Affidavit of Robert E. Owen, Informatin Review Officer, Directorate of Operations Central Intelligence Agency (Known as DO)

His affidavit is at least in part based on secondhand knowledge obtained from persons who could have provided an affidavit based on first-person knowledge. His qualifications include "information made available to me" in the courseof his official duties. The official who made the information available is better qualified to provide an affidavit and I believe the reason it did not happen in this case is to enable Owen to represent other than truthfully. The foregoing is in paragraph numbered 1.

Par. 2. While he claims exemptions of the Freedom of Information Act, he does not lay any basis for claiming that the provisions of the Freedom of Information Act exemptions apply to the CIA with regard to the records withheld and records from which there is partial withholding. There was no legitimate CIA operational activity against Dr. King. There was operational activitiy but it was outside the legal authority of the CIA; therefore, I believe no exemptions to the Act apply. There is an omission in the Owen affidavit which bears on this. He does not even allege that the CIA was engaged in a lawful purpose.

In this connection netiher ne nor anyone else states that the records provided, plus the records withheld, constitute all of the existing records within the request.

In Par. 2b. he claims the need "to protect from unauthorized disclousre". He does not in fact state that the information withheld is not already disclosed. I believe all or most of it has been and therefore there is no question in this case of unauthorized disclosure.

In Par. 2b. again he does not state that the withheld information is not already known or has not already been disclosed. In this paragraph he also states the impossible, that providing the records would "reveal" the "numbers of personnel employed by" the CIA.

This is typical of the conclusory statements and the general statements which have no relevance and are used to defeat compliance with the law and in fact to

defeat the law.

With regard to paragraph Par. 2b. he again fails to state that what is withheld is not already known. In fact, what is withheld is already known. I have gone over these records and, except for the involvement of the CIA which had not been disclosed earlier, there is no information except for names that was not already disclosed. Some of the names are known. The rest of the names can be known.

In Par. 4 he falls short of saying that the time of creation these documents were classified and were properly classified. Instead he says, "I have determined that the portions deleted and the documents denied, for which classification is asserted, are currently (emphasis added) and properly classified ..." This means no more than that as of May 25, 1978, the CIA was asserting a classification on the documents withheld in their entirety or withheld in part. It avoids saying that they were classified at the time of the request. Bearing on this is the evasive language at the top of page 3, line 3, "Each such document, in its original form, bears the appropriate classification markings ..." Now this cannot be true as of the time of the request or at any time prior to the belated and incomplete compliance after the suit was filed. The documents provided to me in only a single case bear any sign of classification. One record had been marked "Secret." I doubt if it ever qualified for classification and the Secret marking was crossed out. All of the documents, without any other exception, from which there is a withholding does not have a classification stamp on it. This means that as of the time the record was created it was not classified pursuant to Executive Order 10501 or 11652. It also means that there has not been compliance with the provisions of 11652. In an effort to hide this he makes what I regard as a false statement in the same paragraph, "MMany of the documents in this litigation have had portions deleted to enable their declassification and release to the plaintiff, consequently, the classification markings have been removed from those documents in the process of their declassification." This is not the way Executive Order 11652 works. In any event, examination of the documents themselves does not disclose the obliteration

of classification markings.

In this paragraph he also alleges of these documents that "their release could reasonably be expected to cause damage to national security in terms of disrupting foreign relations and revelation of sensitive intelligence operations." With regard to Dr. King and James Earl Ray, this is palpably impossible from what has been made public knowledge, including the by the Department of Justice and the FBI. These allegations, if there ever was any basis for them, and I doubt that, clearly are made without regard to what is in the public domain. They therefore do not apply in this case.

(Here I want to add a note in the event I have forgotten to add it elsewhere. Netiher Owen nor anyone else addresses the fact that a large number of CIA records were referred to the CIA by the FBI beginning in 1976. As of today, the CIA has not processed these records, identified them and provided them to me, nor has the CIA done this and returned them to the FBI to provide to me unless the FBI is merely deliberately withholding them. The FBI Represented in Civil Action 75-1996 just last month that it was awaiting the return of documents that had been referred to other agencies. Therefore, on this basis alone, the CIA is not in compliance.)

His Par. 5 begins with a citation of authority to classify documents. I don't believe there is any question about the authority granted in Executive Order 11652 to classify. I wonder if there is a question of any authority to classify documents that have been obtained illegally.

His interpretation of the order is "to protect official, classified information or material against unauthorized disclosure." In this connection I again raise the question of is there any disclosure, whether or not unauthorized, if the information is already made public. So I believe that this affirmation is meaningless unless there is an assurance that there has not already been a disclosure.

He next cites the provision of the Executive Order "for a system of conspicuous markings of documents on their face in such a manner as to alert custodians to the fact that the document contains sensitive information and that dissemination should

be restricted to persons ... formally granted an appropriate security clearance ..." Not one of the records provided to me either has or shows signs of having had such markings. In this connection and to illustrate the point with regard to this reuqirement of the Executive Order and in fact with regard to the requirement of classification I will attach the appropriate page of his document disposition index and the first of the records to which any of this could apply that he provided (the other records are articles, FBIS records, etc.). The first of these is S-11. S-11 is appropriate for this use because the withholding from S-11 was by means of blacking out to obliterate. It is obvious that there is no such obliteration on the face of S-11.

There may be a flaw in his formulation in Par. 7 which had the heading above it underscored (Intelligence Sources). He says of this that "Documents containing information which reveal intelligence sources in need of continued protection must be withheld." This raises two questions that I would like to raise in connection with the withholding. This first is, Was it a legitimate function of the CIA? I think the answer is definitely knnw no. The second is why I underscored "in need of continued protection" because clearly that is no longer applicable in this case, especially not with records going back to 1965. The foregoing comments apply to what follows about confidential sources not being expected "to furnish information" if they no longer "feel secure". Now this can be applicable as a general statement. However, he does not use it in a general sense here. He uses it limited to hose sources who have provided information in the past.

The illustrations that follow are totally irrelevant in this case. They again are generalities that can't be applied.

What he has done here is to confuse legitimate foreign intelligence opertions with a purely domestic operation which is what the operations against Dr. King were. There is, for example, no po-sibility "That individual face s imprisonment or, possibly, xxxh death." He follows this with "Such individuals, understandably, insist on a pledge of extreme secrecy before agreeing to sooperate with American intelligence."

There is no such representation in any of these domestic intelligence records that were given to me. There is none implied. And of course there is no possibility of it being applicable.

Par. 8. He continues with the same kind of generalities and on page 5 says, "For these reaons the pledge of secrecy, as a condition precedent to cooperation with American intelligence, is absolute ... " There is no such representation in any of the records that were given to me bearing the letter S before the numbers.

He refers to the "exemptions from the General Declassification Schedule" and he says they "clearly recognize and provide protection against exposure" but he fails to state that not a single record that was provided to me conforms to this GDS schedule and not a single record has a GDS stamp on it.

Par. 9 has the hearing "Foreign Liaison Services" and states that information provided from them "must be withheld". There is no showing in this case that there was any secret information provided by any foreign liaison services;with regard to Dr. King and James Earl Ray the possibility does not exist. He again resorts to generalities without even alleging that they apply in this particular case.

Moreover, in the guilty-plea hearing for James Earl Ray, information received through foreign liaison services was used in public.

(Reference to Great Britain, Portugal and Mexico.)

As he continues with his catalogue of horrors in Par. 10, he refers to the fact that other countries "do not officially acknowledge the existence of certain intelligence and internal security services, much less the scope of their activities" and postulates that if such information were to be released by the CIA it could be damaging to relations with these other countries. However, he does not even allege that that can possibly be applicable in this case and there is no reason to believe that it is applicable.

As he proceeds with these generalities in Par. 11 he really gets carried away with the toally inapplicable, "In the event a friendly foreign liaison service provides the means by which an effective intelligence operation can be conducted against a

third country which is hostile to the United States, the potential advantage to the United States is obvious." It is absolutely insane to suggest that this can have any relevance to the King case or even to the capture or search for James Earl Ray.

I think this and other things like it might be enough basis to move to expunge.

He even alleges "The level of retribution served on the friendly foreign country by the target country could be severe." What, Dr. King getting the Nobel prize?

In Par. 12 he tries to extend this to "Certain government [which] find it in their interest to maintain some link with the government of the United States even though their official posture vis-a-vis the United States is distinctly hostile" ... "can provide such a link". With Dr. King?

By 14 he tries to make this relevant by saying that "If the government from which certain information is received is not recognizable from the face of the document itself, the danger remains that the originating government itself may recognize information released in the public domain as information it supplied in confidence to American intelligence" and that "Thereafter, the originating government would be reluctant to trust our intelligence community with other sensitive information." Now with regard to Dr. King and James Earl Ray, this not only can't be true because they knew there was going to be prosecution in the Ray case; it also is not true with regard to Dr. King because all of these things are already public, as for example the efforts made in connection with the Pope and the Nobel prize.

Par. 15 is under the subject "CIA Installations Abroad." It not only is a generality the relevance of which is not even alleged in this particular case, it is ridiculous and in the key area false. He says that they have to withhold "information which reveals the existence of a CIA station in a specific country or city abroad or which discloses the fact that CIA conducts intelligence operations in any given country abroad." Here of course there is the requirement that the knowledge not exist. Now we have in this particular case the illustration of Italy. It is hardly any secret that the CIA had operations in Italy (with Ray there is,

of course, Great Britain, etc.) He then says that the CIA presence in any of these countries "is likely to be condoned only as long as it does not have to be officially acknowledged." This of course is ridiculous with regard to all the countries that could possibly be involved with King. He then says that"While it is generally known and widely accepted that nations conduct secret intelligence operations against other nations, traditionally,and for practical reasons in the conduct of foreign affairs, No nation officially acknowledges that it engages in such activities against specific foreign countriess" Well, the presence of a CIA station in Italy does not ipso facto mean that the CIA is spying against Italy but I doubt if there is any reason for the Italian government not to assume it and it knows the CIA is there. He then says that "no government is likely to be willing to tolerate an official acknowledgement by another government that intelligence operations have been conducted against it." This clearly does not apply to the American government because it certainly knows and has tolerated the fact that "intelligence operations have been conducted against it" and having learned it, has done nothing about the countries which have conducted intelligence operations against it. The same, without doubt, is true of other countries and the CIA. It hasn't been very long since there was a lengthy expose of CIA operations in England. The CIA was not expelled from England. So what he has said is false. (WkPost editorial 6/16/78 on this)

There also is no relevance alleged with regard to records relating to Dr. King, James Earl Ray or any other item of my request.

The same kinds of generalities are all that exist in Par. 16 which is headed "Intelligence Methods" of which he says they "must be protected in cases where the capability itself ... is unknown to those who would use countermeasures." There is no reasonable possibility that this exists with regard to King nor Ray or any of the other elements of the request nor any of the other generalities in this paragraph. There is not the allegation that there is relevance.

Precisely the same generalities have precisely the same lack of relevance in Par. 17 which is headed "Cryptonyms and Pseudonyms." He goes into long expositions

of their purposes without saying that any of the purposes is applicable in this particular case or that any are unknown in this particular case. Now the largest withholding is of well-known abbreviations which are really not either cryptonyms or pseudonyms of parts of the CIA. I think there is no relevance to the claim that they are either cryptonyms or pseudonyms and I think the reasons for withholding them include hiding the location of files not searched.

Once again the relevance in this particular case is not alleged and in fact it does not exist.

CIA components and staff employees is the title of Par. 18. It continues to include 19. It begins with the statement that there is legal authority exempting the CIA "from the provision of any law requiring the disclosure of organizational data or the names and titles of its personnel, identities of organizational components of the CIA." What he does not say is that any of what was withheld from me is unknown. If it is known there is no "disclosure" of either "organizational data or the names and tiles of its personnel." Once again, the only purpose served by withholding public knowledge is to make it more difficult to prove that there is deliberate noncompliance in this case from the deliberate refusal to search relevant files. It also serves the purpose of denying me knowledge of the identifications of people I might want to depose. But it serves no security purpose for the C IA and there is no such allegation here. It's all generalities again.

His own interpretation of the Act shows its not relevant. He says that it is "to prevent detailed (my emphasis) knowledge of CIA structure and procedures from being available" to hostile influences. The important thing here is "detailed" because in general it is all known and there is no such detail involved in any of the records provided to me from which there is this kind of withholding. He says "The names of CIA employees were deleted since the Agency may not disclose the identity ..." This is partly true and partly false. Some of the names of CIA employees were not deleted. In the case of those who were deleted there is no allegation that they are not known and in fact I believe they are known in some cases.

Par. 19 includes another effort to get around the fact that some of these documents were not classified. He lumps "classification and related administrative markings" and says they "have been removed from the documents released as part of the delcassification process which enabled their release." This is false. There is an entirely different means of declassification specified in Executive Order 11652 and the failure to follow the prescribed means of 11652 merely proves that the documents were not originally classified. He tries to explain away another failing that "certain routing instructions, filing instructions and other intelligence information processing procedure indicators" had to be removed he says "when they contained information about the substance of CIA;s intelligence methods." That's not true in this case. What was removed in this case is what would help us to be able to obtain more compliance. There was nothing secret that was removed.

Once again, however, I belive this raises the question of the legality or illegality of what the CIA was doing and therefore, if illegal, the applicability of his representations.

"Privacy" is Par. 20 and he says that "Certain information has been withheld inasmuch as the release of the information would result in a clearly unwarranted invasion of the personal privacy of the individual named or otherwise identified in the document." This certainly is not true with regard to Dr. King. They call him all sorts of things and allege that he was under Chicom influence. Now that's defamatory and if he's dead he has survivors. Where he gets at all close to pretending to be specific, he limits it to James Earl Ray. I have no interest in those who were mistaken for James Earl Ray but I have very great interest in those who were engaged in a campaign to ruin and replace Dr. King. This is the area of serious withholding in the records that I have been provided. He does not in any way address these withholdings under the claim to privacy. Some of them do not involve privacy considerations. I am reasonably confident that in at least one case the name of a dead man, Phillips Randolph, has been removed.

There might be more applicability to the claim to the right to withhold a

source. However, I believe the standards are different in a historical case where CIA's functioning was outside its legislative authority and in fact was in violation of it. One of the records released to me discloses the fact that the CIA recognized this and tried to persuade one of its sources to instead become a source for the FBI on the question of jurisdiction. Its source argued that because of his imagination this was an international case, therefore the CIA had jurisdiction. If it were not a pipedream the CIA would still not have had jurisdiction or legal right to do what it was doing. So I think that what might otherwise be a legitimate claim to the right to protect a source in this case does not apply and I think we ought to contest it strongly.