI "declassified" for me a record that was never classified at all and another that was not classified until long after it was released to me and I had published it.

148. On May 23, 1978, I received from FBI FOIAPA Chief Allen McCreight two records relating to a Russian defector, Yuri Ivanovich Nosenko. The letter and the first pages of both records are attached as Exhibit 19. Mr. McCreight says this about these two FBI documents identified as Warren Commission Documents Nos. 451 and 651 (CD 451, CD 651), "The last review was in December, 1975" when they "were determined by the FBI to no longer warrant classification and were made available to the general public." This representation is not factual.

149. Mr. McCreight apologized because "These documents were not included among the approximately 98,000 pages of John F. Kennedy Assassination material released in December, 1977, and January, 1978. ... Our worksheets pertaining to the Kennedy Assassination material, in connection with the FOIA release, show the documents were withheld on the basis of ... (b)(1). This is in error and the claim for withholding the documents on this basis is hereby withdrawn." Nothing in this quotation is faithful and factual save for the confession of unjustified withholding.

150. I published the content of these two FBI records prior to the time Mr. McCreight states they were first "declassified." I broke into no secret files to do this. I obtained them and other relevant FBI pages from the National Archives in response to my request of early 1975. While these Archives records had been withheld and were stamped as declassified in March 1975, they had not been classified, as the first two pages, attached as Exhibit 20, show. This is to say that after almost a decade of withholding, the Archives declassified what was not classified - and that this was nine months prior to the time of first FBI declassification Mr. McCreight reports.

151. Despite what he wrote me, the copy of CD 651 provided by Mr. McCreight was never classified by the FBI. It not only bears no classification stamp, it bears none of the markings for declassification required by Executive Order 11652.

152. The copy of CD 451 provided by Mr. McCreight was classified - more than two years after it was "declassified" by the National Archives.

153. When FBI authority "2040" classified CD 451 on July 13, 1977, he also held it to be "Exempt from GDS Category 2,3." FBI's "4913" declassified this record on May 8, 1978, apparently on the basis of my request for something entirely different.

154. In some unexplained manner this record had had a "secret" stamp applied although the xerox I obtained from the National Archives has no such stamp.

155. Only the first page of CD 451 sent by Mr. McCreight bears any classification or declassification stamp.

156. Mr. McCreight and his staff have not yet gotten around to declassifying the other relevant pages I obtained from the National Archives in May 1975. I reported them, too, in my book POST MORTEM, which went to the printer in mid-October 1975.

157. Mr. McCreight also "advised" me that "a review of the file pertaining to Yuri Ivanovich Nosenko is being conducted to determine if any additional material

can be released to" me.

158. This actual request was for copies of Nosenko records made available to Edward Jay Epstein by the FBI after they had been withheld from me under my prior 1975 requests. The CIA and the National Archives refused to comply with my similar requests of both although my first requests of both agencies are of several years ago.

159. In a book titled Legend: The Secret World of Lee Harvey Oswald, and in extensive promotional appearances, articles and interviews Mr. Epstein represents that he obtained his "information" from these three agencies under FOIA.

160. In Legend Mr. Epstein actually exposed an important FBI "national security" informant known as "Fedora," described as "a Russian working under diplomatic cover" at the UN.

161. From first to this last my experience with "national security" claims is that they are bogus claims. This is not to say that there neither is nor can be legitimate claims of this nature relating to assassinations and assassination-related records. Rather is it to state that I have not seen a single record withheld under national security claim that justified the claim.

162. This is but the most recent of the FBI's rewriting of my requests. This also is what the Department seeks to do in the Motion and the Memorandum. At the beginning of each and in a number of references the key word in Mr. Lesar's request is omitted. As first expressed on page 1 of the Memorandum, his request is "for access to certain records pertaining to the assassination" of Dr. King. In Footnote 1 of the Memorandum, it is "sought information concerning the assassination investigation only." At the beginning of the Motion, it is "records ... which pertain to the investigation of the assassination of" Dr. King. (Emphasis added)

163. One always-omitted word alters the meaning given to Mr. Lesar's request. The word is "review." His request does not duplicate mine in C.A. 75-1996. It is for the records of the recent Department reviews described in foregoing paragraphs and exhibits. Although omitted by the Department, "review" appears in each of the Items of Mr. Lesar's request.

164. Consistent with my prior experience with the Department is its laying claim to exemptions requiring a law enforcement purpose or a legitimate national security investigation without offering proof of either.

165. Without this proof it also makes claim to the applicability of (b)(7) (E). It then alleges that "disclosure" would "impair" the "future effectiveness" of the techniques and procedures used against Dr. King without proof that there would

or could be a "disclosure." (The Department here substitutes "reveal" for "disclose.")

166. The operations against Dr. King used federal power and funds in the furtherance of Director Hoover's paranoidal weltaunschauung, not on genuine law enforcement or national security investigations. In pursuit of Director Hoover's objectives, the FBI used a variety of techniques and procedures. However, it has made all of them public. I have followed this closely for a decade. First, the FBI leaked details. Then, after Director Hoover was safely dead, his survivors confessed his sins for him, seeking absolution for themselves. I have read their prepared testimony and the published versions and I have read the Senate report. These leave little doubt that there remains no secrecy about the techniques and procedures they used, from live informants to poison-pen letters to fabricated tapes to electronic surveillances to the mails and even to efforts to prevent the awarding of the Nobel peace prize after it was announced and to cancel an interview with the Pope after it also was announced. (Perhaps these last are among the unspecified reasons SA Small cites diplomatic immunity without referring any records to the State Department.) The methods also are known, including such niceties as exploiting the prior criminal records of one in Dr. King's office to compel service as an informant inside his office, using non-FBI personnel in some of the more delicate and sensitive exploits and seeking to influence college administrations, all well-known practices.

167. All of these operations against Dr. King ended with his death more than ten years ago. Since then, as a result of many exposures, some forced by FOIA and PA, some seemingly voluntary and some because agents involved "defected," there has been considerable "disclosure" of all sorts of FBI techniques and procedures. The claims to exemption are general and conclusory. From my extensive study over a long period of time, I believe there remains no real possibility of "disclosure" of anything not already known about these techniques and procedures. There is no government affidavit even alleging that any technique and procedure not already known would be made known by any withheld record.

168. In all my prior experience when I have obtained copies of what was withheld it became apparent that withholding had not been justified. While in some instances the withholding may have been little more than stonewalling to waste me and my remaining time, in most instances what had been withheld turned out to be what was embarrassing to officialdom, which made false claim to exemption to avoid

exposure of the embarrassing.

169. Much of the Department's allegations is rhetoric. With regard to the Privacy claim (Memorandum, pages 9 et seq.) the claims fly into the face of the May 5, 1977, policy statement of the Attorney General himself. In the Motion (page 11) the feigned emotion is passionate in forecasting "wholesale release of investigatory files." While I read this with a sense of deja vu (see Paragraph 86 re C.A. 2301-70), I also compare this with the FBI's decision to release some 100,000 pages of JFK assassination investigatory files. To now that is the "wholesale" maximum. Initially, Director Hoover released most of the thousands of pages provided to the Warren Commission. These are investigatory files rich in sources and names not withheld. There were no excisions. That also was "wholesale." It was an appreciable portion of some 300 cubic feet of records. Mr. Metcalfe himself is now presiding over another "wholesale" release of other investigatory records to me. In C.A. 75-1996 the FBI opted to provide me with about 50,000 pages of investigatory files in substitution for my specific and much more limited request. I can see no possibility of any "wholesale" volume approximating what the FBI has released to me.


170. It is represented (Motion, page 19) that "this may be the first situation even in which a component of the Department of Justice (or perhaps any federal agency) has taken custody and control of local law enforcement agency records under circumstances leading to such FOIA susceptibility." (The implication of these records being only copies is without support.) This representation is not factual. Aside from some of these same Memphis records included in records provided to me are similar records of the State of Texas, Dallas County and City, the State of Louisiana, Orleans Parish, and of other local agencies.

171. In my past experience these doomsday forecasts have never been justified. From my extensive knowledge of this subject matter, they now are even less justified. From what can be ascertained through the withholdings these have the purposes of prior catalogings of alleged impending disasters, the continued hiding of what officialdom wants to hide.

172. The Attorney General has found the King assassination to be an historical case. Deputy Civil Division Chief William Schaffer testified to the Congress that it is a "unique" case of great historical importance. Yet the records in this instant cause, as in my C.A. 75-1996, were processed without consultation with what is publicly known. The free expert subject assistance I offered the FBI was refused. This was not limited to my offer of a consolidated index to books. I offered free consultations

by phone.

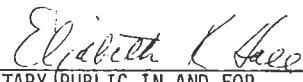
173. To me as a subject expert in this "unique" case of such great historical importance, the bottom line is that in all the Department's motions and memoranda, in all the affidavits, there is not a single proof that any of the withheld information is not publicly known.


HAROLD WEISBERG

FREDERICK COUNTY, MARYLAND

Before me this 4th day of June 1978 deponent Harold Weisberg has appeared and signed this affidavit, first having sworn that the statements made therein are true.

My commission expires July 1, 1978


NOTARY PUBLIC IN AND FOR
FREDERICK COUNTY, MARYLAND

LIST OF EXHIBITS

C.A. 77-0692

Number		Page	Paragraph
1	Washington <u>Post</u> 5/29/78 story	6	34
2	OPR report page 161	7	39
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4	Fensterwald documents	11	58
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10	Morris Davis documents	16	77
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18	Press release 2/18/77	24	118
19	McCreight letter with first page of two attached documents re Nosenko	29	148
20	Archives copy of first page of same Nosenko documents	30	150

A Black Said to Aid FBI Anti-King Plan

FBI, From A1

Dated Dec. 1, 1964, and addressed to the late FBI assistant director William C. Sullivan, the memo alludes to a discussion the anonymous leader had had a few days earlier with another high-ranking FBI official, Cartha (Deke) DeLoach.

"[Deleted] stated to DeLoach that he was faced with the difficult problem of taking steps to remove King from the national picture," the FBI memo said. "He indicates in his comments a lack of confidence that he, alone, could be successful."

As a consequence, the memo suggested that DeLoach "have a further discussion with [deleted] an offer to be helpful to [deleted] in connection with the problem of the removal of King from the national scene."

DeLoach, it was added, could also suggest the [deleted] might desire to call a meeting of Negro leaders in the country including, among others, civil rights leaders such as James Farmer and A. Phillip Randolph as well as some prominent black judges, ministers and public officials.

"These men could be called for the purpose of learning the facts as to the bureau's performance in the fulfillment of its responsibilities under the civil rights statute, and this could well be done at such a meeting, the memo, composed by FBI official J. A. Sizoo, continued. "In addition, the bureau, on a highly confidential basis, could brief such a group on the security background of King (deleted). The use of a tape, such as contemplated in your memorandum, together with a transcript for convenience in following the tape should be most convincing," Sullivan was told in a sentence that was crossed out by pen or pencil.

The memo concluded by stating that those invited to such a meeting might then see "the danger of King to the overall civil rights movement."

"(Deleted) is already well aware of this," the FBI memo emphasized. "This group shall include such leadership as would be capable of removing King from the scene if they, or their own volition, decided this was the thing to do after such a briefing. The group should include strong enough men to control a man like James Farmer and make him see the light of day. This might have the effect of increasing the stature of (deleted) who is a capable person and ambitious."

The Dec. 1, 1964, date of the memo coincides with the peak of the FBI's campaign against King, who was about to receive the Nobel Peace Prize to Hoover's great chagrin. The allusion to the "tape" was evidently a reference to a recording of compromising, sexually explicit, excerpts from King's FBI-bugged hotel rooms.

There is no indication that the meeting of black leaders proposed in the FBI memo was ever held, but according to the Senate Intelligence Committee's 1976 case study on the

King smear campaign, information "about Dr. King's private life" was TR AD 5 FBI made available at the time to various people.

The FBI first installed a concealed microphone in King's room at the Willard Hotel here on Jan. 6, 1964, and during the next two years installed at least 14 more "bugs" in hotel rooms King occupied across the country.

On Jan. 8, 1964, two days after the first bug was installed, the FBI's Sullivan proposed that the bureau pick "the right kind of a national Negro leader" who could eventually "assume the role of leadership of the Negro people when King has been completely discredited."

In that same memo, Sullivan also nominated a candidate, name still unknown, who, the FBI assistant director said, was "truly remarkable for a man so young."

Other documents obtained from Hoover's files by the Center for National Security Studies include:

- A 1969 memo disclosing that the FBI had picked up a conversation between King and "Cassius Clay" five years earlier. Clay was appealing his 1967 Selective Service conviction on various grounds, including the charge that his case had been tainted by "illegal government eavesdropping."

- In a 1968 memo apparently referring to the King bugs, then-Attorney General Nicholas Katzenbach warned Hoover that "these are particularly delicate surveillances and we should be very cautious in terms [of] the non-FBI people who may from time to time necessarily be involved in some aspect of installation."

Black Reportedly Worked With FBI To Discredit King

5/29/78

By George Lardner Jr.
Washington Post Staff Writer

The FBI apparently worked with a black leader in its long undercover campaign to discredit the late Rev. Martin Luther King Jr., according to newly disclosed FBI documents.

The tentative scheming was disclosed in one of a series of memos from the "Official and Confidential" files of the late FBI director J. Edgar Hoover. The Center for National Security Studies obtained them under the Freedom of Information Act.

Senate investigators have previously revealed that the FBI's campaign against King included a proposal to groom a new "national Negro leader" to take his place.

But in making that discovery some two years ago, the Senate Intelligence Committee also said that it had contacted the proposed successor to King only to be told that "he was not aware of the FBI's plans for him or of any attempts by the FBI to promote him as a civil rights leader."

The newly declassified FBI memo suggests otherwise although it is far from conclusive. The name of the man the FBI had secretly anointed has never been made public. In addition, the FBI deleted the name of the black leader from the memo obtained by the center.

See FBI, A7, Col. 1

CA 77-0692
EXHIBIT 1

READING BIBLIOGRAPHY

- Bishop, Jim. The Days of Martin Luther King, Jr. G.P. Putnam's Sons, New York, 1971.
- Frank, Gerold. An American Death. Doubleday & Company, New York, 1972.
- Hoch, Paul, and Scott, Peter, and Stetter, Russell. The Assassinations, Dallas and Beyond. Random House, 1976.
- Huie, William Bradford. He Slew the Dreamer. Delacorte Press, New York, 1968.
- McMillan, George. The Making of an Assassin. Little Brown & Co., 1976.
- Seigenthaler, John. A Search for Justice. Aurora Publ., Nashville, 1971.

for accuracy against the tapes of those surveillances. A canvass of other investigative agencies was made to determine whether their files reflected that intelligence or counterintelligence requests had been made upon them by the FBI in relation to Dr. King. This included the Defense Department, the State Department, the U.S. Information Agency, the C.I.A., the Secret Service, the Postal Inspection Service, the Internal Revenue Service's Intelligence Division and the Treasury Department's Bureau of Alcohol, Tobacco and Firearms. The material turned up by these agencies was examined, albeit little of consequence was discovered. Relevant portions of the investigation reports of the Memphis Police Department on the King murder were xeroxed and studied.

In addition to official files, the task force personnel considered published material from the public sector dealing with Dr. Martin Luther King, Jr., and his assassination. Included in this category were a viewing of the Columbia Broadcasting System's program on the death of King in its series "The Assassins," a National Broadcasting Company "Tomorrow" program of April 4, 1974, and perusal of books and articles on the Southern Christian Leadership Conference and the role of the FBI in relation to the murder of Dr. King (see Bibliography, App. A, Ex. 6). This lead to some valuable

evidentiary material - principally the oral and written statements of James Earl Ray - which was used to buttress the reconstruction of the facts of the murder and of the FBI investigation.

Some 30 interviews were conducted, principally in the assassination phase of the task force study. They were helpful in supplementing the results of interviews done during the murder investigation.

During the review of the Memphis Field Office files, an on-site inspection of the crime scene was conducted and the exhibits in the office of the Clerk of the County Court for Shelby County, Tennessee, were examined.

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. DeLoach

DATE: 6/15/70

FROM : A. Rosen

- 1 - Mr. DeLoach
- 1 - Mr. Rosen
- 1 - Mr. Malley
- 1 - Mr. Scatterday
- 1 - Mr. McGowan
- 1 - Mr. Bishop

SUBJECT: BERNARD FENSTERWALD, JR.
NAME CHECK REQUEST

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	

MARKIN

Special Agent in Charge of the Memphis Office, in connection with the James Earl Ray case, has requested a name check on Fensterwald, who is the head of a private group called "The Committee to Investigate Assassinations." This request is on behalf of Assistant Attorney General Clyde Mason, the state prosecutor assigned to the Ray case, who had asked for information concerning Fensterwald.

Fensterwald, former chief counsel to Senator Long's committee on wiretapping, was the subject of applicant-type investigations by the Bureau in 1949 and 1959, which developed that the names of his mother and sister appeared on a list of delegates and members in 1942 of the Southern Conference for Human Welfare, cited by the House Committee on Un-American Activities, and in 1956, while employed by the State Department, Fensterwald and his mother traveled to the Soviet Union for a vacation. No other derogatory data was developed. Fensterwald, in addition to his former State Department employment, was chief counsel of the U.S. Senate Committee on the Judiciary; Subcommittee on Administrative Practice and Procedure (Long Committee), and our contacts with him clearly showed he was unscrupulous, untrustworthy and anti-FBI and sought to involve the Bureau in wiretapping probes by Long's Committee. He allegedly leaked information to Fred Cook, long-time FBI critic, for an article by Cook which appeared in "The Nation," dealing with wiretapping by Government agencies.

44-38861-

A United Press International release in January, 1969, reported on the founding of the new committee to investigate assassinations, stating that Fensterwald was one of the members thereof together with District Attorney James Garrison of New Orleans, and William Turner (ex-Agent and extremely anti-FBI). Fensterwald was quoted as stating the purpose of the committee is "to embarrass or force the Government to make investigations they have been putting off since November 22, 1963," and indicated the committee's position was that there was a conspiracy in Dallas in connection with the assassination of President Kennedy and that there were "strong footprints" of a conspiracy in connection with the shooting of Dr. Martin Luther King.

NOT RECORDED
JUN 19 1970

RES:cs (7)

CONTINUED - OVER

JUN 17 1970
NAME CHECK

5/5 JUN 24 1970 out 6-16-70

Memo to Mr. DeLoach
Re: Bernard Fensterwald, Jr.

The attached letter to Memphis sets forth brief biographical data concerning Fensterwald and his employments, together with the data developed during the investigations concerning his mother and sister as well as his trip to the Soviet Union in 1956, which it is believed the Special Agent in Charge, Memphis, should orally furnish to Assistant Attorney General Mason.

For his own information and guidance, the letter furnishes Memphis information concerning Fensterwald's anti-FBI attitude and his association with Turner.

RECOMMENDATION:

That the attached letter, if approved, be forwarded to Special Agent in Charge, Memphis.

[Handwritten initials and signatures]
✓ Jim
A
OK
D

JUN 10 1970

F B I

Date: 6/5/70

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

Via AIRTEL _____
(Priority)

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

Re Memphis airtel to Bureau, 5/8/70.

For the information of WFO, subject JAMES EARL RAY is now being represented by J. B. STONER of the National States Rights Party; RICHARD J. RYAN, a Memphis, Tennessee, attorney; and BERNARD FENSTERWALD, JR. An article appearing in a Memphis newspaper indicated that FENSTERWALD is from Washington, D.C. and heads a private group called "The Committee to Investigate Assassinations." According to the article, FENSTERWALD worked for the Senate Judiciary Committee from 1957 until 1968.

Assistant Attorney General CLYDE MASON, Memphis, Tennessee, the state prosecutor assigned to the JAMES EARL RAY case, has asked that we furnish him any information available concerning FENSTERWALD and his political linkings.

LEAD

WFO

AT WASHINGTON, D.C. Will prepare a brief outline of BERNARD FENSTERWALD'S professional background including any information to indicate association with leftist and racist groups in order that this information may be made available to the District Attorney General at Memphis, Tennessee

Airtel

Teletype

- 2 - Bureau
- 2 - WFO
- 2 - Memphis
- A. S. D. JCH:jlg
- (6)

WFO to be destroyed 6/10/70
EX-110
REC-31

588

JUN 8 1970

Special Del. _____

Reg. Mail Approved: _____

Special Agent in Charge

Sent _____

M

Per _____

EX-110

SAC, Memphis (44-1987)

6/16/70

REC 53

Director, FBI (44-38861) - 5883

MURKIN

Re your airtel 6/5/70 captioned as above.

Bernard Fensterwald, Jr., was the subject of applicant-type investigations in 1949 and 1959, which developed the following information which you may orally furnish to Assistant Attorney General Clyde Mason. Fensterwald was born August 2, 1921, in Nashville, Tennessee, graduating from Harvard University in 1942 with a Bachelor of Science degree and thereafter attending Harvard Law School, Harvard University, where he was awarded a Bachelor of Laws degree in 1949. The names of his mother and sister appeared on a list of delegates and members in 1942 of the Southern Conference for Human Welfare, which has been cited by the House Committee on Un-American Activities. In 1956, while employed by the State Department, Fensterwald and his mother traveled to the Soviet Union. In addition to his employment by the State Department, Fensterwald was also employed as chief counsel of the U.S. Senate Committee on the Judiciary; Subcommittee on Administrative Practice and Procedure (the Long Committee). He has also been employed on the staffs of a number of Senate committees.

MAILED 25
 JUN 16 1970
 COMM-FBI

For your own information and guidance, our contacts with Fensterwald have made it clearly evident that he was unscrupulous, untrustworthy and anti-FBI and frequently endeavored to draw the FBI into conflicts around the country by his requests of various telephone companies and other sources who might have information of wiretaps and other technical surveillances by the FBI. In January, 1966, in connection with hearings scheduled to be held in San Francisco, Fensterwald indicated that ex-Agent William Turner would be one of the witnesses he intended to call in connection with the extent of FBI wiretapping. As you are aware, Turner is extremely anti-FBI

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

GIS:cs (9)

NOTE: See memo Mr. Rosen to Mr. DeLoach, 6/15/70, captioned "Bernard Fensterwald, Jr., Name Check Request," GIS:cs.

A *J. J. [unclear]* *[unclear]* *A*

60 JUN 23 1970 MAIL ROOM TELETYPE UNIT

Letter to SAC, Memphis
Re: Murkin

and has an unsavory background. Fred J. Cook, in an article in the December, 1965, issue of "The Nation," dealing with wiretapping by Government agencies, allegedly obtained information for his article from Fensterwald, whom he quoted several times.

Insure that you are alert to furnish the Bureau under the above caption any information coming to your attention concerning the activities of the "Committee to Investigate Assassinations" or activities of any of the members thereof. (77-44206)

FBI

Transmit in _____
(Type in plaintext or code)

Via airtel

(Priority)

To SAC, Albany

Date 7-20-72

From: Acting Director, FBI

RICHARD LEE BAST
REDEX CORPORATION
ELECTRONIC SURVEILLANCE

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. Mirschkop, 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.)

SEARCHED INDEXED

SERIALIZED FILED

JUL 24 9 07 AM '72

FBI - SAN FRANCISCO

[Stamp]

*Carol
note & adv
Tullito to Ross adv
add to
list
7/26*

*1-cc
1-cc
139-124
Jul*

139-124

(This line for LEEET MARGIN.)



Reply, Please Refer to
to No. 190-120

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION
450 Golden Gate Avenue
P.O. Box 36015
San Francisco, California 94102

March 10, 1978

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

Dear Mr. Lesar:

Re: BENARD FENSTERWALD, JR.

This letter and the enclosed xeroxed document is
in response to your Freedom of Information Act - Privacy
Act request dated January 27, 1978.

No excisions or deletions have been taken from
the document furnished to you.

Your patience has been appreciated.

Very truly yours,

CHARLES R. MC KINNON
Special Agent in Charge

James L. Watters
B: JAMES L. WATTERS
Special Agent
Legal Section

COMMUNICATIONS SECTION

MAR 9 1964

TELETYPE

G. A. 77-0692

EXHIBIT 5

FBI WASH DC

FBI DALLAS

7-38 PH CST URGENT 3-9-64 LJM

TO DIRECTOR 105-82,555

FROM DALLAS 100-10,461 4-P.

LEE HARVEY OSWALD, AKA - IS - R - CUBA.

RE FIGUR OF MARINA OSWALD.

ON MARCH EIGHT, SIXTYFOUR,

ADVISED AS FOLLOWS:

WILLIAM A. MC KENZIE CONTACTED MARINA AND WARNED HER NOT TO LET ANYONE IN HER HOUSE THAT SHE DOES NOT KNOW.

MRS. FORD CONTACTED MARINA REQUESTING MARINA CALL HER WHEN ROBERT OSWALD LEFT SO SHE COULD COME OVER.

MARINA CONTACTED MRS. FORD AND ADVISED TWO REPORTERS CAME BY BUT SHE WOULD NOT OPEN DOOR AND TOLD THEM TO CONTACT MC KENZIE. MARINA SAID SHE SAW MARTIN IN HER DREAMS LAST NIGHT AND ASKED MRS. FORD TO CHECK ON MEDICATION TO HELP CONTROL SEXUAL DESIRE. SHE SAID IF MARTIN HAD NOT BEEN STERILIZED SHE WOULD NEVER HAVE BEEN INTIMATE WITH HIM. MARINA SAID MARTIN IS A STRONG MALE SPECIMEN AND THAT IS WHY SHE WAS ATTRACTED TO HIM. SHE DESCRIBED LEE HARVEY OSWALD AS A WEAKER MALE SPECIMEN WITH A WEAKER NERVOUS SYSTEM. MARINA SAID SHE WAS ASHAMED OF HER HUSBAND. MARINA ASKED MRS. FORD IF SHE THOUGHT GEORGE DE MOHRENSCHILD WAS A MURDERER PERSON. MRS. FORD SAID SHE HAD NEVER HEARD HOW GEORGE WAS IN BED.

END PAGE ONE

79 MAR 18 1964

5:11 N 11 1964

COPIES DESTROYED

8 1 FEB 20 1972

Mr. C. C. []
Mr. []
Mr. []
Mr. []
Mr. []
Mr. []
Mr. []
Mr. []
Mr. []
Mr. []
Tele. Room []
Miss Holmes []
Miss Gandy []

REC'D

MAY 1964

Handwritten signatures and notes, including 'MAY 1964' and 'J.P. []'.

Handwritten notes: 'CHIT', '105-82555', '25-14', 'REC'D', '105-82555', '25-14'.

Handwritten notes: 'REC'D', '105-82555', '25-14', 'MARINA ASKED'.

PAGE TWO

MARINA MENTIONED WANDA MARTIN AND THAT WANDA MUST HAVE KNOWN SOMETHING WAS GOING ON. MARINA SAID MARTIN ACTS NOW AS IF EVERY THING WAS A LIE. MRS. FORD SAID THAT IF DECLAN FORD BECOMES MARINA-S MANAGER DECLAN CANNOT USE MC KEENZIE AS A PERSONAL ATTORNEY. MARINA SAID SHE EXPECTS ROBERT OSWALD SHORTLY AND WILL PROBABLY GO TO THE CEMETERY TODAY.

LATER MARINA CONTACTED MRS. FORD STATING ROBERT AND FAMILY HAD JUST LEFT. MARINA REPEATED WHAT ROBERT OSWALD TOLD HER ABOUT NEW INFORMATION THAT HAD JUST COME OUT THAT LEE HARVEY OSWALD HAD BEEN SEEN DRINKING COCA COLA TEN MINUTES AFTER THE SHOTS WERE FIRED THAT KILLED PRESIDENT. MARINA EXPRESSED DOUBT THAT OSWALD COULD HAVE BEEN THAT CALM. MARINA ALSO MENTIONED THAT SOMEONE HAD SEEN A MAN RUN ACROSS THE YARD OF THE BUILDING. MARINA SAID THAT ROBERT IS A RELATIVE AND SOMEHOW WANTS TO CLEAR HIS BROTHER. MARINA SAID IT IS HARD TO BELIEVE THAT IT WAS NOT LEE WHO COMMITTED THE CRIME AND SHE WILL NOT TRY TO EXONERATE HIM, QUOTE "IF HE IS GUILTY, HE IS GUILTY" UNQUOTE. MRS. FORD SAID SHE BELIEVES THE GOVERNMENT IS TRYING TO FIND THE TRUTH OF THE MATTER AND MARINA AGREED. MRS. FORD SAID DECLAN FORD THOUGHT THERE WAS MORE THAN ONE PERSON DOING THE SHOOTING AND THOUGHT THERE WERE TWO. MARINA SAID SHE DOUBTED LEE HAD AN ACCOMPLICE. MRS. FORD WARNED MARINA NOT TO PUT HERSELF IN THE POSITION OF LEE-S MOTHER, MARGUERITE OSWALD, AS TO LEE-S INNOCENCE. MARINA SAID SHE WOULD LIKE TO FIX LEE-S GRAVE WITH FERN AND FLOWERS LATER.
END PAGE TWO

RECEIVED DIRECTOR
NOV 27 1963

PAGE THREE

MARINA SAID SHE FEELS LEE DID IT /SHOT THE PRESIDENT / AND FURTHER THAT HE TOOK A SHOT AT WALKER AND FURTHER SHOOTING ON HIS PART COULD HAVE BEEN EXPECTED. SHE SAID SHE FEELS THIS AS HE CAME TO SEE HER ON THURSDAY EVEN THOUGH SHE DID NOT SEE HIM TAKE THE RIFLE AT THAT TIME. MARINA THEN SAID SHE FELT SURE LEE DID THE SHOOTING BUT WONDERED IF SOMEONE ELSE WAS SHOOTING ALSO. SHE THEN SAID BULLETS SHOULD HAVE BEEN DIFFERENT IF THERE WAS MORE THAN ONE. MARINA SAID THAT QUOTE "THE BOY UNQUOTE CLAIMED LEE HAD A PACKAGE BUT SHE DID NOT SEE LEE CARRYING A PACKAGE WHEN HE CAME TO SEE HER / ON THURSDAY / . SHE SAID HE WAS ALWAYS IN VIEW AND COULD NOT HIDE THE PACKAGE DURING THE TIME HE WAS AT THE PAINE RESIDENCE. SHE AGAIN EXPRESSED DOUBT WONDERING WHY LEE CAME TO SEE HER ON THURSDAY. MARINA SAID SHE THINKS LEE WANTED TO DO IT BUT PERHAPS THERE WAS SOMEONE ELSE IN ADDITION TO HIM. SHE THEN SAID SHE IS SURE THE BULLETS WILL BE COMPARED. DURING CONVERSATION MRS. FORD AND MARINA BOTH SAID QUOTE "ONLY GOD KNOWS UNQUOTE AND STATED THAT IF RUBY HAD NOT SHOT LEE, PERHAPS LEE WOULD HAVE TOLD THE STORY.

LATER MRS. FORD CONTACTED MARINA AND INDICATED SHE THINKS ROBERT OSWALD PROBABLY TOLD MARINA ABOUT THE THINGS THEY MENTIONED BEFORE AS ROBERT IS NOW SYMPATHIZING WITH HIS MOTHER. MARINA SAID ABSOLUTELY NOT AS ROBERT TOLD HER THAT MARGUERITE OSWALD WOULD LIKE TO SEE HER BUT THAT SHE SHOULD NOT MEET WITH MRS. OSWALD UNDER ANY CIRCUMSTANCES. MARINA SAID ROBERT CLAIMS HIS MOTHER IS CRAZY. MARINA SAID ROBERT WAS LEE-S BROTHER AND WOULD BE HAPPY TO FIND SOME INFORMATION IN DEFENSE OF LEE AND AS HIS WIFE SHE WOULD

RECEIVED DIRECTOR
NOV 21 1963

END PAGE THREE

PAGE FOUR

LIKE THIS TOO. MARINA SAID SHE FEELS SURE ROBERT WOULD NOT
GIVE HER ADDRESS TO MARGUERITE OSWALD.

PHYSICAL SURVEILLANCE WAS DISCONTINUED AT TEN AM
ON MARCH NINE, SIXTYFOUR.

[REDACTED] ADVISED ON MARCH EIGHT, SIXTYFOUR,
HE WAS UNABLE TO OBTAIN ANY PERTINENT INFORMATION.

INFORMANT COVERAGE CONTINUING.

END

HHH

FBI WASH DC

CC-MR. SULLIVAN

APR 10 8 25 AM '64
F. B. I.
RECEIVED DISCUSS

(Rev. 1-25-60)

FEDERAL BUREAU OF INVESTIGATION

Date 5-24-68

JOHN LARRY RAY, 1902a Cherokee, was interviewed at that location at which time he supplied the following information:

RAY identified a photograph of JAMES DAVID DAILEY as a person known to him only as "J.D." who at one time operated a tavern on Morrison Street in St. Louis and with whom RAY got involved in a fist fight with sometime in 1960. RAY is of the opinion that although he knows "J.D." by sight he does not believe that DAILEY knows him. RAY was unable to provide any information whether his brother, JAMES EARL RAY, and DAILEY have ever known each other.

RAY was questioned regarding his stay at the Mac Arthur Hotel in St. Louis at which time he readily stated that approximately two or three months ago he spent a night at the MacArthur Hotel with the night barmaid of the Grapevine Inn, NAOMI REGAZZI (phonetic). According to RAY he registered as Mr. and Mrs. JOHN RAY and provided a fictitious address. He was questioned regarding the address 1886 Wyoming at which time he stated it is entirely possible that he used that address when registering, however, it does not have any particular significance to him.

RAY stated that in the early fall of 1967, his father, JERRY RAYNES, had sold a house on Park Avenue in St. Louis and gave to RAY \$1000 to hold for him. RAY indicated that he had saved approximately \$3000 from various employments and indicated that on many occasions carried this cash on his person and stated that even to this date it is not unusual for him to carry \$500 or \$600 on him. RAY denied any of the money saved by him had been obtained in an unlawful manner. RAY supported this statement by saying that in the operation of the Grapevine Tavern it is necessary to have an abundance of cash for various bills and he also pays the employees at the tavern in cash.

RAY stated that in early August of 1967, he had decided to drive to San Francisco, California, in an attempt to invest the money he had at that time in a bar or other profitable business. He indicated that he drove alone to California, and while in San Francisco, stayed several days

On 5-18-68 at St. Louis, Missouri File # [REDACTED]
 by SA [REDACTED] Date dictated 5-20-68

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

C. A. 77-0692

EXHIBIT 7

3/11/69

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	_____

MR. TOLSON:

RE: JAMES EARL RAY
ASSASSINATION OF MARTIN LUTHER KING

Now that Ray has been convicted and is serving a 99-year sentence, I would like to suggest that the Director allow us to choose a friendly, capable author, or the Reader's Digest, and proceed with a book based on this case.

A carefully written, factual book would do much to preserve the true history of this case. While it will not dispel or put down future rumors, it would certainly help to have a book of this nature on college and high school library shelves so that the future would be protected.

Whom to give out to - 2

I would also like to suggest that consideration be given to advising a friendly newspaper contact, on a strictly confidential basis, that Coretta King and Reverend Abernathy are deliberately plotting to keep King's assassination in the news by pulling the ruse of maintaining that King's murder was definitely a conspiracy and not committed by one man. This, of course, is obviously a rank trick in order to keep the money coming in to Mrs. King, Abernathy, and the Southern Christian Leadership Conference. We can do this without any attribution to the FBI and without anyone knowing that the information came from a wire tap.

Respectfully,

C. D. DeLoach

CDD:CSH (3)

cc Mr. DeLoach
Mr. Bishop

See ADDENDUM... page 2

44-38861-5651

REC-33

MAR 26 1969

3/16/69

See also Jones to Bishop 3/20/69

ay

UNRECORDED COPY FILED

If the Director approves, we have in mind considering cooperating in the preparation of a book with either the Reader's Digest or author Gerold Frank. The Reader's Digest would assign one of their staff writers or contract the preparation of a book out to an established author. Gerold Frank is a well-known author whose most recent book is "The Boston Strangler." Frank is already working on a book on the Ray case and has asked the Bureau's cooperation in the preparation of the book on a number of occasions. We have nothing derogatory on him in our files, and our relationship with him has been excellent. His publisher is Doubleday.

NY

~~P~~

78P

G.K. L
F

LOOK

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

Public Information Officer
and Information Officer

MR. T...
✓
RST

November 7, 1968

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

34-11178-8-1868
EXP. PROC.

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,

[Redacted signature]

5367

LR/ct
Enc

ENCLOSURE ATTACHED

REC-15

NOV 8 1968

SECTION 15

Section 15 contain several leads which suggest a conspiracy. In an interview of Raymond Louis Curtis (serial 1832), a fellow inmate of Ray, Curtis said word got out in prison that the "KKK of the South had raised one million for bounty on King's head, and that Ray stated a dozen times that if he got out in time and if King was still alive he would like to get the bounty on King." Also, [REDACTED] [REDACTED] stated in an interview (serial 1835) that on 4/2/68 [REDACTED] the owner of the restaurant, Devilish Nick, (reputed head of the local KKK) say: I got a call on the King." Then on 4/3/68 two men came to Nick's office and [REDACTED] put a rifle with a telescopic sight in the car. On 4/4/68 [REDACTED] said Nick received a telephone call, after which he said: "Martin Luther King is dead."

Lab report (serial 1882) indicated six latent fingerprints on rifle, telescopic sight, binoculars, newspaper, after shave lotion bottle, and Schlitz beer can abandoned at crime scene have all been identified with fingerprints of James E. Ray.

All indications are that Bureau was pursuing full scale investigation with follow up of all leads.

Serials

1822 Ltr. t/H from citizen asking certain facts be considered

1875 Ltr request that film of King's funeral be reviewed to see if man resemble artists sketch

1826

1829 [redacted] (fellow prisoner of Ray) interview - stated (b)(7)(D) word got out in prison that "KKK of the South" had raised 1 million for bounty on King's head: Ray stated a dozen times that "if he got out in time and if King was still alive, he would like to get the bounty on King."

'62-'66

1835 [redacted] Devilish Nick, operator of John's restaurant, Laurel, Miss. Reputed head of local KKK. On 4/2 [redacted] say "I got a call on the King." On 4/3 two men came to Nick's office (b)(7)(D) observed rifle with telescopic sight. Rifle put in car. On 4/4 Nick received call. After call he said "Martin Luther King is dead." This was before announcement on radio.

1849 Lab report - identification of beer cans and paper bag as similar to ones from Southaven Minnow Shop

1850 Lab report - negative on Thermo seal tape from Holly Laundry & Cleaners, Chula Vista, Calif.

1851 Ben Goodin interview (former chief at MSP) said Ray was friend of Lewis Dowda who hated Negroes. Believes Dowda could be an accomplice of Ray

1882 Lab Rept - Comparison of six latent fingerprints 4/24/68 fingerprints on:

1. Remington model 760 rifle
2. Telescopic sight
3. binoculars
4. newspaper
5. after shave lotion bottle
6. Schlitz beer can

have all been identified with fingerprints of James E. Ray

SECTION 16

The serials in Section 16 evidence the Bureau interest in James Earl Ray's background. Considerable contact was made with Leavenworth and MSP inmates and officials. Also, the Bureau continues to eliminate possible suspects by a comparison with fingerprints and photo of James Earl Ray.

Section 16
Serials 1901-1990

1902. New Orleans: (1) Physical evidence
623 Royal Street
1903. Atlanta: (1) Physical evidence
Rm. 6
113 14th Street, N.E.
1904. Nuevo Laredo: (1) ESG purchased automobile
insurance 10/8/67- 30 day
insurance
1906. [REDACTED] (1) P.S. (b)(7)(c)
1097. Missing
1909. [REDACTED] (1) P.S. (b)(7)(c)
1910. [REDACTED] (1) P.S. (b)(7)(c)
1916. Sterling Tucker: (1) Urban League, W.D.C.
(2) Checked out of Hotel Lorraine
12:00 noon 4/4/68 after MPD
Commissioner advised of threats
on MLK
1922. Atlanta: (1) JER's photo to used car dealers
for I.D. Also, automobile rental
agencies.
1923. St. Louis: (1) Contact John Larry Ray
1927. KKK: (1) Informant points to possible KKK
connection with/ Murkin
(a) Deavours Nix
(1) John's Cafe and Drive-In
116 Theresa Street
Laurel, Mississippi
1928. '66 Mustang: (1) Trace battery for lead
1930. Foreign Legats: (1) Bueno Aires, Mexico City, Ottawa and
Santa Domingo
(a) immediately advise Bu if JER comes
into their custody.
1932. Birmingham: (1) Convass Airport rental vehicles w/Ga. plates

FBI

Date: 12/12/75

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

Via AIRTEL AIRMAIL
Precedence

TO: DIRECTOR, FBI (44-38861)
FROM: SAC, BIRMINGHAM (44-1740) (C)
MURKIN

Enclosed for the Bureau are the original and three copies of an LHM containing information received from a confidential source of the Birmingham Office relating to the assassination of Dr. MARTIN LUTHER KING, JR.

One copy of this LHM is being disseminated locally to the U. S. Attorney, Birmingham.

INFORMANTS

<u>Identity of Source</u>	<u>File Where Located</u>
BH T-1 is [REDACTED]	[REDACTED]

This informant was contacted on 4/18/74 and he said he would be willing to assist this Bureau on a confidential basis concerning violation of Federal and/or local laws that might come to this attention. It is noted that he has an extensive criminal record and is known to associate with much of the criminal element in the Birmingham area.

- 2 - Bureau (Enc. 4) (RM)
- 1 - Detroit (Enc. 1) (info) (RM)
- 1 - New Orleans (Enc. 1) (info) (RM)
- 1 - Birmingham

CBS:bkc
(5)

The confidential source is
1-CRD *Monna Davis who advised on 5/31/77 that he can be identified to the HSCA as the source of the information he provided. See BH 12/11/75 teletype 5/31/77 and BH airtel 6/1/77*
JC/jet

REC-9 40-2111-604
DEC 15 1975

7 9 JAN 1976

See file copy.

Approved: _____

K/AB
Special Agent in Charge

Sent _____

M Per _____

MD1472 1512119 BH0152 1512119

PP HQ

DE BH

P 3121 5Z MAY 77

MAY 31 5 25 PM '77
RECEIVED
FEDERAL BUREAU
OF INVESTIGATION
COMMUNICATIONS SECTION

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

FM BIRMINGHAM (44-1140) (RUC)

TO DIRECTOR (44-38861) PRIORITY

BT

CLEAR

MURKIN

REBUCAL TO BIRMINGHAM MAY 18, 1977, REQUESTING CONTACT WITH FORMER BH 1079-PCI, TO DETERMINE IF HE CAN BE IDENTIFIED TO THE HOUSE ASSASSINATION COMMITTEE (HAC) AS THE SOURCE OF INFORMATION REGARDING LIBERTO, ET AL.

SOURCE WAS UNAVAILABLE FOR CONTACT MAY 18-30, 1977. ON MAY 31, 1977, HE ADVISED SA PATRICK J. MOYNIHAN THAT HE CAN BE IDENTIFIED TO THE HAC AS THE SOURCE OF THE INFORMATION HE FURNISHED. HE FURNISHED THE FOLLOWING INFORMATION GRATUITOUSLY:

HE IS DISENCHANTED WITH THE HAC AND BELIEVES IT IS TOO POLITICAL. HE HAS NOT TALKED TO THEM (MR. EDDIE EVANS) IN ABOUT THREE WEEKS. EVANS DESIRES SOURCE TO BE IN TOUCH TELEPHONICALLY AT LEAST TWICE A WEEK BUT IS NEVER AVAILABLE WHEN SOURCE PUTS HIMSELF OUT TO MAKE THESE CONTACTS.

1-0-70 AAG Comm. (1744) (1977) (1977)
(Enclosure)
H.H.H. 6/13/77

REC-126
20 JUN 13 1977

17 JUN 14 1977

6224 JMS

PAGE TWO BH 44-1740

SOURCE DISAPPROVES OF ALL THE TV PUBLICITY THZ HAC RECEIVED IN BIRMINGHAM, ALABAMA, AND MEMPHIS, TENNESSEE, A FEW WEEKS AGO, AND AGAIN BELIEVES THEY ARE "TOO POLITICAL."

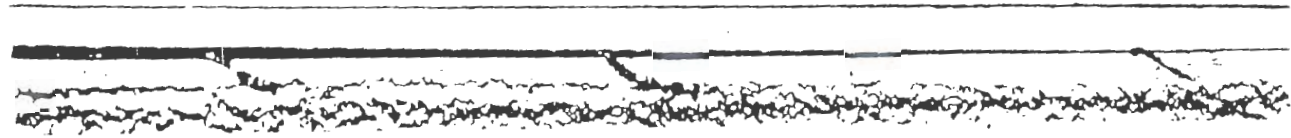
THROUGH THE HAC, HE HAS MET MARK LANE. SOURCE HAS NO USE FOR LANE AND ARGUED WITH HIM ON THE OCCASION WHEN THEY MET.

SOURCE HAS CONDUCTED INVESTIGATION HIMSELF IN MEMPHIS, TENNESSEE, RECENTLY. JAMES EARL RAY LEFT BIRMINGHAM MARCH 30, 1968, AND WENT DIRECTLY TO MEMPHIS, TENNESSEE, ON MARCH 30, 1968. HE STAYED AT MRS. DEATON'S ROOMINGHOUSE ON PEABODY STREET IN MEMPHIS, AND SOURCE INTERVIEWED HER APPROXIMATELY THREE WEEKS AGO.

SOURCE DEVELOPED A "LIBERTO MAN" WHO SHOWED SOURCE THE ABOVE ROOMING HOUSE. SOURCE HAS NOT FURNISHED THIS INFORMATION REGARDING THE DEATON ROOMINGHOUSE TO HAC SINCE THEY HAVE NOT BEEN IN RECENT CONTACT WITH HIM.

INFORMATION FURNISHED BY THIS SOURCE IN THE FUTURE WILL BE RECORDED AT BIRMINGHAM AND FORWARDED IF APPROPRIATE.

AIRMAIL COPPIES BEING FURNISHED MEMPHIS AND NEW ORLEANS.
BT.



1128

FBI

Date: 3/30/77

Transmit the following in _____

(Type in plaintext or code)

by AIRTEL

AIRMAIL - REGISTERED
(Precedence)

TO: DIRECTOR, FBI (44-38861)
FROM: SAC, BIRMINGHAM (44-1740)
SUBJECT: MURKIN
CR
OO: MEMPHIS

ReBHairtel, 3/21/77.

On 3/30/77, Major EMMETT DIXON, Alabama Highway Patrol (AHP), Montgomery, Alabama, advised that an AHP trooper had an informant who had been in contact with a [redacted] Birmingham, Alabama. [redacted] related information to the informant concerning a conspiracy to kill MARTIN LUTHER KING which involved FRANK LIBERTO and DR. GUS PROSCH. [redacted] indicated to the trooper's informant that the information had been related to the FBI, but apparently no action was taken.

Major DIXON was advised that the Birmingham Office had been in contact with [redacted] on several occasions, had taken all information in the possession of [redacted] and had furnished this information to FBIHQ and interested offices. DIXON was advised that Birmingham is positive that the FBIHQ had furnished [redacted] information to interested congressional committees, as [redacted] had stated that a representative of the House of Representatives Committee had been in contact with him.

The above is set forth for information of FBIHQ and Mobile. As Birmingham has had numerous contacts with [redacted] he will not be contacted at this time; however, Birmingham will continue to disseminate any pertinent information volunteered by [redacted]

ST-106
REC-7

44-38861-65 RE

22 APR 1 1977 1205

- 2 - Bureau
 - 1 - Mobile (Info)
 - 1 - Memphis (44-1987) (Info)
 - 1 - New Orleans (Info)
 - 1 - Birmingham
- AB:hss

Approved: K/AD
Special Agent in Charge

Sent _____ M Per _____

APR 11 1977

UNITED STATES GOVERNMENT
memorandum

RLK:mal

MAY 31 1977

DATE: 1/1/77
REPLY TO: RLK
ATTN OF:

Robert L. Keuch, Special
Counsel to the Attorney General

FEDERAL GOVERNMENT

SUBJECT:
TO:

Martin Luther King Assassination
Director
Federal Bureau of Investigation

The attached information was provided to me in my capacity as Special Counsel to the Attorney General. By separate memorandum I am forwarding a copy of the enclosure to the Civil Rights Division.

This information should, of course, be placed in the material available to the House Select Committee on Assassinations. The direction of any further investigative efforts would, of course, be the responsibility of the Civil Rights Division.

Enclosure

~~EXP. PROC.~~
24 JUN 1 1977

ENCLOSURE

REC 102

44-15841-102

6222

JUN 1 1977

14 JUN 1977

44-15841

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

OPTIONAL FORM NO. 10
(REV. 7-78)
GSA FPMR (41 CFR) 101-11.6
5010-112



JUN 9 1977

Memorandum

TO: Robert L. Kouch
Deputy Special Counsel
to the Attorney General
Martin Luther King Assassination

DATE: May 24, 1977
CRR:PH/hoevet:pc
5-41-804

FROM: Ronald H. Hoevet
Trial Attorney
Tax Division

SUBJECT: Martin Luther King Assassination

On April 7, 1977, James Travis Buckley, J.B. Stoner and I met in the United States Attorney's office in Jackson, Mississippi, to complete discovery and work out stipulations in United States v. James Travis Buckley, Criminal No. 376-54(R). On May 14, 1977, Buckley, an attorney, was convicted on five counts of failing to file income tax returns for 1970 through 1974 and three counts of tax evasion for 1970, 1973 and 1974.

During the conversation on April 7, 1977, J.B. Stoner mentioned that he had recently received his Federal Bureau of Investigation file covering 1463 pages under the Freedom of Information Act. He stated that the file reveals that the Federal Bureau of Investigation had bugged his automobile and his telephone. He mentioned that the F.B.I. had treated him like Martin Luther King. Stoner went on to say that in 1957 or 1958, he had been approached by the head of an Alabama Klavern of the Klu Klux Klan. Stoner said that everyone knew that this man was an F.B.I. agent. Stoner said that this individual offered him \$25,000 to hire a rifleman to kill Martin Luther King. He remarked to me that he did not mind the F.B.I. killing an individual like Martin Luther King but he did resent their attempt and the attempt of the House Committee to pin the murder on a scapegoat, James Earl Ray. (J.B. Stoner had represented James Earl Ray on his appeal).

J.B. Stoner is one of the leading white supremacists and anti-Semites in the nation. He is the president of the National States' Rights Party and edits a racist newsletter, Thunderbolt, in Marietta, Georgia. Special Agent William Jack Sykes of Jackson, Mississippi, was also present when Stoner made these comments.

ENCLOSURE

UNITED STATES GOVERNMENT

File Copy

Memorandum

TO : Assistant Attorney General
Criminal Division
(Attn: Robert L. Keuch)
FROM : Director, FBI

DATE: 6/3/77



SUBJECT: ASSASSINATION OF MARTIN LUTHER KING, JR.

Reference is made to _____ memorandum dated _____
(your file _____).

There is enclosed one copy of ~~the report of Special Agent~~ **a teletype**
dated 5/31/77 at Birmingham, Alabama.

- A. This covers the preliminary investigation and no further action concerning a full investigation will be taken by this Bureau unless the Department so directs.
- B. The investigation is continuing and you will be furnished copies of reports as they are received.
- C. The investigation requested by you has now been completed. Unless advised to the contrary no further inquiries will be made by this Bureau.
- D. Pursuant to instructions issued by the Department, no investigation will be conducted in this matter unless specifically directed by the Department.
- E. Please advise whether you desire any further investigation.
- F. This is submitted for your information and you will be advised of further developments.
- G. This is submitted for your information and no further investigation will be conducted unless specifically requested by the Department.
- H. This covers the receipt of a complaint and no further action will be taken by this Bureau unless the Department so directs.

Enc. (1)

- Assistant Attorney General
Civil Rights Division (Enclosure 1)

1 - Office of Professional Responsibility, USDJ
(Enclosure 1)

NOT RECORDED

JUN 14 1977

SEE NOTE PAGE TWO . . .

JUN 14 1977

Assistant Attorney General
Criminal Division
(Attn: Robert L. Keuch)

NOTE: The House Select Committee On Assassinations has requested all information previously furnished by [REDACTED] which is being handled by separate communication. For your information, [REDACTED] previously furnished information on a confidential basis and the previous information he provided was furnished to the Department relating to the Liberto matter by my memoranda dated 12/17/75, 12/21/76, and 1/25/77.

Also for your information regarding the attached, previous investigation disclosed that James Earl Ray was in Atlanta, Georgia, on 3/31/68 and on 4/1/68. On 4/3/68 he registered at the Rebel Motor Hotel, 3466 Lamar Avenue, Memphis, Tennessee.

1542119 8H0152 172119 MAY 31 5 25 PM '77

HQ
12 BH

RECEIVED
FEDERAL BUREAU
OF INVESTIGATION
COMMUNICATIONS SECTION

P 312115Z MAY 77

FM BIRMINGHAM (44-1143) (RUC)
TO DIRECTOR (44-33861) PRIORITY

SI
CLEAR
MURKIN

REBUCAL TO BIRMINGHAM MAY 13, 1977, REQUESTING CONTACT
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PHONICALLY AT LEAST TWICE A WEEK BUT IS NEVER AVAILABLE WHEN
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[REDACTED] DEVELOPED A "LIBERTO MAN" WHO SHOWED [REDACTED] THE ABOVE ROOMING HOUSE. [REDACTED] HAS NOT FURNISHED THIS INFORMATION REGARDING THE DEATON ROOMINGHOUSE TO HAC SINCE THEY HAVE NOT BEEN IN RECENT CONTACT WITH HIM.

[REDACTED]

On August 8, 1967, [REDACTED] Jackson, Mississippi, advised a Special Agent of the Federal Bureau of Investigation that she was well acquainted with [REDACTED] and frequently corresponded with him at Leavenworth Penitentiary. She explained that early in 1964 she rented a room at her residence where [REDACTED] stayed for a few weeks and that as far as she knew this was the only time he had spent in Mississippi. She did not believe him to have ever been involved in Klan activities or to have ever associated with anyone involved in Klan activities. She also denied any personal involvement in Klan activities.

She stated she had never heard of [REDACTED] and she denied having any knowledge of any plot to kill Martin Luther King, Jr.

Following the murder of Martin Luther King, Jr., on April 4, 1968, [REDACTED] was reinterviewed by Special Agents of the Federal Bureau of Investigation regarding the possibility of her having any knowledge of a plot to murder King. She said she recalled that in 1964 when she first met [REDACTED] the murder of three civil rights workers in Neshoba County, Mississippi, was getting a great deal of publicity and the Sheriff of Neshoba County was presumed to be, according to the news media, a member of the Klan. She recalled mentioning to [REDACTED] that her business was in minor financial difficulty and that if she approached the Sheriff of Neshoba County, she could probably get \$100,000 for killing King. She said she now realized that [REDACTED] had taken her casual statement seriously and she also realized, since King's murder, the seriousness of such a statement. [REDACTED] denied having any knowledge of any plot to murder King.

AT 44-4685.

case back in 1968. The results of this interview are set forth in the enclosed LHM.

The Task Force made no other requests and they departed the Atlanta FBI Office for Birmingham on the early afternoon of 8/3/76.

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

Atlanta, Georgia

August 3, 1976

In Reply, Please Refer to
File No.

ASSASSINATION OF DOCTOR MARTIN
LUTHER KING, JR.

On August 3, 1976, Special Agent O. Richard Hamilton was interviewed in the Atlanta, Georgia, Office of the Federal Bureau of Investigation (FBI) by four attorneys from the U.S. Department of Justice. SA Hamilton was interviewed regarding the above-captioned matter inasmuch as the case had been assigned to him at one time.

The attorneys asked Hamilton at what point in the investigation the case was assigned to him. Hamilton advised he did not recall the date the case was assigned to him; however, it was after James Earl Ray had been identified and apprehended. They inquired of Hamilton as to how he could insure that all appropriate leads were covered and investigated regarding the assassination of King. Hamilton explained to the attorneys that this investigation was handled as a "Special" in Atlanta, that separate indices were maintained containing the names of all pertinent individuals and organizations which came to the attention of the Atlanta Office in connection with that investigation. He explained the use of lead cards which were maintained in duplicate, that a master lead card was retained with a copy attached to a particular serial containing a specific lead and this was assigned to a Special Agent to cover the lead set out in the serial. He advised the coverage of that lead by the agent to whom it was assigned was reflected through a written memorandum or other appropriate communication with reference made therein to the serial containing the lead. Hamilton advised the agent covering the lead then indicated the

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



111 3891-
ENCLOSURE

ASSASSINATION OF DOCTOR
MARTIN LUTHER KING, JR.

lead had been covered on his copy of the lead card. Hamilton explained that various agents were responsible for conducting neighborhood investigations, contacting or maintaining liaison with local police, and to conducting other pertinent phases of the investigation. He explained the captioned case was the priority investigation in the Atlanta Office at that time and that almost every agent was assigned to working on some phase of the investigation.

The attorneys inquired as to how the FBI developed information that Ray, then known as Eric Starvo Galt, was residing in a rooming house on 14th Street. Hamilton noted that this investigation occurred more than eight years ago, that he has not since reviewed the file and although he was not exactly sure, according to his best recollection the investigation reflected an individual in the apartment area where Ray parked a Mustang automobile saw Ray park it and get in a taxicab. According to Hamilton's best recollection, the ensuing investigation by the FBI through taxicab companies reflected Ray was taken to the 14th Street address. Hamilton assured them this may not be the way it occurred but these were the facts as he recalled them. One of the attorneys indicated that information is not reflected in the file.

The attorneys asked Hamilton what the FBI did with the Mustang which was used by Ray. Hamilton advised them the FBI in Atlanta turned the Mustang over to Memphis, Tennessee, Police officers, who returned it to Memphis. The attorneys asked whether the Memphis Police drove it back or took it in a van, to which Hamilton replied they drove it to Memphis. The attorneys raised a question that since it was not used in the trial of Ray, why the car was turned over to the Memphis Police. Hamilton replied that Ray was tried by the State of Tennessee, and that they requested the Mustang be released to them in the event it should be used as evidence, and this was done.

The attorneys asked Hamilton if it ever became a problem in his mind or a question to the FBI as to how Ray lived from day to day since he was an escaped prisoner.

ASSASSINATION OF DOCTOR
MARTIN LUTHER KING, JR.

Hamilton advised he did not know how Ray lived or his source of income; however, pointed out that Ray has an extensive arrest and conviction record for robbery, burglary, and other crimes and that many fugitives finance their living through armed robberies and burglaries. One of the attorneys asked if Ray committed numerous robberies, would he not get caught, and then the attorney asked what the solution rate usually is regarding the offense of robbery. Hamilton advised him he understands the Atlanta Police Department has about a 50 percent solution rate on robberies and a lesser percent on burglaries and that this was probably about in line with the solution rate for these crimes in most cities. Hamilton also pointed out that Ray had resided in various other areas of the country while in his escaped status and that he was not personally aware of investigation conducted by other field offices regarding Ray's source of income.

In response to Hamilton's inquiry of them as to what they felt would be Ray's source of income, they replied that it was possible that Ray had been paid by someone to kill King in which case there would be a conspiracy, which would present a problem for the FBI. Hamilton advised them that investigation by the FBI in Atlanta was always alert for evidence of a conspiracy, that no such evidence was developed during the investigation in Atlanta, and that if such evidence had been developed, it would have been thoroughly investigated.

The interview was concluded at that point. The interview lasted from approximately 12:00 noon to approximately 12:20 PM on August 3, 1976.

C A 77-0692
EXHIBIT B

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

Volume 9


178 pages Atlanta

File No: 44-2386

Re: Plunkin

b7(c)(D)

Date: 9-12-77
(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Exemptions used or, to whom referred (Identify statute if (b) or (3) cited)
			Actual	Released	
1202	4/25/	Harding to AT	1	1	
1203	"	Campbell " "	4	4	
1204	"	Harding " "	1	1	
1207	"	Danko " "	1	1	
1208	"	WATY " "	4	4	
1209	"	Miller " "	1	1	
1210	"	WATY " "	1	1	
1211	"	Michal " "	1	1	
1212	"	Haynes " "	1	1	
1214	12/13/67	press	1	1	
1215	4/18/68	Security Sq. to Spive	1	1	
1217	4/25	Keith to AT	1	1	

April 18, 1968

MEMO:

RE: MARTIN LUTHER KING JR.

TO: LT. WAYNE SPIVA

FROM: SECURITY SQUAD

LT.

WE HAVE BEEN REQUESTED TO FURNISH YOUR OFFICE WITH THE NAMES OF PERSONS WHO IN THE PAST HAVE THREATENED THE LIFE OF MARTIN LUTHER KING JR. CHECK TO SEE IF ERIC GALT COULD HAVE BEEN ASSOCIATED WITH ANY OF THEM, AND ANY OTHER INFORMATION THAN COULD BE PERTINENT TO THE INVESTIGATION.

JESSE KILGORE, PHENFIELD, N.Y.
HAROLD J. THOME, TUNGA, CALIF.
M.L. THOMPSON
BILL WILLIAMS, NEW ORLEANS
ADRAIN JAMES HAHNENBERG @RONALD L. STEVENS @ RONALD LEON STEVENS DOB 8-6-26
L.C. BLAYLOCK, WINONA, MISS.
STEPHEN LANE
JOSEPH GAFFNEY
T. DEXTER
JAMES WILLIAM COLE @CATFISH
MR. CHEW
CHARLES BRITTIN, COVINA, CALIF.
FRANCIS X. LAY, WM
WILLIAM D. MALLOY, WM
WILLIAM HAROLD JAMISON, SAN ANTONIO ST., "SOUTH GATE, CALIF."
JACK MAYHARD RAY, WM 34 DOB 3-3-31
GEORGE MCCLAIN WM37
RUTH HARRINGTON CF, 812 QUINTANA PL, WASHINGTON, D.C
WILLIAM THOMAS JACOBS, SALVATION ARMY, KANSAS CITY
JIM JOHNSON, NATIONAL KNIGHTS OF KKK
ALFRED SHAFFER WPL 27, 5'6" Blonde, MAUDE, TEXAS
DAVID LANDSDEN, RELEASED FROM MENARD, ILL. (PRESUMABLY MENTAL INSTITUTION)

RESP,

R. B. Moore
SGT. R.B MOORE

44-2336 -1215

*Orig to
Sentinella
into PP file
15 Apr*

7 2

NOVEMBER 13, 1967

C. A. 77-0692
EXHIBIT 15

MIN LUTHER KING JR.

RM

OFFICE IN CHICAGO RECEIVED WORD FROM THE LOCAL CHAPTER OF NAACP THAT CITY. THEY RECEIVED A TELEGRAM FROM A JESSE KILGORE, PENFIELD, N.Y. TELEGRAM STATED THAT HE WOULD BE HARMED IF HE DID NOT TONE DOWN THE SPEECHES HE HAS BEEN MAKING. NO IDENTIFICATION, OR ANY INFORMATION AS TO WHO KILGORE IS.

tted:

44-2386-1214

Make index card & file.

RECORDED
SERIALIZED

NOV 22 1967
D. M. ...

UNITED STATES GOVERNMENT

Memorandum

TO : SAC, ATLANTA (44-2386)

DATE: 4/25/68

FROM : SA CHARLES T. HAYNES

SUBJECT: MURKIN

Reurmemo 4/24/68, with lead to attempt to develop any information from the Atlanta Police Department regarding the possibility of subject's being involved in any "fracas" with any Negro in the area during his presence in Atlanta.

Det. Sgt. ROBERT B. MOORE, Atlanta Police Department, advised on 4/24/68 that matters involving difficulty between white and Negro individuals are normally called to his attention for informational purposes; however, an arrest report would not necessarily be made on all arrests, therefore, the most satisfactory approach would be to contact the superior officers in charge of each watch as well as a particular officer covering the 14th and Peachtree Street area.

On 4/25/68, Sgt. MOORE advised that he had contacted the logical officers in a position to have knowledge of any arrests involving a white man of the subject's description with a Negro individual anywhere in the Peachtree-14th Street area during the approximate period of 3/24/68 through 4/11/68, and no one recalled any incident which could be considered pertinent to this matter.

2 - Atlanta
CTH:met
(2)

met



5010-108-02

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

44-2386-1212

SEARCHED.....	INDEXED.....
SERIALIZED.....	FILED.....
APR 25 1968	
FBI-ATLANTA	

Intelligence Division

INFORMATIVE NOTE

Date 5/11/76

As you are aware, the Attorney General (AG) has instructed the Office of Professional Responsibility (OPR) of the Department to conduct a review of our past investigations relating to Martin Luther King, Jr. A Task Force from this Office began its review on 5/10/76 under direction of Fred G. Folsom.

The attached letter from Michael E. Shaheen, Counsel of the OPR, defines the areas of concern in the review which will include perusal of all King-related records in the Department, at FBIHQ and in Bureau field offices. The review must be completed "forthwith" and is to answer the following four questions: (1) Was the FBI's investigation of King's assassination thorough and honest? (2) Is there any evidence the FBI was involved in the assassination? (3) Is there any new evidence which has come to the attention of the Department concerning the assassination? (4) Does the relationship between the Bureau and King call for criminal prosecutions, disciplinary proceedings or other appropriate action?

Attached to the Shaheen letter is a letter from the AG describing the previous review of the King matter by the Civil Rights Division and the basis

1 - General Investigative Division

JTA:lfj

DOJ/FBI

6116

which the AG decided to order a more complete review. Also attached is the Department's press release dated 4/29/76, announcing the OPR review.

You will be advised of all significant developments regarding the review.

JCP JTA

APPROVED: *[Signature]* *[Signature]*

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

[Signature]

- 1 - Mr. J.B. Adams
- 1 - Mr. J.A. Mintz
- 1 - Mr. T.W. Leavitt
- 1 - Mr. Ingram
- 1 - Mr. Deegan
- 1 - General Investigative Division
- 1 - Mr. Aldhizer



UNITED STATES DEPARTMENT OF JUSTICE
 OFFICE OF PROFESSIONAL RESPONSIBILITY
 WASHINGTON, D.C. 20530

Dep. Dir.	<input checked="" type="checkbox"/>
Asst. Dir.:	
Adm. Serv.	
Ext. Affairs	
Fin. & Pers.	
Gen. Inv.	
Ident.	
Inspection	
Intell.	
Laboratory	
Legal Coun.	
Plan. & Eval.	
Rec. Mgmt.	
Spec. Inv.	
Telephone Rm.	
Director Sec'y	

MAY 10 1976

TO: James Ingram
 Deputy Assistant Director
 Intelligence Division
 Federal Bureau of Investigation

FROM: Michael E. Shaheen, Jr., Counsel
 Office of Professional Responsibility

SUBJECT: Martin Luther King Review

Michael E. Shaheen
[Signature]

Pursuant to our meeting on Wednesday, May 5, 1976, and your telephone call of today, May 10, 1976, I am forwarding this memorandum with attachments for your information and records.

As you know, the Attorney General has directed this Office to complete the review of all records in the Department, at Bureau headquarters, and in Bureau field offices in any way relating to Dr. Martin Luther King, Jr., his assassination, the Bureau's investigation of his death, in light of the Bureau's "systematic program of harrassment of Dr. King in order to discredit him and harm both him and the movement he led". (See Press Release Attached)

The Attorney General has directed that this review be completed "forthwith" and that my final report to him and Director Kelley provide answers to four specific questions:

- 1) "Whether the FBI investigation of Dr. King's assassination was thorough and honest;
- 2) Whether there is any evidence that the FBI was involved in the assassination of Dr. King;
- 3) Whether, in light of the first two matters, there is any new evidence which has come to the attention of the Department concerning the assassination of Dr. King;

Ata
[Signature]

REC-52 4/1 4861-6116

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6116

- 4) Whether the nature of the relationship between the Bureau and Dr. King calls for criminal prosecutions, disciplinary proceedings, or other appropriate action".

I know you share with me the urgent need to guarantee that these four questions be addressed by a searching, systematic, full, complete, and determined review of all documents that bear directly or even remotely on the Bureau's intense interest in and investigation of Dr. King in life as well as at death.

You have met the present members of the Task Force assigned to complete this review, and I have advised you that Fred G. Folsom is the Task Force Leader. You should understand that Mr. Folsom's requests for personnel interviews, access, review, or delivery of documents will be made at all times in my behalf and for the Attorney General. Should you have any difficulties I am always available to assist in their resolution.

As I have orally advised you, the Attorney General, Director Kelley, and I attach the highest priority to the successful completion of this review.

If I can be of further assistance, please advise. I wish to thank you for your help.

cc: Edward H. Levi,
Harold R. Tyler, Jr.
Clarence M. Kelley
Fred G. Folsom

Memorandum

Michael Shaheen

DATE: April 26, 1976

FROM : Attorney General *JM*

SUBJECT:

I am forwarding to you the memorandum prepared by Assistant Attorney General Pottinger and by Robert A. Murphy, Chief of the Criminal Section of the Civil Rights Division, on the partial review which has been made of the relationships to Martin Luther King, Jr. In addition, I include the commenting memoranda from the Deputy Attorney General, from Robert Bork, from Richard Thornburgh and the members of his staff, and from Antonin Scalia.

I note that Mr. Pottinger concludes that "we have not found a basis to believe that the FBI in any way caused the death of Martin Luther King" and that "we have also found no evidence that the FBI's investigation of the assassination of Martin Luther King was not thorough and honest."

My request for the review involved four matters. First, whether the FBI investigation of the Dr. Martin Luther King's assassination was thorough and honest; second, whether there was any evidence that the FBI was involved in the assassination of Dr. King; third, in light of the first two questions, whether there is any new evidence which has come to the attention of the Department concerning the assassination of Dr. King which should be dealt with by the appropriate authorities; fourth, whether the nature of the relationship between the Bureau and Dr. King calls for criminal prosecution, disciplinary proceedings, or other appropriate action.

As to the fourth point, I again note that from the partial review which has been made, Mr. Pottinger concludes "we have found that the FBI undertook a systematic program of harassment of Martin Luther King, by means both legal and illegal, in order to discredit him and harm both him and the movement he led." Assuming that the major statutory violations relevant to this conduct would be 18 U.S.C. § 241 and § 242, Mr. Pottinger's memorandum concludes that any prosecution contemplated under those acts would now be barred by the five-year statute of limitations with the possible exception which would exist if there were proof of a continuing conspiracy.



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ENCLOSURE 144 31267

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- 4 -

As to the matter of new evidence with respect to the assassination, my understanding is that the Department has never closed the Martin Luther King file and that numerous allegations of the possible involvement of co-conspirators are promptly investigated. The thrust of the review which I requested, however, was to determine whether a new look at what was done by the Bureau in investigating the assassination or in the relationship between the Bureau and Dr. King might give a different emphasis or new clues in any way to the question of involvement in that crime. At this point in the review, as I read the memoranda, nothing has turned up relevant on this latter point.

The review is not complete. Mr. Pottinger and all those who have commented upon his memorandum recommend that the review be completed. Mr. Pottinger also has made other recommendations upon which there is some difference of opinion. In my view, it is essential that the review be completed as soon as possible and in as thorough a manner as is required to answer the basic questions. In view of what has already been done, and the tentative conclusions reached, special emphasis should be given to the fourth question. In conducting this review you should call upon the Department to furnish to you the staff you need.

My conclusion as to the review conducted by the Civil Rights Division is that it has now shown that this complete review is necessary, particularly in view of the conclusion as to the systematic program of harassment. If your review turns up matters for specific action, we should discuss the best way to proceed on each such case.

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, APRIL 29, 1976

AG

In response to inquiries from the news media regarding the Civil Rights Division's review of the Martin Luther King files, Attorney General Edward H. Levi today issued the following statement:

I have directed the Office of Professional Responsibility, headed by Michael Shaheen, to complete a review of all records in the Department of Justice concerning the Reverend Dr. Martin Luther King, Jr. The Civil Rights Division, under the personal direction of Assistant Attorney General J. Stanley Pottinger, completed on April 9 a five-month preliminary review of files at FBI headquarters. As a result of this preliminary review, the Civil Rights Division has recommended that the review be carried forward to completion with an additional examination of records at FBI headquarters and field offices. It is believed that more than 200,000 documents may be involved.

On the basis of this preliminary review, Assistant Attorney General Pottinger stated that his tentative conclusions were (1) there was no basis to believe that the FBI in any way caused the death of Dr. King, (2) no evidence was discovered that the FBI investigation of the assassination of Dr. King was not thorough and honest, and (3) instances were found indicating that the FBI undertook a systematic program of harassment of Dr. King in order to discredit him and harm both him and the movement he led.

ENCLOSURE

In order to complete the review by Mr. Shaheen, I directed that the investigation be completed forthwith and that answers to four specific questions be furnished to me and FBI Director Clarence M. Kelloy on the basis of the review of all documents:

-- Whether the FBI investigation of Dr. King's assassination was thorough and honest;

-- Whether there is any evidence that the FBI was involved in the assassination of Dr. King;

-- Whether, in light of the first two matters, there is any new evidence which has come to the attention of the Department concerning the assassination of Dr. King;

-- Whether the nature of the relationship between the Bureau and Dr. King calls for criminal prosecutions, disciplinary proceedings, or other appropriate action.

Mr. Pottinger pointed out that the Civil Rights Division has been continuously investigating allegations concerning the assassination of Dr. King as these allegations come to the attention of the Department.

- 1 - Mr. J. B. Adams
- 1 - Mr. T. J. Jenkins
- 1 - Mr. D. W. Moore

5

Mr. T. W. Leavitt

3/25/76

J. G. Deegan

- 1 - Mr. R. J. Gallagher
(Attn: J. S. Peelman)
- 1 - Mr. J. A. Mintz
- 1 - Mr. T. W. Leavitt
- 1 - Mr. J. G. Deegan
- 1 - Mr. S. F. Phillips

MARTIN LUTHER KING, JR.

Murphy

PURPOSE: To advise of the apparent termination of the Department's study of Bureau files to determine whether investigation of the Martin Luther King, Jr., assassination should be reopened.

SYNOPSIS: On 3/24/76 Robert Murphy of the Department requested additional documents to complete the Department's study to determine if our investigation of the assassination of King should be reopened. Indicating he had recently reviewed the Senate Intelligence Committee's draft report on King, Murphy requested documents bearing primarily on our actions to discredit and neutralize King, an area which he will apparently take cognizance of in his summary and recommendations to Assistant Attorney General (AAG) Pottinger, Civil Rights Division (CRD). Murphy indicated his review of additional documents on 3/24/76 would end the Department's study.

ORIGINAL FILED IN 100-106670-1172

RECOMMENDATION: None. For information.

44-38861-
APR 2 1976

DETAILS: You have been previously advised that under the direction of Pottinger, the Department has been reviewing our Headquarters files on King and related matters to study whether or not the investigation of the assassination of King should be reopened. One of the principal reviewers, Robert Murphy, Chief of Criminal Section, CRD, has stated his summary will also take cognizance of FBI actions to discredit King.

100-106670
1 - 44-38861

JTA:adn
(10)
APR 1 1976

CONTINUED - OVER

Memorandum to Mr. T. W. Leavitt
Re: Martin Luther King, Jr.

On 3/24/76 Murphy advised he had recently reviewed the Senate Intelligence Committee's draft report concerning King and, based upon footnotes in that draft, discovered a number of FBI documents which he desired to review prior to completing his summary. Murphy requested to see approximately 40 documents concerning dissemination of King monographs, dissemination of information outside the Executive Branch of Government, plans to discredit and neutralize King, alleged existence of a foreign bank account of King and documents relating to communist influence in the racial movement.

These documents were made available to Murphy who reviewed same on 3/24/76 and indicated this action would complete the Department's study.

None of the documents requested on 3/24/76 pertained to any aspect of our investigation of King's assassination. Based on the nature of the above documents requested and reviewed by Murphy, it appears knowledge of the Senate Intelligence Committee's report dictated additional review pertaining to our actions to discredit and neutralize King.



Department of Justice

C. A. 77-0692

EXHIBIT 18

FOR IMMEDIATE RELEASE
FRIDAY, FEBRUARY 18, 1977

AG
202-739-2028

The FBI conducted a thorough investigation of the assassination of Dr. Martin Luther King, Jr., a Department of Justice task force concluded in a report released today by Attorney General Griffin B. Bell.

The 149-page report was submitted by the task force of the Office of Professional Responsibility following an eight-month intensive review of FBI files and interview of witnesses. The purpose of the study was to examine FBI activities involving Dr. King and to evaluate the effectiveness of the assassination investigation.

The report concluded that the FBI had conducted a painstaking and successful investigation of the 1968 assassination in Memphis, Tennessee.

The task force also found no evidence of FBI complicity in the murder.

The only new evidence that was developed related to details that did not affect the ultimate conclusion that James Earl Ray was the properly convicted murderer.

The task force of five attorneys and two research analysts reviewed more than 200,000 documents from FBI Headquarters and Field Office files and interviewed some 40 witnesses in its study of the King case.

On April 26, 1976, then Attorney General Edward H. Levi directed the Office of Professional Responsibility, headed by Michael E. Shaheen, Jr., to review Department files to determine:

(1) Whether the FBI investigation of Dr. King's murder on April 4, 1968, at Memphis, Tennessee, was thorough and honest;

(2) Whether there was any evidence of FBI involvement in Dr. King's death;

(3) Whether any new evidence had come to the attention of the Department bearing on the assassination which should be dealt with by the proper authorities; and

(4) Whether the relationship between the FBI and Dr. King called for criminal prosecution, disciplinary proceedings, or other appropriate action.

After reviewing the murder investigation, the task force turned to the pre-assassination security investigation of Dr. King. The task force found that there may have been an arguable basis for the FBI to initiate a security investigation on Dr. King, but continued that the security investigation should have been ended in 1963 and not continued until his death five years later.

The FBI's COINTELPRO-type harassment of Dr. King and efforts to drive him out of the civil rights movement were found to have been clearly improper.

Mr. Shaheen's report concluded that any criminal action against FBI participants in the harassment campaign was barred by the statute of limitations. The task force recommended no disciplinary action because the chief FBI officials responsible for the harassment are dead or retired.

The task force submitted recommendations for tighter supervision of the FBI's domestic intelligence activities and endorsed the Department's new guidelines in this area. The task force also proposed outright prohibition of COINTELPRO-type activities against domestic intelligence subjects.



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

May 17, 1978

Mr. Harold Weisberg
Route 12
Frederick, Maryland 21701

Dear Mr. Weisberg:

Reference is made to your Freedom of Information Act (FOIA) request for information pertaining to Yuri Ivanovich Nosenko by letter dated March 9, 1978.

As you are aware, the documents which were presented to the President's Commission on the Assassination of President Kennedy (Warren Commission) by the Federal Bureau of Investigation (FBI) and various other federal agencies were placed in the custody of the Archivist of the United States in the National Archives and Records Service (NARS) at the conclusion of the Warren Commission's investigation. Pursuant to Public Law 62-318 these documents were to be reviewed periodically to determine if additional information could be made available to the general public. The last review was in December, 1975, at which time Warren Commission Documents 451 and 651 were determined by the FBI to no longer warrant classification and were made available to the general public. These documents were not included among the approximately 98,000 pages of John F. Kennedy Assassination material released in December, 1977, and January, 1978. Although you may have had a previous opportunity to review these documents at NARS, I am enclosing copies of them at this time. Our inventory worksheets pertaining to the Kennedy Assassination material, in connection with the FOIA release, show the documents were withheld on the basis of Title 5, United States Code, Section 552, Subsection (b)(1). This is in error and the claim for withholding the documents on this basis is hereby withdrawn. There is no duplication charge involved in this release.



Mr. Harold Weisberg

Please be advised that a review of the file pertaining to Yuri Ivanovich Nosenko is being conducted to determine if any additional material can be released to you under the provisions of the FOIA. It should be noted that much of the file is classified pursuant to Executive Order 11652 and the current review is being made to determine if current classification is warranted.

Sincerely yours,

Allen H. McCrieght
Allen H. McCrieght, Chief
Freedom of Information-
Privacy Acts Branch
Records Management Division

Enclosures (2)



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to
File No.

~~SECRET~~

WASHINGTON 25, D.C.

March 4, 1964

Classified by 2040 RAL 7/13/77
Exempt from GDS, Category 2, 3
Date of Declassification Indefinite
USSR USSR USSR
D.C.

LEE HARVEY OSWALD
INTERNAL SECURITY - R - CUBA

On March 3, 1964, Yuri Ivanovich Nosenko advised that at the time of Oswald's arrival in the Union of Soviet Socialist Republics (USSR) in the Fall of 1959, he (Nosenko) held the position of Deputy Chief, First Section, Seventh Department, Second Chief Directorate (counterintelligence), KGB (Committee for State Security). This particular Section, of which he was then Deputy Chief, handled the KGB investigations of tourists from the United States and British Commonwealth countries.

The First Section, at that time, and at present, contains fifteen or sixteen officers, holding ranks of Junior Case Officers, Case Officers and Senior Case Officers. At the time of President John F. Kennedy's assassination, Nosenko stated he then held the position of Deputy Chief, Seventh Department, (Tourist Department), Second Chief Directorate, with the rank of Lieutenant Colonel. The Seventh Department, consisting of approximately ninety Case Officers, is responsible for KGB investigations of tourists from all non-communist countries.

Prior to Oswald's arrival in the USSR he was completely unknown to the KGB, according to Nosenko. In this connection he pointed out that immediately upon issuance of a visa to a person to visit the USSR, the Seventh Department (Tourist), Second Chief Directorate, KGB, is notified. At that time a preliminary evaluation is made of the individual and a determination made as to what action, if any, should be taken by the Tourist Department. Oswald's background was not of sufficient importance for the Tourist Department to have any advance interest in him and Nosenko stated that his first knowledge of the existence of Oswald arose in about October, 1959, when Kim Georgievich Krupnov, a Case Officer in his section, reported to him information which Krupnov had received from an Intourist interpreter. It was to the effect that Oswald, an American citizen who had

KGB USSR

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SECTION

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Date 2/28/64

The following information was furnished on February 26 and 27, 1964, by YURI IVANOVICH NOSENKO:

NOSENKO said he was Deputy Chief of the Tourist Department, Second Chief Directorate of the Committee for State Security (KGB) at the time of his defection February 4, 1964, at Geneva, Switzerland, and held the rank of Lieutenant Colonel. He said the Second Directorate of the KGB is concerned with the internal security of the Union of Soviet Socialist Republics (USSR).

NOSENKO advised he was familiar with the visit of LEE HARVEY OSWALD to the Soviet Union in the Fall of 1959 and supervised the handling of the KGB file on OSWALD in the Tourist Department.

NOSENKO stated that when OSWALD arrived as a tourist in the Soviet Union the KGB had no current interest in him and possessed no information that OSWALD was a member of the Communist Party, USA, elsewhere, or that he was a member of any pro-Soviet organization. NOSENKO advised that upon arrival in Moscow OSWALD contacted Intourist, the official Soviet travel agency. OSWALD informed representatives of the Intourist that he desired to remain in the Soviet Union. Thereafter, OSWALD's case was referred to the Seventh (Tourist) Department, Second Main Directorate, KGB.

NOSENKO related OSWALD was discouraged from remaining permanently in Russia. It was suggested to him that he complete his visit as a tourist and return to the United States. It was further suggested he could thereafter make application through routine channels at the Soviet Embassy in the United States for admission as an immigrant to the Soviet Union.

NOSENKO said OSWALD was not regarded by the KGB as being completely normal mentally nor was he considered to be very intelligent. He stated it was the desire of the KGB that OSWALD depart from Russia as early as convenient but no effort was made to curtail his visit or to inconvenience him during his stay in Russia. NOSENKO stated,

On 2/26 and 27/64 at Fairfax County, Virginia File # WFO 105-37111

by SAs MAURICE A. TAYLOR, DONALD E. WALTER, and ALEKSO POPTANICHKIS Date dictated 2/28/64

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

Other Individuals and Organizations
Involved or Interviewed

Oswald, Lee H. ~~100-100000~~Date 2/28/64

Oswald, Marina — /

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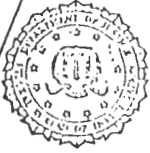
by SAs MAURICE A. TAYLOR, DONALD E. WALTER, and ALEXSO YOPTANICHUKS Date dictated 2/28/64

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By MAG NARS Date 5/13/83

Commission No. 451



In Reply, Please Refer to
File No.

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON 25, D.C.

March 4, 1964

LEE HARVEY OSWALD
INTERNAL SECURITY - R - CUBA

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